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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15b, 16a, 499n, 7331 of this title; title 2 section 1602; title 11 section 761; title 12 section 4402; title 15 sections 78c, 78*o*, 80a–9, 80b–3, 431; title 26 section 277.

§ 1. Short title

This chapter may be cited as the ''Commodity Exchange Act.''

(Sept. 21, 1922, ch. 369, § 1, 42 Stat. 998; June 15, 1936, ch. 545, § 1, 49 Stat. 1491.)

PRIOR PROVISIONS

This chapter superseded act Aug. 24, 1921, ch. 86, 42 Stat. 187, known as ''The Future Trading Act,'' which act was declared unconstitutional, at least in part, in *Hill v. Wallace*, Ill. 1922, 42 S.Ct. 453, 259 U.S. 44, 66 L.Ed. 822. Section 3 of that act was found unconstitutional as imposing a penalty in *Trusler v. Crooks*, Mo. 1926, 46 S.Ct. 165, 269 U.S. 475, 70 L.Ed. 365.

AMENDMENTS

1936—Act June 15, 1936, substituted ''Commodity Exchange Act'' for ''The Grain Futures Act''.

EFFECTIVE DATE OF 1936 AMENDMENT

Section 13 of act June 15, 1936, provided that: ''All provisions of this Act [see Tables for classification] authorizing the registration of futures commission merchants and floor brokers, the fixing of fees and charges therefor, the promulgation of rules, regulations and orders, and the holding of hearings precedent to the promulgation of rules, regulations, and orders shall be effective immediately. All other provisions of this Act shall take effect ninety days after the enactment of this Act [June 15, 1936].''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–9, § 1, Apr. 21, 1995, 109 Stat. 154, provided that: ''This Act [amending section 16 of this title] may be cited as the 'CFTC Reauthorization Act of 1995'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–546, § 1(a), Oct. 28, 1992, 106 Stat. 3590, provided that: ''This Act [enacting sections 1a and 12e of this title, amending sections 2, 2a, 4, 4a, 6 to 6c, 6e to 6g, 6j, 6p, 7 to 9a, 10a, 12, 12a, 12c, 13 to 13c, 15, 16, 18, 19, 21, and 25 of this title, repealing section 26 of this title, enacting provisions set out as notes under sections 1a, 4a, 6c, 6e, 6j, 6p, 7a, 13, 16a, 21, and 22 of this title, and repealing provisions set out as a note under section 4a of this title] may be cited as the 'Futures Trading Practices Act of 1992'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–641, § 1, Nov. 10, 1986, 100 Stat. 3556, provided that: ''This Act [enacting section 2271a of this title, amending sections 2a, 6b, 6c, 7a, 13, 13a–1, 15, 16, 21, 23, 74, 87b, 1444, 1445b–3, and 1445c–2 of this title, sections 590h and 3831 of Title 16, Conservation, sections 606, 609, 621, 671, and 676 of Title 21, Food and Drugs, repealing section 14 of this title, and enacting provisions set out as notes under sections 20, 71, 76, 87b, and 2271a of this title and sections 601, 606, 609, 621, 671, and 676 of Title 21] may be cited as the 'Futures Trading Act of 1986'.''

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97–444, § 1, Jan. 11, 1983, 96 Stat. 2294, provided: ''That this Act [enacting sections 2a, 12d, 25, and 26 of this title, amending sections 2, 4, 4a, 5, 6, 6a, 6c, 6d, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6*o*, 6p, 7a, 8, 9, 12, 12a, 13, 13a–1, 13a–2, 13c, 16, 16a, 18, 20, 21, 23, and 612c–3 of this title, and enacting provisions set out as a note under section 2 of this title] may be cited as the 'Futures Trading Act of 1982'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–405, § 1, Sept. 30, 1978, 92 Stat. 865, provided: ''That this Act [enacting sections 13a–2, 16a, and 23 of this title, amending sections 2, 4a, 6c, 6d, 6f, 6g, 6k, 6m, 6n, 6*o*, 7a, 8, 12, 12a, 12c, 13, 13a, 15, 16, 18, and 21 of this title and section 6001 of Title 18, Crimes and Criminal Procedure, repealing section 15a of this title, omitting sections 12–1 to 12–3 of this title, and enacting provisions set out as notes under sections 2 and 20 of this title] may be cited as the 'Futures Trading Act of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–463, § 1, Oct. 23, 1974, 88 Stat. 1389, provided: ''That this Act [enacting sections 4a, 6j, 6k, 6*l*, 6m, 6n, 6*o*, 6p, 9a, 12–2, 13–3, 12c, 13a–1, 15a, 18, 19, 20, 21, and 22 of this title, amending sections 2, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6i, 7, 7a, 7b, 8, 9, 11, 12, 12–1, 12a, 12b, 13, 13a, 13b, 13c, 15, and 16 of this title and sections 5314, 5315, 5316, and 5108 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 2, 4a, and 6a of this title] may be cited as the 'Commodity Futures Trading Commission Act of 1974'.''

CROSS REFERENCES

Power of Congress to regulate interstate commerce, see Const. Art. I, § 8, cl. 3.

§ 1a. Definitions

As used in this chapter:

(1) Board of trade

The term ''board of trade'' means any exchange or association, whether incorporated or unincorporated, of persons who are engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

(2) Commission

The term ''Commission'' means the Commodity Futures Trading Commission established under section 4a(a) of this title.

(3) Commodity

The term ''commodity'' means wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in section 13–1 of this title, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

(4) Commodity pool operator

The term ''commodity pool operator'' means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

(5) Commodity trading advisor

(A) In general

Except as otherwise provided in this paragraph, the term ''commodity trading advisor'' means any person who—

(i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in—

(I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market;

(II) any commodity option authorized under section 6c of this title; or

(III) any leverage transaction authorized under section 23 of this title; or

(ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

(B) Exclusions

Subject to subparagraph (C), the term ''commodity trading advisor'' does not include—

(i) any bank or trust company or any person acting as an employee thereof;

(ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher;

(iii) any floor broker or futures commission merchant;

(iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees;

(v) the fiduciary of any defined benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

(vi) any contract market; and

(vii) such other persons not within the intent of this paragraph as the Commission may specify by rule, regulation, or order.

(C) Incidental services

Subparagraph (B) shall apply only if the furnishing of such services by persons referred to in subparagraph (B) is solely incidental to the conduct of their business or profession.

(D) Advisors

The Commission, by rule or regulation, may include within the term ''commodity trading advisor'', any person advising as to the value of commodities or issuing reports or analyses concerning commodities if the Commission determines that the rule or regulation will effectuate the purposes of this paragraph.

(6) Contract of sale

The term ''contract of sale'' includes sales, agreements of sale, and agreements to sell.

(7) Cooperative association of producers

The term ''cooperative association of producers'' means any cooperative association, corporate, or otherwise, not less than 75 percent in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with sections 291 and 292 of this title, including any organization acting for a group of such associations and owned or controlled by such associations, except that business done for or with the United States, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with this chapter.

(8) Floor broker

The term ''floor broker'' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

(9) Floor trader

The term ''floor trader'' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account, any commodity for future delivery on or subject to the rules of any contract market.

(10) Foreign futures authority

The term ''foreign futures authority'' means any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

(11) Future delivery

The term ''future delivery'' does not include any sale of any cash commodity for deferred shipment or delivery.

(12) Futures commission merchant

The term ''futures commission merchant'' means an individual, association, partnership, corporation, or trust that—

(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market; and

(B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(13) Interstate commerce

The term ''interstate commerce'' means commerce—

(A) between any State, territory, or possession, or the District of Columbia, and any place outside thereof; or

(B) between points within the same state,[1] territory, or possession, or the District of Columbia, but through any place outside

[1] So in original. Probably should be capitalized.

thereof, or within any territory or possession, or the District of Columbia.

(14) Introducing broker

The term ''introducing broker'' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(15) Member of a contract market

The term ''member of a contract market'' means an individual, association, partnership, corporation, or trust owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon.

(16) Person

The term ''person'' imports the plural or singular, and includes individuals, associations, partnerships, corporations, and trusts.

(Sept. 21, 1922, ch. 369, §1a, as added Pub. L. 102–546, title IV, §404(a), Oct. 28, 1992, 106 Stat. 3625.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in par. (5)(B)(v), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

EFFECTIVE DATE

Section 403 of Pub. L. 102–546 provided that: ''Except as otherwise specifically provided in this Act [enacting this section and section 12e of this title, amending sections 2, 2a, 4, 4a, 6 to 6c, 6e to 6g, 6j, 6p, 7 to 9a, 10a, 12, 12a, 12c, 13 to 13c, 15, 16, 18, 19, 21, and 25 of this title, repealing section 26 of this title, enacting provisions set out as notes under sections 1a, 4a, 6c, 6e, 6j, 6p, 7a, 13, 16a, 21, and 22 of this title, and repealing provisions set out as a note under section 4a of this title], this Act and the amendments made by this Act shall become effective on the date of enactment of this Act [Oct. 28, 1992].''

§ 2. Accounts, agreements, and transactions subject to jurisdiction of Commodity Futures Trading Commission; relation to jurisdiction of Securities and Exchange Commission and Federal and State courts; excepted transactions

(i) The Commission shall have exclusive jurisdiction, except to the extent otherwise provided in section 2a of this title, with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty''), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 7 of this title or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 23 of this title. Except as hereinabove provided, nothing contained in this section shall (I) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (II) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. (ii) Nothing in this chapter shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade.

(Sept. 21, 1922, ch. 369, §2(a)(1)(A)(i), (ii), formerly §2(a), 42 Stat. 998; June 15, 1936, ch. 545, §§2, 3, 49 Stat. 1491; Apr. 7, 1938, ch. 108, 52 Stat. 205; Oct. 9, 1940, ch. 786, §1, 54 Stat. 1059; Aug. 28, 1954, ch. 1041, title VII, §710(a), 68 Stat. 913; July 26, 1955, ch. 382, §1, 69 Stat. 375; Pub. L. 90–258, §1, Feb. 19, 1968, 82 Stat. 26; Pub. L. 90–418, July 23, 1968, 82 Stat. 413; renumbered §2(a)(1) and amended Pub. L. 93–463, title I, §101(a)(1), (2), title II, §§201, 202, Oct. 23, 1974, 88 Stat. 1389, 1395; Pub. L. 95–405, §2(1), Sept. 30, 1978, 92 Stat. 865; renumbered §2(a)(1)(A) and amended Pub. L. 97–444, title I, §101(a)(1), (2), title II, §201, Jan. 11, 1983, 96 Stat. 2294, 2297; renumbered §2(a)(1)(A)(i), (ii) and amended Pub. L. 102–546, title IV, §404(b)(1)–(5), (7), Oct. 28, 1992, 106 Stat. 3628.)

CODIFICATION

Section is comprised of subsec. (a)(1)(A)(i) and (ii) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. Subsec. (a)(1)(A)(iii) is classified to section 4 of this title. Subsec. (a)(1)(B) is classified to section 2a of this title. Subsecs. (a)(2) to (11) of section 2 of the Commodity Exchange Act are classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

AMENDMENTS

1992—Pub. L. 102–546, §404(b)(2)–(5), (7), designated provisions of former third sentence as cl. (i), redesignated cls. (i) and (ii) of former third sentence as subcls. (I) and (II), respectively, designated former fifth sentence as cl. (ii), and struck out former first, second, sixth, seventh, and ninth through last sentences, which included definitions of ''contract of sale'', ''person'', ''commodity'', ''future delivery'', ''board of trade'', ''interstate commerce'', ''cooperative association of producers'', ''member of a contract market'', ''futures commission merchant'', ''introducing broker'', ''floor broker'', ''the Commission'', ''commodity trading advisor'', and ''commodity pool operator''. See section 1a of this title.

Pub. L. 102–546, §404(b)(1), which directed the substitution of ''(i) The Commission'' for former first two sentences and provisions of former third sentence ending with ''; *Provided*, That the Commission'', was executed by making the substitution for provisions ending with '': *Provided*, That the Commission'', to reflect the probable intent of Congress.

1983—Pub. L. 97–444, §101(a)(2), inserted in third sentence, first proviso, '', except to the extent otherwise

provided in section 2a of this title,'' after ''exclusive jurisdiction''.

Pub. L. 97–444, § 201(1), inserted definition of ''introducing broker''.

Pub. L. 97–444, § 201(2), in revising definition of ''commodity training advisor'', included any person advising others through electronic media; substituted provision respecting advising others ''as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 6c of this title, or any leverage transaction authorized under section 23 of this title, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing'' for provision respecting advising others ''as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities''; excluded in item (i) any person acting as an employee of any bank or trust company; substituted in cl. (ii) ''news reporter, news columnist, or news editor of the print or electronic media'' for ''newspaper reporter, newspaper columnist, newspaper editor''; substituted in cl. (iv) ''the publisher or producer of any print or electronic data of general and regular dissemination, including its employees'' for ''the publisher of any bona fide newspaper magazine, or business or financial publication of general and regular circulation including their employees''; inserted item (v); redesignated as items (vi) and (vii) former items (v) and (vi); and authorized Commission to effectuate purposes of definition by rule or regulation by including within definition any person advising as to the value of commodities or issuing reports or analyses concerning commodities.

1978—Pub. L. 95–405 substituted ''section 23 of this title'' for ''section 15a of this title''.

1974—Pub. L. 93–463 struck out ''onions,'' after ''eggs,'' in definition of ''commodity'' and inserted provisions to that definition to include as commodities all other goods and articles, except onions as provided in section 13–1 of this title, and all services, rights, and interests in which contracts for the future delivery are presently or in the future dealt in, inserted definitions for ''commodity trading advisor'' and ''commodity pool operator'', and, as definition of ''the Commission'', substituted ''Commodity Futures Trading Commission established under section 4a of this title'' for ''Commodity Exchange Commission, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General, or an official or employee of each of the executive departments concerned, designated by the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General, respectively; and the Secretary of Agriculture or his designee shall serve as Chairman''.

1968—Pub. L. 90–418 extended definition of ''commodity'' in third sentence to include frozen concentrated orange juice.

Pub. L. 90–258, § 1(a), extended definition of ''commodity'' in third sentence to include livestock and livestock products.

Pub. L. 90–258, § 1(b), substituted in definition of ''floor broker'' in penultimate sentence ''purchase or sell for any other person'' for ''engage in executing for others any order for the purchase or sale of'' and struck out provision for receipt or acceptance of any commission or other compensation for services as a floor broker.

Pub. L. 90–258, § 1(c), provided in last sentence for representation on the Commission of Secretary of Agriculture, Secretary of Commerce, and Attorney General by an official or employee designated from executive department concerned and for service of Secretary of Agriculture or his designee as Chairman.

1955—Act July 26, 1955, extended ''commodity'' to onions.

1954—Act Aug. 28, 1954, extended ''commodity'' to wool.

1940—Act Oct. 9, 1940, extended ''commodity'' to fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans and soybean meal.

1938—Act Apr. 7, 1938, extended ''commodity'' to wool tops.

1936—Act June 15, 1936, substituted ''commodity'', ''any commodity'', or ''commodities'', as the case may require, for ''grain'' wherever appearing, and ''any cash commodity'' for ''cash grain'', and inserted definitions of ''cooperative association of producers,'' ''member of a contract market'', ''futures commission merchant'', ''floor broker'' and ''the commission.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 239 of Pub. L. 97–444 provided that: ''This Act [see Short Title of 1983 Amendment note set out under section 1 of this title] shall be effective upon the date of enactment of this Act [Jan. 11, 1983], except that sections 207, 212, and 231 of this Act [amending sections 6d, 6k, and 18 of this title] shall be effective one hundred and twenty days after the date of enactment of this Act, or such earlier date as the Commodity Futures Trading Commission shall prescribe by regulation.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 28 of Pub. L. 95–405 provided that: ''Except as otherwise provided in this Act, the provisions of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] shall become effective October 1, 1978.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 418 of Pub. L. 93–463 provided that:

''(a) Except as otherwise provided specifically in this Act, the effective date of this Act [see Short Title note set out under section 1 of this title] shall be the 180th day after enactment [Oct. 23, 1974]. The Commission referred to in section 101 [Commodity Futures Trading Commission] is hereby established effective immediately on enactment of this Act. Sections 102 and 410 [amending sections 5108, 5314, 5315, and 5316 of Title 5, Government Organization and Employees] shall be effective immediately on enactment of this Act. Activities necessary to implement the changes effected by this Act may be carried out after the date of enactment and before as well as after the 180th day thereafter. Activities to be carried out after the date of enactment and before the 180th day thereafter may include, but are not limited to the following: Designation of boards of trade as contract markets, registration of futures commission merchants, floor brokers, and other persons required to be registered under the Act [this chapter], approval or modification of bylaws, rules, regulations, and resolutions of contract markets, and issuance of regulations, effective on or after the 180th day after enactment; appointment and compensation of the members of the Commission; hiring and compensation of staff; and conducting of investigations and hearings. Nothing in this Act shall limit the authority of the Secretary of Agriculture or the Commodity Exchange Commission under the Commodity Exchange Act, as amended, prior to the 180th day after enactment of this Act.

''(b) Funds appropriated for the administration of the Commodity Exchange Act, as amended [this chapter], may be used to implement this Act [see Short Title note under section 4a of this title] immediately after the date of enactment of this Act [Oct. 23, 1974].''

EFFECTIVE DATE OF 1968 AMENDMENT

Section 28 of Pub. L. 90–258 provided that: ''This Act [enacting sections 12b, 13b, 13c, and 17b, and amending this section and sections 6a, 6b, 6d, 6f, 6g, 6i, 7, 7a, 7b, 8, 9, 12, 12–1, 12a, 13, and 13a of this title] shall become effective one hundred and twenty days after enactment [Feb. 19, 1968].''

EFFECTIVE DATE OF 1955 AMENDMENT

Section 2 of act July 26, 1955, provided that: ''This Act [amending this section] shall take effect sixty days after the date of its enactment [July 26, 1955].''

EFFECTIVE DATE OF 1954 AMENDMENT

Section 710(b) of act Aug. 28, 1954, which provided that the amendment of this section by act Aug. 28, 1954, was effective 60 days after Aug. 28, 1954, was repealed by Pub. L. 103–130, §3(a), Nov. 1, 1993, 107 Stat. 1369, eff. Dec. 31, 1995.

EFFECTIVE DATE OF 1940 AMENDMENT

Section 2 of act Oct. 9, 1940, provided that: ''This Act [amending this section] shall take effect sixty days after the date of its enactment [Oct. 9, 1940].''

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

CROSS REFERENCES

Onion futures transactions, definitions, applicable, see section 13–1 of this title.

Transaction in interstate commerce, see section 3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6c, 6m, 7a, 18, 21, 25 of this title.

§ 2a. Designation of boards of trade as contract markets; approval by and jurisdiction of Commodity Futures Trading Commission and Securities and Exchange Commission

Notwithstanding any other provision of law—

(i) This chapter shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 77b(1)[1] of title 15 or section 78c(a)(10) of title 15 on January 11, 1983), including any group or index of such securities, or any interest therein or based on the value thereof.

(ii) This chapter shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'') and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): *Provided, however*, That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

(I) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 77c of title 15 or section 78c(a)(12) of title 15 as in effect on January 11, 1983, (other than any municipal security, as defined in section 78c(a)(29) of title 15 on January 11, 1983);

(II) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

(III) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) of this subparagraph.

(iv)(I) The Commission shall consult with the Securities and Exchange Commission with respect to any application which is submitted by a board of trade before December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities. If, no later than fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) of this subparagraph is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. If such an oral hearing is held, the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 9 of this title. If, pursuant to sections 8 and 9 of this title, there is a hearing on the record with respect to such application for designation,

[1] See References in Text note below.

the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

(II) Effective for any application submitted by a board of trade on or after December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities, the Commission shall transmit a copy of such application to the Securities and Exchange Commission for review. The Commission shall not approve any such application if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) of this subparagraph. Such determination shall be made by order no later than forty-five days after the close of the public comment period under clause (iii) of this subparagraph. In the event of such determination, the board of trade shall be afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing shall commence no later than thirty days following the receipt of the request, and a final determination shall be made no later than thirty days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner and under such terms and conditions as are provided in section 8(b) of this title.

(v) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 77c of title 15 or section 78c(a)(12) of title 15 as in effect on January 11, 1983 (other than any municipal security as defined in section 78c(a)(29) of title 15 on January 11, 1983), or except as provided in clause (ii) of this subparagraph, any group or index of such securities or any interest therein or based on the value thereof.

(vi)(I) Notwithstanding any other provision of this chapter, any contract market in a stock index futures contract (or option thereon) shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for the stock index futures contract (or option thereon).

(II) The Board may at any time request any contract market to set the margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request.

(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this clause only to the Commission.

(IV) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 12a(9) of this title to direct a contract market, on finding an emergency to exist, to raise temporary emergency margin levels on any futures contract or option on the contract covered by this clause.

(V) Any action taken by the Board, or by the Commission acting under the delegation of authority under subclause III,[2] under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on the examination of all information before the Board or the Commission, as the case may be, at the time the determination was made. The court reviewing the action of the Board or the Commission shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(Sept. 21, 1922, ch. 369, §2(a)(1)(B), as added Pub. L. 97–444, title I, §101(a)(3), Jan. 11, 1983, 96 Stat. 2294; amended Pub. L. 99–641, title I, §110(1), Nov. 10, 1986, 100 Stat. 3561; Pub. L. 102–546, title II, §209(b)(1), title V, §501, Oct. 28, 1992, 106 Stat. 3606, 3628.)

REFERENCES IN TEXT

Section 77b(1) of title 15, referred to in par. (i), was redesignated section 77b(a)(1) of title 15 by Pub. L. 104–290, title I, §106(a)(1), Oct. 11, 1996, 110 Stat. 3424.

Section 9 of this title and sections 8 and 9 of this title, referred to in par. (iv)(I), were in the original ''section 6(c) of this Act'' and ''section 6 of this Act'', respectively, meaning section 6 of act Sept. 21, 1922, ch. 369, which is classified to sections 8, 9, 9a, 13b, and 15 of this title. See Codification note set out under section 8 of this title.

CODIFICATION

Section is comprised of subsec. (a)(1)(B) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. Subsec. (a)(1)(A) is classified to sections 2 and 4 of this title. Subsec. (a)(2) to (11) of section 2 of the Commodity Exchange Act is classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

AMENDMENTS

1992—Par. (iv)(I). Pub. L. 102–546, §209(b)(1)(A), made technical amendment to reference to section 9 of this title appearing in penultimate sentence to reflect change in reference to corresponding section of original act.

Par. (iv)(II). Pub. L. 102–546, §209(b)(1)(B), substituted ''section 8(b)'' for ''section 8''.

Par. (vi). Pub. L. 102–546, §501, added par. (vi).

1986—Par. (iv)(I). Pub. L. 99–641 substituted ''Securities and Exchange Commission'' for ''Securities Exchange Commission'' before ''otherwise agree''.

EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

[2] So in original. Probably should be subclause ''(III)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6, 7a, 18, 21, 25 of this title.

§ 3. Transaction in interstate commerce

For the purposes of this chapter (but not in any wise limiting the definition of interstate commerce in section 2 of this title) a transaction in respect to any article shall be considered to be in interstate commerce if such article is part of that current of commerce usual in the commodity trade whereby commodities and commodity products and by-products thereof are sent from one State, with the expectation that they will end their transit, after purchase, in another, including in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Articles normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word ''State'' includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Sept. 21, 1922, ch. 369, § 2(b), 42 Stat. 998; June 15, 1936, ch. 545, § 2, 49 Stat. 1491.)

CODIFICATION

Section is comprised of subsec. (b) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. Part of subsec. (a) of such section 2 is classified to section 2 and the remainder of such subsec. (a) is classified to sections 2a, 4, and 4a of this title.

AMENDMENTS

1936—Act June 15, 1936, substituted ''commodity'' and ''commodities'', as the case may require, for ''grain'' wherever appearing.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

CROSS REFERENCES

Interstate commerce defined, see section 2 of this title.

Power of Congress to regulate interstate commerce, see Const. Art. I, § 8, cl. 3.

§ 4. Liability of principal for act of agent

For the purpose of this chapter the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

(Sept. 21, 1922, ch. 369, § 2(a)(1)(A)(iii), formerly § 2(a), 42 Stat. 998; renumbered § 2(a)(1), Pub. L. 93–463, title I, § 101(a)(1), Oct. 23, 1974, 88 Stat. 1389; renumbered § 2(a)(1)(A), Pub. L. 97–444, title I, § 101(a)(1), Jan. 11, 1983, 96 Stat. 2294; renumbered § 2(a)(1)(A)(iii), Pub. L. 102–546, title IV, § 404(b)(6), Oct. 28, 1992, 106 Stat. 3628.)

CODIFICATION

Section is comprised of part of subsec. (a)(1)(A)(iii) of section 2 of the Commodity Exchange Act, act Sept. 21, 1922. Subsec. (a)(1)(A)(i), (ii) is classified to section 2 of this title. Subsec. (a)(1)(B) is classified to section 2a of this title. Subsecs. (a)(2) to (11) of section 2 of the Commodity Exchange Act are classified to section 4a of this title. Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7a, 18, 21, 25 of this title.

§ 4a. Commodity Futures Trading Commission

(a) Establishment; composition; term of Commissioners

(1) There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall—

(i) select persons who shall each have demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by this chapter; and

(ii) seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to such areas.

Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (i) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

(2) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a Commissioner.

(b) Vacancies

A vacancy in the Commission shall not impair the right of the remaining Commissioners to exercise all the powers of the Commission.

(c) General Counsel

The Commission shall have a General Counsel, who shall be appointed by the Commission and serve at the pleasure of the Commission. The General Counsel shall report directly to the Commission and serve as its legal advisor. The Commission shall appoint such other attorneys as may be necessary, in the opinion of the Commission, to assist the General Counsel, represent the Commission in all disciplinary proceedings pending before it, represent the Commission in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Commission in courts of law, and perform such other legal duties and functions as the Commission may direct.

(d) Executive Director

The Commission shall have an Executive Director, who shall be appointed by the Commission and serve at the pleasure of the Commission. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

(e) Powers and functions of Chairman

(1) Except as otherwise provided in this subsection and in subsections (c) and (d) of this section, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, according to budget categories, plans, programs, and priorities established and approved by the Commission, shall be exercised solely by the Chairman.

(2) In carrying out any of his functions under the provisions of this subsection, the Chairman shall be governed by general policies, plans, priorities, and budgets approved by the Commission and by such regulatory decisions, findings, and determination as the Commission may by law be authorized to make.

(3) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(4) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this subsection.

(5) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

(6) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any functions of the Chairman under this subsection.

(f) Conflict of interest

No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this chapter during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

(g) Liaison with Department of Agriculture; communications with Department of Treasury, Federal Reserve Board, and Securities and Exchange Commission; application by a board of trade for designation as a contract market for future delivery of securities

(1) The Commission shall, in cooperation with the Secretary of Agriculture, maintain a liaison between the Commission and the Department of Agriculture. The Secretary shall take such steps as may be necessary to enable the Commission to obtain information and utilize such services and facilities of the Department of Agriculture as may be necessary in order to maintain effectively such liaison. In addition, the Secretary shall appoint a liaison officer, who shall be an employee of the Office of the Secretary, for the purpose of maintaining a liaison between the Department of Agriculture and the Commission. The Commission shall furnish such liaison officer appropriate office space within the offices of the Commission and shall allow such liaison officer to attend and observe all deliberations and proceedings of the Commission.

(2)(i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies shall be included as part of the public record of the Commission's designation proceeding. In designating, or refusing, suspending, or revoking the designation of, a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 12a(9) of this title with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the

Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

(iii) The provisions of this subparagraph shall not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.

(h) Transmittal of budget requests and legislative recommendations to Congressional committees

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

(2) Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

(3) Whenever the Commission issues for official publication any opinion, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.

(i) Seal

The Commission shall have an official seal, which shall be judicially noticed.

(j) Rules and regulations

The Commission is authorized to promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission.

(Sept. 21, 1922, ch. 369, § 2(a)(2)–(11), as added Pub. L. 93–463, title I, § 101(a)(3), Oct. 23, 1974, 88 Stat. 1389; amended Pub. L. 95–405, § 2(2)–(15), Sept. 30, 1978, 92 Stat. 865–867; Pub. L. 97–444, title II, § 202, Jan. 11, 1983, 96 Stat. 2298; Pub. L. 102–546, title II, §§ 215, 226, Oct. 28, 1992, 106 Stat. 3611, 3618.)

CODIFICATION

Section is comprised of pars. (2) to (11) of section 2(a) of the Commodity Exchange Act. For purposes of codification the numbered pars. (2) to (11) have been translated as subsecs. (a) to (j), respectively, of this section, with subpars. (A) and (B) of par. (2), subpars. (A) to (F) of par. (6), subpars. (A) and (B) of par. (7), subpars. (A) and (B) of par. (8), and subpars. (A) to (C) of par. (9) in the original being translated as pars. (1) and (2) of subsec. (a), pars. (1) to (6) of subsec. (e), pars. (1) and (2) of subsec. (f), pars. (1) and (2) of subsec. (g), and pars. (1) to (3) of subsec. (h) of this section, respectively.

Par. (1) of section 2(a) of the Commodity Exchange Act is classified to sections 2, 2a, and 4 of this title.

Subsec. (b) of section 2 of the Commodity Exchange Act is classified to section 3 of this title.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–546, § 215, substituted second and third sentences for ''The Commission shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this chapter.''

Subsec. (h)(3). Pub. L. 102–546, § 226, added par. (3).

1983—Subsec. (f). Pub. L. 97–444 struck out subpar. designation of first par. and subpar. designation and provisions of second par. which prohibited any representative activities before the Commission for a one year period upon termination of employment occurring on a day more than four months after Sept. 30, 1978, of any Commissioner or employee of the Commission having a GS–16 or higher classified position excepted from the competitive service because of its confidential or policymaking character.

1978—Subsec. (a). Pub. L. 95–405, § 2(2)–(5), designated existing provisions as par. (1) and substituted ''five Commissioners'' for ''a chairman and four other Commissioners'', ''(i)'' for ''(A)'', and ''(ii)'' for ''(B)'', and added par. (2).

Subsec. (d). Pub. L. 95–405, § 2(6), struck out '', by and with the advice and consent of the Senate,'' after ''by the Commission''.

Subsec. (e)(1). Pub. L. 95–405, § 2(7), inserted ''according to budget categories, plans, programs, and priorities established and approved by the Commission,'' after ''expenditure of funds,''.

Subsec. (e)(2). Pub. L. 95–405, § 2(8), substituted '', plans, priorities, and budgets approved by the Commission'' for ''of the Commission''.

Subsec. (f). Pub. L. 95–405, § 2(9), (10), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 95–405, § 2(11)–(13), designated existing provisions as par. (1), substituted ''maintain'' for ''establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining'', and added par. (2).

Subsec. (h)(1), (2). Pub. L. 95–405, § 2(14), (15), substituted ''Senate Committee on Agriculture, Nutrition, and Forestry'' for ''Senate Committee on Agriculture and Forestry''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

SEPARABILITY

Section 413 of Pub. L. 93–463 provided that: ''If any provision of this Act [see Short Title of 1974 Amendment note set out under section 1 of this title] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.''

EDUCATIONAL EVENTS AND SYMPOSIA

Pub. L. 106–78, title VI, Oct. 22, 1999, 113 Stat. 1160, provided in part: ''That for fiscal year 2000 and thereafter, the Commission [Commodity Futures Trading Commission] is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.''

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105–277, div. A, §101(a) [title VI], Oct. 21, 1998, 112 Stat. 2681, 2681–24.

Pub. L. 105–86, title VI, Nov. 18, 1997, 111 Stat. 2104.

Pub. L. 104–180, title VI, Aug. 6, 1996, 110 Stat. 1596.

Pub. L. 104–37, title VI, Oct. 21, 1995, 109 Stat. 327.

Pub. L. 103–330, title VI, Sept. 30, 1994, 108 Stat. 2466.

COMPETITIVENESS STUDY

Section 219 of Pub. L. 102–546 provided that:

''(a) IN GENERAL.—No later than eighteen months following the enactment of this Act [Oct. 28, 1992], the Commodity Futures Trading Commission shall study the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) [see 7 U.S.C. 1a(10)], have jurisdiction, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of its findings with respect to—

''(1) the overall competitive status of United States boards of trade in the world market;

''(2) a comparison of applicable statutes, rules, or regulations as they relate to futures and options administered and enforced by the Commission and those administered and enforced by foreign futures authorities;

''(3) any trends in, or movements of, volume of futures and options trading to or from United States boards of trade during the period of the study, and whether such trends or movements, if any, were the result of the adoption of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States, as opposed to other competitive, economic, regional, or commercial factors;

''(4) any significant harms or risks to the public interest, market users, traders, and commerce in relation to futures or options traded on such foreign boards of trade which may result from the absence of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States or disparities in regulatory protections offered by United States and foreign authorities; and

''(5) any recommendations the Commission may have as a result of the study to enhance the competitive status of United States boards of trade in the world market, or to enhance the regulations of markets in the global environment, that will not impair customer confidence in United States boards of trade.

''(b) COOPERATION.—To promote the efficient use of resources, the Commission shall endeavor, as it determines appropriate, to obtain the assistance of the General Accounting Office, the Office of the United States Trade Representative, or other appropriate offices of the Federal Government in order to obtain information with regard to trading at foreign boards of trade and the regulation of such boards of trade by foreign futures authorities.''

SILVER MARKETS ACTIVITY, SEPTEMBER 1979 THROUGH MARCH 1980; REPORT TO CONGRESS

Act Sept. 21, 1922, ch. 369, §21, as added by Pub. L. 96–276, §7, June 17, 1980, 94 Stat. 542, which required Commission to establish a joint working group with Federal Reserve Board, Department of the Treasury, and Securities and Exchange Commission to analyze and issue a report by Oct. 1, 1980, on the various aspects of events in silver cash and futures markets during period of September 1979 through March 1980, was repealed by Pub. L. 102–546, title IV, §402(13), Oct. 28, 1992, 106 Stat. 3625.

NON-ABATEMENT OF PENDING PROCEEDINGS

Section 412 of Pub. L. 93–463 provided that: ''Pending proceedings under existing law shall not be abated by reason of any provision of this Act [see Short Title note set out under section 1 of this title] but shall be disposed of pursuant to the applicable provisions of the Commodity Exchange Act, as amended [this chapter], in effect prior to the effective date of this Act [see Effective Date of 1974 Amendment note set out under section 2 of this title].''

PROVISIONAL DESIGNATION OF CONTRACT MARKETS; PROVISIONAL REGISTRATION OF FUTURES COMMISSION MERCHANTS, FLOOR BROKERS, ASSOCIATED PERSONS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS; EXTENSION OF EFFECTIVE DATES

Pub. L. 94–16, §1, Apr. 16, 1975, 89 Stat. 77, provided that the Commodity Futures Trading Commission would, in its discretion, and without prior notice of hearings, grant provisional designation as a contract market to any boards of trade for any commodities traded thereon for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 [see Effective Date of 1974 Amendment note set out under section 2 of this title] and under such terms and conditions as it prescribed, and that upon the expiration of any provisional designation of a board of trade as a contract market, such board of trade should not be designated as a contract market except as provided in section 6 of the Commodity Exchange Act, as amended [section 8 et seq. of this title]; would grant provisional registration as a futures commission merchant, floor broker, associated person, commodity trading adviser, and commodity pool operator to any person for such period not in excess of ninety days from the effective date of the Commodity Futures Trading Commission Act of 1974 (Public Law 93–463) [see Effective Date of 1974 Amendment note set out under section 2 of this title] and under such terms and conditions as it prescribed; and would defer for such period not in excess of ninety days from the effective date of the Act [see Effective Date of 1974 Amendment note under section 2 of this title], the effective dates of sections 204, 205, 210, and 407 of the Commodity Futures Trading Commission Act of 1974 (Public Law 93–463) [enacting sections 6k, 6*l*, 6m, 6n, 6*o*, and 7a(12) and amending sections 7a(8), 9, and 12a(1) of this title].

REPORT AND RECOMMENDATIONS TO CONGRESS RESPECTING NEED FOR INSURANCE COVERING INSOLVENCY OR FAILURE OF FUTURES COMMISSION MERCHANTS

Section 417 of Pub. L. 93–463 required that the Commodity Futures Trading Commission submit to the Congress, not later than June 30, 1976, a report respecting the need for legislation insuring owners of commodity futures accounts and persons handling or clearing trades in such accounts against loss by reason of the insolvency or financial failure of a futures commission merchant carrying such accounts and that the report contain the recommendations of the Commission concerning the form and nature of any such legislation.

TRANSFER OF OPERATIONS TO COMMODITY FUTURES TRADING COMMISSION

Section 411 of Pub. L. 93–463 provided that all operations of the Commodity Exchange Commission and of

the Secretary of Agriculture under the Commodity Exchange Act [this chapter], including all pending administrative proceedings, be transferred to the Commodity Futures Trading Commission as of the effective date of Pub. L. 93–463 [see Effective Date of 1974 Amendment note set out under section 2 of this title] and continue to completion and that all rules, regulations, and orders theretofore issued by the Commodity Exchange Commission and by The Secretary of Agriculture under the Commodity Exchange Act [this chapter] to the extent not inconsistent with the provisions of Pub. L. 93–463 [see Short Title note set out under section 1 of this title] continue in full force and effect unless and until terminated, modified, or suspended by the Commodity Futures Trading Commission.

TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND FUNDS TO COMMODITY FUTURES TRADING COMMISSION

Section 104 of Pub. L. 93–463 authorized the transfer of all of the personnel of the Commodity Exchange Authority, property, records, and unexpended balance of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with administration of the Commodity Exchange Act [this chapter] to the Commodity Futures Trading Commission upon the effective date of Pub. L. 93–463 [see Effective Date of 1974 Amendment note set out under section 2 of this title].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1a of this title.

§ 5. Legislative findings

Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as ''futures'' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein. Furthermore, transactions which are of the character of, or are commonly known to the trade as, ''options'' are or may be utilized by commercial and other entities for risk shifting and other purposes. Options transactions are in interstate commerce or affect such commerce and the national economy, rendering regulation of such transactions imperative for the protection of such commerce and the national public interest.

(Sept. 21, 1922, ch. 369, § 3, 42 Stat. 999; June 15, 1936, ch. 545, § 2, 49 Stat. 1491; Pub. L. 97–444, title II, § 203, Jan. 11, 1983, 96 Stat. 2298.)

AMENDMENTS

1983—Pub. L. 97–444 reenacted provisions punctuated with semicolons as sentences, substituted ''commodities'' for ''commodity'' wherever appearing, substituted ''susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering'' for ''susceptible to speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodity and products and byproducts thereof in interstate commerce, and such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodity and the products and byproducts thereof and render'', and inserted provisions respecting ''options'' and ''options transactions''.

1936—Act June 15, 1936, substituted ''commodity'' for ''grain'' wherever appearing.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

§ 6. Regulation of futures trading and foreign transactions

(a) Restriction of futures trading to contract markets

Unless exempted by the Commission pursuant to subsection (c) of this section, it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a ''contract market'' for such commodity;

(2) such contract is executed or consummated by or through a member of such contract market; and

(3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the Department of Justice.

(b) Regulation of foreign transactions by United States persons

The Commission may adopt rules and regulations proscribing fraud and requiring minimum

financial standards, the disclosure of risk, the filing of reports, the keeping of books and records, the safeguarding of customers' funds, and registration with the Commission by any person located in the United States, its territories or possessions, who engages in the offer or sale of any contract of sale of a commodity for future delivery that is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade, exchange, or market involved. No rule or regulation may be adopted by the Commission under this subsection that (1) requires Commission approval of any contract, rule, regulation, or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, or (2) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market.

(c) Public interest exemption from contract market requirement

(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 7 of this title) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) of this section (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a) of this section, or from any other provision of this chapter (except section 2a of this title), if the Commission determines that the exemption would be consistent with the public interest.

(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) of this section unless the Commission determines that—

(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this chapter; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this chapter.

(3) For purposes of this subsection, the term ''appropriate person'' shall be limited to the following persons or classes thereof:

(A) A bank or trust company (acting in an individual or fiduciary capacity).

(B) A savings association.

(C) An insurance company.

(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

(E) A commodity pool formed or operated by a person subject to regulation under this chapter.

(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.

(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 et seq.], or a commodity trading advisor subject to regulation under this chapter.

(H) Any governmental entity (including the United States, any state,[1] or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.

(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this chapter acting on its own behalf or on behalf of another appropriate person.

(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

(4) During the pendency of an application for an order granting an exemption under paragraph (1), the Commission may limit the public availability of any information received from the applicant if the applicant submits a written request to limit disclosure contemporaneous with the application, and the Commission determines that—

(A) the information sought to be restricted constitutes a trade secret; or

(B) public disclosure of the information would result in material competitive harm to the applicant.

(5) The Commission may—

(A) promptly following October 28, 1992, or upon application by any person, exercise the exemptive authority granted under paragraph (1) with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be regarded as subject to the provisions of this chapter; or

(B) promptly following October 28, 1992, or upon application by any person, exercise the

[1] So in original. Probably should be capitalized.

exemptive authority granted under paragraph (1) effective as of October 23, 1974, with respect to classes of swap agreements (as defined in section 101 of title 11) that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this chapter.

Any exemption pursuant to this paragraph shall be subject to such terms and conditions as the Commission shall determine to be appropriate pursuant to paragraph (1).

(d) Effect of exemption on investigative authority of Commission

The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this chapter to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision of this chapter or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.

(Sept. 21, 1922, ch. 369, § 4, 42 Stat. 999; June 15, 1936, ch. 545, §§ 2, 4, 49 Stat. 1491, 1492; Pub. L. 93–463, title I, § 103(a), (f), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 97–444, title II, § 204, Jan. 11, 1983, 96 Stat. 2299; Pub. L. 102–546, title V, § 502(a), Oct. 28, 1992, 106 Stat. 3629.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (c)(3)(D), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a–1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

The Investment Advisers Act of 1940, referred to in subsec. (c)(3)(G), is title II of act Aug. 22, 1940, ch. 686, 54 Stat. 847, as amended, which is classified generally to subchapter II (§ 80b–1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80b–20 of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (c)(3)(I), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, § 502(a)(1), substituted ''Unless exempted by the Commission pursuant to subsection (c) of this section, it shall be unlawful'' for ''It shall be unlawful''.

Subsecs. (c), (d). Pub. L. 102–546, § 502(a)(2), added subsecs. (c) and (d).

1983—Pub. L. 97–444 amended section generally, combining into subsec. (a) existing provisions of this section together with provisions formerly contained in section 6h(1) of this title, relating to the conduct of offices or places of business anywhere in the United States or its territories that are used for dealing in commodities for future delivery unless such dealings are executed or consummated by or through a member of a contract market, and adding subsec. (b).

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

1936—Act June 15, 1936, § 2, substituted ''commodity'' for ''grain'' wherever appearing.

Act June 15, 1936, § 4, struck out par. (a) and combined par. (b) with first par.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section and for failure to evidence any contract mentioned in this section by a record in writing, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13, 16, 19 of this title.

§ 6a. Excessive speculation

(a) Burden on interstate commerce; trading or position limits

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the Commission shall, from time to time, after due notice and opportunity for hearing, by rule, regulation, or order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the Commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or for different number of days remaining until the last day of trading in a contract, or different trading limits for buying and selling operations, or different limits for the purposes of paragraphs (1) and (2) of subsection (b) of this section, or from exempting transactions normally known to the trade as ''spreads'' or ''straddles'' or ''arbitrage'' or from

fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word ''arbitrage'' in domestic markets shall be defined to mean the same as ''spread'' or ''straddle''. The Commission is authorized to define the term ''international arbitrage''.

(b) Prohibition on trading or positions in excess of limits fixed by Commission

The Commission shall, in such rule, regulation, or order, fix a reasonable time (not to exceed ten days) after the promulgation of the rule, regulation, or order; after which, and until such rule, regulation, or order is suspended, modified, or revoked, it shall be unlawful for any person—

(1) directly or indirectly to buy or sell, or agree to buy or sell, under contracts of sale of such commodity for future delivery on or subject to the rules of the contract market or markets to which the rule, regulation, or order applies, any amount of such commodity during any one business day in excess of any trading limit fixed for one business day by the Commission in such rule, regulation, or order for or with respect to such commodity; or

(2) directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery on or subject to the rules of any contract market in excess of any position limit fixed by the Commission for or with respect to such commodity: *Provided*, That such position limit shall not apply to a position acquired in good faith prior to the effective date of such rule, regulation, or order.

(c) Applicability to bona fide hedging transactions or positions

No rule, regulation, or order issued under subsection (a) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this chapter. Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this chapter and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following January 11, 1983.

(d) Persons subject to regulation; applicability to transactions made by or on behalf of United States

This section shall apply to a person that is registered as a futures commission merchant, an introducing broker, or a floor broker under authority of this chapter only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. This section shall not apply to transactions made by, or on behalf of, or at the direction of, the United States, or a duly authorized agency thereof.

(e) Rulemaking power of contract markets and penalties for violation

Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 6c of this title for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this chapter for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission: *Provided*, That the provisions of section 13(c)[1] of this title shall apply only to those who knowingly violate such limits.

(Sept. 21, 1922, ch. 369, §4a, as added June 15, 1936, ch. 545, §5, 49 Stat. 1492; amended July 24, 1956, ch. 690, §1, 70 Stat. 630; Pub. L. 90–258, §§2–4, Feb. 19, 1968, 82 Stat. 26, 27; Pub. L. 93–463, title IV, §§403, 404, Oct. 23, 1974, 88 Stat. 1413; Pub. L. 94–16, §4, Apr. 16, 1975, 89 Stat. 78; Pub. L. 97–444, title II, §205, Jan. 11, 1983, 96 Stat. 2299; Pub. L. 102–546, title IV, §402(1)(A), (2), Oct. 28, 1992, 106 Stat. 3624.)

REFERENCES IN TEXT

Section 13(c) of this title, referred to in subsec. (e), was struck out and subsec. (d) of section 13 was redesignated (c) by Pub. L. 102–546, title II, §212(a)(1)(A), (B), Oct. 28, 1992, 106 Stat. 3608.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §402(1)(A), (2)(A), (C), redesignated par. (1) as subsec. (a), substituted ''Commission'' for ''commission'' wherever appearing except in last sentence, and substituted ''paragraphs (1) and (2) of subsection (b) of this section'' for ''subparagraphs (A) and (B) of paragraph (2)''.

Subsec. (b). Pub. L. 102–546, §402(1)(A), (2)(C), (D), redesignated par. (2) as subsec. (b) and subpars. (A) and (B) as pars. (1) and (2), respectively, and substituted ''Commission'' for ''commission'' wherever appearing.

[1] See References in Text note below.

Subsec. (c). Pub. L. 102–546, § 402(2)(B), (C), redesignated par. (3) as subsec. (c) and substituted ''subsection (a)'' for ''paragraph (1)''.

Subsecs. (d), (e). Pub. L. 102–546, § 402(2)(C), redesignated pars. (4) and (5) as subsecs. (d) and (e), respectively.

1983—Par. (1). Pub. L. 97–444, § 205(1), (2), substituted ''by rule, regulation, or order, proclaim'' for ''by order, proclaim'' and inserted ''or for different number of days remaining until the last day of trading in a contract,'' after ''delivery months''.

Par. (2). Pub. L. 97–444, § 205(1), (3), substituted ''after the promulgation of the rule, regulation, or order'' for ''after the order's promulgation'' in provisions before subpar. (A) and substituted ''rule, regulation, or order'' for ''order'' in provisions before subpar. (A) and in subpars. (A) and (B).

Par. (3). Pub. L. 97–444, § 205(4), substituted ''No rule, regulation, or order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this chapter'' for ''No order issued under paragraph (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this chapter'' and inserted ''Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this chapter and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following January 11, 1983.''

Par. (4). Pub. L. 97–444, § 205(5), substituted ''a futures commission merchant, an introducing broker, or a floor broker'' for ''a futures commission merchant or as floor broker''.

Par. (5). Pub. L. 97–444, § 205(6), added par. (5).

1975—Par. (3). Pub. L. 94–16 substituted ''one hundred and eighty days'' for ''ninety days''.

1974—Par. (1). Pub. L. 93–463, § 403, inserted ''or 'arbitrage' '' after ''or 'straddles' '', inserted definition of ''arbitrage'', and authorized Commission to define ''international arbitrage''.

Par. (3). Pub. L. 93–463, § 404, directed Commission to define ''bona fide hedging transactions or positions'' within 90 days after the effective date of the Commodity Futures Trading Commission Act of 1974 and struck out provisions which enumerated the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position.

1968—Par. (1). Pub. L. 90–258, § 2, substituted in second sentence ''amounts of trading'' for ''amount of trading'', inserted ''which may be done or positions which may be held by any person'' before ''under contracts of sale'', and struck out ''which may be done'' after ''rules of any contract market'', inserted third sentence providing for inclusion of controlled positions and trading in determining whether prescribed position or trading limits have been exceeded and for application of such position and trading limits to activities of two or more persons acting pursuant to agreement or understanding as if the activities of a single person, and included in fourth, formerly third, sentence references to position limits and to positions, substituted ''normally'' for ''commonly'', and struck out ''trading'' from ''from fixing trading limits'' and ''from trading limits''.

Par. (2)(B). Pub. L. 90–258, § 3, substituted prohibition against holding of net long or net short positions in excess of any position limit fixed by the Commission for former prohibition of purchases or sales which result in net long or net short positions in excess of trading limits fixed by the Commission and provided that the position limit shall not apply to a position acquired in good faith prior to the effective date of the order.

Par. (3). Pub. L. 90–258, § 4, included references to positions, made hedging applicable to short and long positions, substituted ''contract market'' for ''board of trade'', and required the activities to be those of the same person to constitute hedging.

1956—Par. (3)(C). Act July 24, 1956, added subpar. (C).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 404 of Pub. L. 93–463 provided that the amendment of par. (3) which struck out provisions that enumerated the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position, was effective immediately upon the enactment of Pub. L. 93–463, which was approved Oct. 23, 1974.

Amendment by Pub. L. 93–463 of par. (1) and that part of par. (3) directing the Commission to define ''bona fide hedging transactions or positions'' effective so as to allow implementation of all changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act July 24, 1956, provided that: ''This Act [amending this section] shall take effect sixty days after the date of its enactment [July 24, 1956].''

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

REGULATIONS DEFINING BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

Section 404 of Pub. L. 93–463 provided in part: ''That notwithstanding any other provision of law, the Secretary of Agriculture, immediately upon the enactment of the Commodity Futures Trading Commission Act of 1974 [which was approved on Oct. 23, 1974], is authorized and directed to promulgate regulations defining bona fide hedging transactions and positions: *And provided further*, That until the Secretary issues such regulations defining bona fide hedging transactions and positions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act [par. (3) of this section] prior to its amendment by the Commodity Futures Trading Commission Act of 1974 [Pub. L. 93–463].''

CROSS REFERENCES

Power of Congress to regulate interstate commerce, see Const. Art. I, § 8, cl. 3.

Punishment for violating the provisions of this section, see section 13 of this title.

§ 6b. Fraud, false reporting, or deception prohibited

(a) Contracts designed to defraud or mislead; bucketing orders

It shall be unlawful (1) for any member of a contract market, or for any correspondent, agent, or employee of any member, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce, made, or to be made, on or subject to the rules of any contract market, for or on behalf of any other person, or (2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (A) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (B) determining the price basis of any transaction in interstate commerce in such commodity, or (C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

(i) to cheat or defraud or attempt to cheat or defraud such other person;

(ii) willfully to make or cause to be made to such other person any false report or statement thereof, or willfully to enter or cause to be entered for such person any false record thereof;

(iii) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person; or

(iv) to bucket such order, or to fill such order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such person to become the buyer in respect to any selling order of such person, or become the seller in respect to any buying order of such person.

(b) Buying and selling orders for commodity

Nothing in this section or in any other section of this chapter shall be construed to prevent a futures commission merchant or floor broker who shall have in hand, simultaneously, buying and selling orders at the market for different principals for a like quantity of a commodity for future delivery in the same month executing such buying and selling orders at the market price: *Provided*, That any such execution shall take place on the floor of the exchange where such orders are to be executed at public outcry across the ring and shall be duly reported, recorded, and cleared in the same manner as other orders executed on such exchange: *And provided further*, That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

(c) Inapplicability to transactions on foreign exchanges

Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, or territories or possessions of the United States, involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.

(Sept. 21, 1922, ch. 369, § 4b, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1493; amended Pub. L. 90–258, § 5, Feb. 19, 1968, 82 Stat. 27; Pub. L. 93–463, title IV, § 405, Oct. 23, 1974, 88 Stat. 1413; Pub. L. 99–641, title I, § 101, Nov. 10, 1986, 100 Stat. 3557; Pub. L. 102–546, title IV, § 402(3), Oct. 28, 1992, 106 Stat. 3624.)

AMENDMENTS

1992—Pub. L. 102–546 designated first par. as subsec. (a), redesignated cls. (a) to (c) as subpars. (A) to (C), respectively, and subpars. (A) to (D) as cls. (i) to (iv), respectively, and designated second and third undesignated pars. as subsecs. (b) and (c), respectively.

1986—Pub. L. 99–641 struck out ''on or subject to the rules of any contract market,'' after ''to be made'' in cl. (2) of first par. and added concluding paragraph that this section not apply to activity on board of trade, exchange, market, or clearinghouse located outside United States involving contract of sale of commodity for future delivery.

1974—Pub. L. 93–463 substituted ''a commodity'' for ''cotton'' in provisions following subpar. (D) and inserted requirement that execution of buying and selling orders for commodities held simultaneously by the same merchant or broker be carried out in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

1968—Pub. L. 90–258 relocated cl. (1) designation in first par. to follow ''unlawful'' rather than to precede ''any contract of sale'', provided in such cl. (1) for orders to make or making of contracts of sale ''made, or to be made on or subject to the rules of any contract market, for or on behalf of any other person'' and in cl. (2) ''for any person, in or in connection with any order to make, or the making of,'' any contract of sale of any commodity for future delivery for or on behalf of any ''other'' person; and inserted ''other'' before ''person'' in subpar. (A) and in subpars. (B) and (C) where appearing for first time, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Construction of section not to impair any State law applicable to any transaction enumerated or described in this section, see section 6c of this title.

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6c. Prohibited transactions

(a) Meretricious transactions

It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution

of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (2) determining the price basis of any such transaction in interstate commerce in such commodity, or (3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

(A) if such transaction is, is of the character of, or is commonly known to the trade as, a ''wash sale,'' ''cross trade,'' or ''accommodation trade,'' or is a fictitious sale; or

(B) if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price.

Nothing in this section shall be construed to prevent the exchange of futures in connection with cash commodity transactions or of futures for cash commodities, or of transfer trades or office trades if made in accordance with board of trade rules applying to such transactions and such rules shall have been approved by the Commission.

(b) Regulated option trading

No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this chapter which is of the character of, or is commonly known to the trade as, an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'', contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.

(c) Regulations for elimination of pilot status of commodity option transactions; terms and conditions of options trading

Not later than 90 days after November 10, 1986, the Commission shall issue regulations—

(1) to eliminate the pilot status of its program for commodity option transactions involving the trading of options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated; and

(2) otherwise to continue to permit the trading of such commodity options under such terms and conditions that the Commission from time to time may prescribe.

(d) Dealer options exempt from subsections (b) and (c) prohibitions; requirements

Notwithstanding the provisions of subsection (c) of this section—

(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity, other than a commodity specifically set forth in section 2 of this title prior to October 23, 1974, and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issue options on that commodity in accordance with Commission regulations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subsection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section, other than a commodity specifically set forth in section 2 of this title prior to October 23, 1974, if—

(A) the grantor is a person domiciled in the United States who—

(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

(ii) at all times has a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below $5,000,000;

(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 78c(a)(12) of title 15), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

(v) provides an identification number for each transaction; and

(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

(B) the futures commission merchant is a person who—

(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

(ii) treats and deals with all money, securities, or property received from its customers as payment of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other

things, all costs, including any markups or commissions involved in such transaction; and

(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection, other than options on a commodity specifically set forth in section 2 of this title prior to October 23, 1974, under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

(e) Rules and regulations

The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.

(f) Nonapplicability to foreign currency options

Nothing in this chapter shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

(g) Oral orders

The Commission shall adopt rules requiring that a contemporaneous written record be made, as practicable, of all orders for execution on the floor or subject to the rules of each contract market placed by a member of the contract market who is present on the floor at the time such order is placed.

(Sept. 21, 1922, ch. 369, § 4c, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1494; amended Pub. L. 93–463, title I, § 103(a), title IV, § 402, Oct. 23, 1974, 88 Stat. 1392, 1412; Pub. L. 95–405, § 3, Sept. 30, 1978, 92 Stat. 867; Pub. L. 97–444, title I, § 102, title II, § 206, Jan. 11, 1983, 96 Stat. 2296, 2301; Pub. L. 99–641, title I, § 102, Nov. 10, 1986, 100 Stat. 3557; Pub. L. 102–546, title II, § 203(a), title IV, § 402(4), Oct. 28, 1992, 106 Stat. 3600, 3624.)

AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102–546, § 402(4), made technical amendments to references to section 78c(a)(12) of title 15 in subpar. (A)(iv) and to section 2 of this title in concluding provisions.

Subsec. (g). Pub. L. 102–546, § 203(a), added subsec. (g).

1986—Subsec. (c). Pub. L. 99–641, amended subsec. (c) generally, substituting provisions relating to regulations to eliminate pilot status of program for commodity option transactions for provisions relating to commodity option transactions, pilot program and permanent authorization, conditions ending prohibition, and excepted persons.

1983—Subsec. (a)(B), (C). Pub. L. 97–444, § 206(1), redesignated par. (C) as (B). Former par. (B), relating to transactions involving any commodity specifically set forth in section 2 of this title, prior to October 23, 1974, if such transactions were of the character of, or were commonly known to the trade as, an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'', was struck out.

Subsec. (b). Pub. L. 97–444, § 206(2), in revising section generally, struck out references to any transaction subject to provisions of subsection (a) of this section and to any commodity not specifically set forth in section 2 of this title, prior to October 23, 1974, and struck out ''within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time:'' after ''such terms and conditions as the Commission shall prescribe''.

Subsec. (c). Pub. L. 97–444, § 206(3), inserted ''With respect to any commodity regulated under this chapter and specifically set forth in section 2 of this title prior to October 23, 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.''

Subsec. (d)(1). Pub. L. 97–444, § 206(4)(A), inserted '', other than a commodity specifically set forth in section 2 of this title prior to October 23, 1974,'' after ''physical commodity''.

Subsec. (d)(2). Pub. L. 97–444, § 206(4)(B), inserted '', other than a commodity specifically set forth in section 2 of this title prior to October 23, 1974,'' after ''subsection (b) of this section'' in provisions preceding subpar. (A).

Pub. L. 97–444, § 206(4)(C), inserted '', other than options on a commodity specifically set forth in section 2 of this title prior to October 23, 1974,'' after ''The Commission may permit persons not domiciled in the United States to grant options under this subsection'' in provisions following par. (2).

Subsec. (f). Pub. L. 97–444, § 102, added subsec. (f).

1978—Subsec. (a). Pub. L. 95–405, § 3(1), in provisions following par. (C) substituted ''have been approved'' for ''not have been disapproved''.

Subsec. (b). Pub. L. 95–405, § 3(2), substituted ''Senate Committee on Agriculture, Nutrition, and Forestry'' for ''Senate Committee on Agriculture and Forestry''.

Subsecs. (c) to (e). Pub. L. 95–405, § 3(3), added subsecs. (c) to (e).

1974—Subsec. (a). Pub. L. 93–463, §§ 103(a), 402(a), (b), (d), designated existing provisions as subsec. (a), in par. (B) of subsec. (a) as so designated inserted ''if such transaction involves any commodity specifically set forth in section 2 of this title, prior to the enactment of the Commodity Futures Trading Commission Act of 1974, and'' and ''option'', and in provisions following par. (C), struck out provisions prohibiting a construction of this section or section 6b of this title which would impair any State law applicable to any transaction enumerated or described in this section or sec-

tion 6b of this title and substituted ''Commission'' for ''Secretary of Agriculture''.

Subsec. (b). Pub. L. 93–463, § 402(c), added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 203(b) of Pub. L. 102–546 provided that: ''The Commission shall adopt the rules required by the amendment made under subsection (a) [amending this section] within two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992].''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 6a, 12a, 13, 16, 19, 25 of this title; title 11 section 761.

§ 6d. Dealing by unregistered futures commission merchants or introducing brokers prohibited; duties of merchants regarding monies and securities of customers

It shall be unlawful for any person to engage as futures commission merchant or introducing broker in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant or introducing broker and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, if a futures commission merchant, whether a member or nonmember of a contract market, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however*, That such money, securities, and property of the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such contract market, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearinghouse organization of such contract market or with any member of such contract market, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further*, That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*, That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(Sept. 21, 1922, ch. 369, § 4d, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1494; amended Pub. L. 90–258, § 6, Feb. 19, 1968, 82 Stat. 27; Pub. L. 93–463, title I, § 103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95–405, § 4, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97–444, title II, § 207, Jan. 11, 1983, 96 Stat. 2302.)

AMENDMENTS

1983—Pub. L. 97–444, § 207(1), inserted reference to introducing brokers in provisions preceding par. (1).

Par. (1). Pub. L. 97–444, § 207(2), inserted ''or introducing broker'' after ''futures commission merchant''.

Par. (2). Pub. L. 97–444, § 207(3), inserted ''if a futures commission merchant,'' after ''such person shall,''.

1978—Pub. L. 95–405 in par. (2) inserted provisions authorizing Commission to prescribe terms and conditions under which funds and property commingled and deposited as permitted by par. (2) may be commingled and deposited with other funds and property received by a futures commission merchant and required by Commission to be separately accounted for and treated as belonging to its customers.

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'' in pars. (1) and (2).

1968—Pub. L. 90–258 struck out from second proviso of first par. authorization for investment of customer funds in investment securities of the kind national banking associations may buy or in loans secured by negotiable warehouse receipts conveying or securing title to readily marketable commodities to the extent of the current loan value of such receipts and added second par., making it unlawful for any person, including a clearing agency of a contract market or any depository, to treat customer funds as belonging to any person other than the customer, respectively.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

§ 6e. Dealings by unregistered floor trader or broker prohibited

It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.

(Sept. 21, 1922, ch. 369, § 4e, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1495; amended Pub. L. 93–463, title I, § 103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 102–546, title II, § 207(a), Oct. 28, 1992, 106 Stat. 3604.)

AMENDMENTS

1992—Pub. L. 102–546 amended section generally. Prior to amendment, section read as follows: ''It shall be unlawful for any person to act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor broker and such registration shall not have expired nor been suspended nor revoked.''

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 207(c) of Pub. L. 102–546 provided that: ''The amendments made by this section [amending this section and sections 6f, 6g, 12a, and 13a–2 of this title] shall become effective one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992], and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than one hundred and eighty days after the date of enactment of this Act.''

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

§ 6f. Registration and financial requirements; risk assessment

(a) Registration of futures commission merchants, introducing brokers, and floor brokers and traders

Any person desiring to register as a futures commission merchant, introducing broker, floor broker, or floor trader hereunder shall be registered upon application to the Commission. The application shall be made in such form and manner as prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including in the case of an application of a futures commission merchant or an introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this chapter.

(b) Financial requirements for futures commission merchants and introducing brokers

Notwithstanding any other provisions of this chapter, no person desiring to register as futures commission merchant or as introducing broker shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligation as a registrant, and each person so registered shall at all times

continue to meet such prescribed minimum financial requirements: *Provided*, That such minimum financial requirements will be considered met if the applicant for registration or registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations, or resolutions and approved by the Commission as adequate to effectuate the purposes of this subsection.

(c) Risk assessment for holding company systems

(1) As used in this subsection:

(i) The term ''affiliated person'' means any person directly or indirectly controlling, controlled by, or under common control with a futures commission merchant, as the Commission, by rule or regulation, may determine will effectuate the purposes of this subsection.

(ii) The term ''Federal banking agency'' shall have the same meaning as the term ''appropriate Federal banking agency'' in section 1813(q) of title 12.

(2)(A) Each registered futures commission merchant shall obtain such information and make and keep such records as the Commission, by rule or regulation, prescribes concerning the registered futures commission merchant's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons, other than a natural person.

(B) The records required under subparagraph (A) shall describe, in the aggregate, each of the futures and other financial activities conducted by, and the customary sources of capital and funding of, those of its affiliated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant, including its adjusted net capital, its liquidity, or its ability to conduct or finance its operations.

(C) The Commission, by rule or regulation, may require summary reports of such information to be filed by the futures commission merchant with the Commission no more frequently than quarterly.

(3)(A),[1] If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (2) or other available information, the Commission reasonably concludes that the Commission has concerns regarding the financial or operational condition of any registered futures commission merchant, the Commission may require the futures commission merchant to make reports concerning the futures and other financial activities of any of such person's affiliated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant.

(B) The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a contract market or other self-regulatory organization with primary responsibility for examining the registered futures commission merchant's financial and operational condition.

(4)(A) in[2] developing and implementing reporting requirements pursuant to paragraph (2) with respect to affiliated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to the written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish the comment and response in the Federal Register at the time of publishing the adopted rule.

(B)(i) Except as provided in clause (ii), a registered futures commission merchant shall be considered to have compiled[3] with a recordkeeping or reporting requirement adopted pursuant to paragraph (2) concerning an affiliated person that is subject to examination by, or reporting requirements of, a Federal banking agency if the futures commission merchant utilizes for the recordkeeping or reporting requirement copies of reports filed by the affiliated person with the Federal banking agency pursuant to section 161 of title 12, section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.), section 1817(a) of title 12, section 1467a(b) of title 12, or section 1844 of title 12.

(ii) The Commission may, by rule adopted pursuant to paragraph (2), require any futures commission merchant filing the reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that the supplemental information is necessary to inform the Commission regarding potential risks to the futures commission merchant. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include the information.

(5) Prior to making a request pursuant to paragraph (3) for information with respect to an affiliated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

(A) notify the agency of the information required with respect to the affiliated person; and

(B) consult with the agency to determine whether the information required is available from the agency and for other purposes, unless the Commission determines that any delay resulting from the consultation would be inconsistent with ensuring the financial and operational condition of the futures commission merchant or the stability or integrity of the futures markets.

(6) Nothing in this subsection shall be construed to permit the Commission to require any

[1] So in original. The comma probably should not appear.

[2] So in original. Probably should be capitalized.

[3] So in original. Probably should be ''complied''.

futures commission merchant to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained in the report.

(7) No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request under paragraph (5) regarding any affiliated person that is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than as provided in section 12 of this title or section 12a(6) of this title), without the prior written approval of the Federal banking agency.

(8) The Commission shall notify a Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any futures commission merchant to any affiliated person thereof that is subject to examination by or reporting requirements of the Federal banking agency.

(9) The Commission, by rule, regulation, or order, may exempt any person or class of persons under such terms and conditions and for such periods as the Commission shall provide in the rule, regulation, or order, from this subsection and the rules and regulations issued under this subsection. In granting the exemption, the Commission shall consider, among other factors—

(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 3401(7) of title 12), a State insurance commission or similar State agency, the Securities and Exchange Commission, or a similar foreign regulator;

(B) the primary business of any affiliated person;

(C) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

(D) the nature and extent of the registered futures commission merchant's commodity futures and options activities; and

(E) with respect to the registered futures commission merchant and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from activities in the United States futures markets.

(10) Information required to be provided pursuant to this subsection shall be subject to section 12 of this title. Except as specifically provided in section 12 of this title and notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any affiliated person of a registered futures commission merchant.

(11) Nothing in paragraphs (1) through (10) shall be construed to supersede or to limit in any way the authority or powers of the Commission pursuant to any other provision of this chapter or regulations issued under this chapter.

(Sept. 21, 1922, ch. 369, § 4f, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1495; amended Pub. L. 90–258, § 7, Feb. 19, 1968, 82 Stat. 28; Pub. L. 93–463, title I, § 103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95–405, § 5, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97–444, title II, § 208, Jan. 11, 1983, 96 Stat. 2302; Pub. L. 102–546, title II, §§ 207(b)(1), 229, Oct. 28, 1992, 106 Stat. 3604, 3619.)

REFERENCES IN TEXT

Section 9 of the Federal Reserve Act, referred to in subsec. (c)(4)(B)(i), is section 9 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified generally to subchapter VIII (§ 321 et seq.) of chapter 3 of Title 12, Banks and Banking.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §§ 207(b)(1), 229(1), redesignated par. (1) as subsec. (a) and substituted ''floor broker, or floor trader'' for ''or floor broker''.

Subsec. (b). Pub. L. 102–546, § 229(1), (2), redesignated par. (2) as subsec. (b) and substituted ''this subsection'' for ''this paragraph (2)''.

Subsec. (c). Pub. L. 102–546, § 229(3), added subsec. (c).

1983—Par. (1). Pub. L. 97–444, § 208(1), made grammatical changes, made registration provisions applicable to introducing brokers, and substituted ''revoked pursuant to the provisions of this chapter'' for ''revoked after notice and hearing as prescribed in this chapter''.

Par. (2). Pub. L. 97–444, § 208(2), made financial requirements applicable to introducing brokers.

1978—Par. (1). Pub. L. 95–405 substituted ''Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe'' for ''All registrations shall expire on the 31st day of December of the year for which issued''.

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture''.

1968—Par. (1). Pub. L. 90–258, § 7(a), substituted ''this chapter'' for ''section 6g of this title''.

Par. (2). Pub. L. 90–258, § 7(b), substituted provisions that prescribed financial requirements for registration as futures commission merchant be met and continued at all times and that such requirements will be considered met by membership in a contract market and compliance with its minimum financial standards and related reporting requirements for former provisions for display of futures commission merchants' registration certificates.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 207(b)(1) of Pub. L. 102–546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102–546, set out as a note under section 6e of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

§ 6g. Reporting and recordkeeping

(a) In general

Every person registered hereunder as futures commission merchant, introducing broker, floor broker, or floor trader shall make such reports as are required by the Commission regarding the transactions and positions of such person, and the transactions and positions of the customer thereof, in commodities for future delivery on any board of trade in the United States or elsewhere; shall keep books and records pertaining to such transactions and positions in such form and manner and for such period as may be required by the Commission; and shall keep such books and records open to inspection by any representative of the Commission or the United States Department of Justice.

(b) Daily trading records: clearinghouses and contract markets

Every clearinghouse and contract market shall maintain daily trading records. The daily trading records shall include such information as the Commission shall prescribe by rule.

(c) Daily trading records: floor brokers, introducing brokers, and futures commission merchants

Floor brokers, introducing brokers, and futures commission merchants shall maintain daily trading records for each customer in such manner and form as to be identifiable with the trades referred to in subsection (b) of this section.

(d) Daily trading records: form and reports

Daily trading records shall be maintained in a form suitable to the Commission for such period as may be required by the Commission. Reports shall be made from the records maintained at such times and at such places and in such form as the Commission may prescribe by rule, order, or regulation in order to protect the public interest and the interest of persons trading in commodity futures.

(e) Disclosure of information

Before the beginning of trading each day, the exchange shall, insofar as is practicable and under terms and conditions specified by the Commission, make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest and prescribes by rule, order, or regulation.

(f) Authority of Commission to make separate determinations unimpaired

Nothing contained in this section shall be construed to prohibit the Commission from making separate determinations for different clearinghouses, contract markets, and exchanges when such determinations are warranted in the judgment of the Commission.

(Sept. 21, 1922, ch. 369, § 4g, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496; amended Pub. L. 90–258, § 8, Feb. 19, 1968, 82 Stat. 28; Pub. L. 93–463, title I, § 103(a), (f), title IV, § 415, Oct. 23, 1974, 88 Stat. 1392, 1415; Pub. L. 95–405, § 6, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97–444, title II, § 209, Jan. 11, 1983, 96 Stat. 2302; Pub. L. 102–546, title II, § 207(b)(1), title IV, § 402(5), Oct. 28, 1992, 106 Stat. 3604, 3624.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §§ 207(b)(1), 402(5)(A), redesignated par. (1) as subsec. (a) and substituted ''floor broker, or floor trader'' for ''or floor broker''.

Subsec. (b). Pub. L. 102–546, § 402(5)(A), redesignated par. (2) as subsec. (b).

Subsec. (c). Pub. L. 102–546, § 402(5), redesignated par. (3) as subsec. (c) and substituted ''subsection (b)'' for ''paragraph (2)''.

Subsecs. (d) to (f). Pub. L. 102–546, § 402(5)(A), redesignated pars. (4) to (6) as subsecs. (d) to (f), respectively.

1983—Par. (1). Pub. L. 97–444, § 209(1), made reporting and recordkeeping requirements applicable to introducing brokers.

Par. (2). Pub. L. 97–444, § 209(2), made customer daily trading records requirement applicable to introducing brokers.

1978—Par. (3). Pub. L. 95–405 substituted ''Floor brokers'' for ''Brokers''.

1974—Par. (1). Pub. L. 93–463, §§ 103(a), (f), 415, designated existing provisions as par. (1) and substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

Pars. (2) to (6). Pub. L. 93–463, § 415, added pars. (2) to (6).

1968—Pub. L. 90–258 rephrased existing provisions to express reporting and recordkeeping requirements as a positive obligation of futures commission merchants and floor brokers, rather than as a ground for revoking or suspending registration and struck out provisions for revocation or suspension of registration. See section 9 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 207(b)(1) of Pub. L. 102–546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102–546, set out as a note under section 6e of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463 see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 6h. False self-representation as contract market member prohibited

It shall be unlawful for any person falsely to represent such person to be a member of a contract market or the representative or agent of such member, or to be a registrant under this chapter or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through a member of, any contract market.

(Sept. 21, 1922, ch. 369, § 4h, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496; amended Pub. L. 97–444, title II, § 210, Jan. 11, 1983, 96 Stat. 2302.)

AMENDMENTS

1983—Pub. L. 97–444 struck out provisions formerly designated as par. (1) relating to conduct of offices or places of business anywhere in the United States or its territories that were used for dealing in commodities for future delivery unless such dealings were executed or consummated by or through a member of a contract market, which provisions were transferred to section 6(a) of this title, and broadened remaining provisions, formerly designated as par. (2), to prohibit false representations that a person is registered with the Commission in any capacity, and not only as a futures commission merchant, as previously provided.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6i. Reports of deals equal to or in excess of trading limits; books and records; cash and controlled transactions

It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

(1) if such person shall directly or indirectly make such contracts with respect to any commodity or any future of such commodity during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity equal to or in excess of such amount as shall be fixed from time to time by the Commission,

unless such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in clauses (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of such commodity. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.

(Sept. 21, 1922, ch. 369, § 4i, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1496; amended Pub. L. 90–258, § 9, Feb. 19, 1968, 82 Stat. 28; Pub. L. 93–463, title I, § 103(a), (f), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 97–444, title II, § 211, Jan. 11, 1983, 96 Stat. 2303.)

AMENDMENTS

1983—Pub. L. 97–444 amended section generally by substantially restating provisions and inserting requirement that persons whose transactions and positions in any cash commodity or commodity future are equal to or in excess of amounts fixed by the Commission, must keep books and records of such transactions and positions as well as books and records of any such commodity traded on or subject to rules of any other board of trade, whether or not such person is required to file reports with the Commission concerning such transactions and positions.

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

1968—Pub. L. 90–258 required recordkeeping of positions and of cash or spot transactions in commodities entered into, and inventories and purchase and sale commitments of commodities held, in any month in which reports are required to be kept, including details concerning positions, inventories, and commitments, and included controlled transactions and positions in the futures and cash or spot transactions and positions of any person.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 13 of this title.

§ 6j. Regulation of trades and executions

(a) Dual trading prohibited; exemptions

(1) The Commission shall issue regulations to prohibit the privilege of dual trading on each contract market which has not been exempted from such regulations under paragraph (3). The regulations issued by the Commission under this paragraph—

(A) shall provide that the prohibition of dual trading thereunder shall take effect not less than thirty days after the issuance of the regulations;

(B) shall provide for exceptions, as the Commission determines necessary and appropriate, to ensure fairness and orderly trading in affected contract markets, including—

(i) transition measures and a reasonable phase-in period,

(ii) exceptions for spread transactions and the correction of trading errors,

(iii) allowance for a customer to designate in writing not less than once annually a named floor broker to execute orders for such customer, notwithstanding the regulations to prohibit the privilege of dual trading required under this paragraph, and

(iv) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest;

(C) shall establish procedures for the application for and issuance of exemptions under paragraph (3) which, among other things, shall specify the relevant data required to be submitted by the board of trade with each application;

(D) shall specify the methodology by which it shall determine the average daily trading volume on a contract market for purposes of paragraph (4) based on a moving daily average of either six or twelve months; and

(E) shall establish an expeditious procedure to revoke an exemption granted under paragraph (3) providing sufficient notice, opportunity for hearing, and findings to assure fundamental fairness.

(2) As used in this section, the term ''dual trading'' means the execution of customer orders by a floor broker during any trading session in which the floor broker executes any trade in the same contract market for—

(A) the account of such floor broker;

(B) an account for which such floor broker has trading discretion; or

(C) an account controlled by a person with whom such floor broker is subject to trading restrictions under subsection (d) of this section.

(3) The Commission shall exempt a contract market from the regulations issued under paragraph (1), either unconditionally or on stated conditions (including stated periods of time) relevant to the attainment or maintenance of compliance with the standards in subparagraphs (A) and (B), upon finding that—

(A) the trade monitoring system in place at the contract market satisfies the requirements of section 7a(b) of this title with regard to violations attributable to dual trading at such contract market; or

(B)(i) there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at such contract market, and

(ii) other corrective actions, such as those described in section 12e of this title, are sufficient and appropriate to bring the contract market into compliance with the standard in subparagraph (A).

(4)(A) The regulations issued by the Commission under paragraph (1) shall not apply to any contract market in which the Commission determines that the average daily trading volume is less than the threshold trading level established for the contract market under this paragraph.

(B) The threshold trading level shall be set initially at eight thousand contracts.

(C) The Commission may, by rule or order—

(i) increase, or

(ii) at any time following the date three years after October 28, 1992, decrease,

the threshold trading level for specific contract markets after taking into consideration the actual or potential effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

(D) The Commission shall provide the affected contract market with adequate notice of any such increase or decrease.

(5) Before the Commission denies an application for an exemption under paragraph (3) or exempts a contract market subject to conditions, it shall—

(A) provide the affected board of trade with notice of the reason or reasons that the application was not approved as submitted, including—

(i) any reason the Commission has to believe that the trade monitoring system in place at the contract market does not satisfy the requirements of paragraph (3)(A) and the basis for such reason;

(ii) any corrective action or actions, such as those described in section 12e of this title, that the Commission believes the affected contract market must take to satisfy the requirements of paragraph (3)(A), and an acceptable timetable for such corrective action; and

(iii) any conditions or limitations that the Commission proposes to attach to the exemption under paragraph (3);

(B) provide the affected board of trade with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the board of trade, through an oral presentation of views and comments to the Commission, in order to make the demonstration required under paragraph (3) or otherwise to petition the Commission with respect to its application; and

(C) make findings, based on the information, views, and arguments placed before it in connection with the application, as to whether—

(i) the standard in either paragraph (3)(A) or (3)(B) applies, and

(ii) any conditions or limitations which the Commission proposes to attach under paragraph (3) are appropriate in light of the purposes of this subsection.

The Commission shall publish in the Federal Register notice of any exemptive petitions filed under paragraph (3) and any proposed or final actions the Commission may take on such petitions. Unless the Commission determines that more immediate action is appropriate in the public interest, any Commission order denying an application or exempting a contract market conditionally shall not take effect for at least twenty days following the issuance of the order.

(6) Violation of an order issued under this subsection shall be considered a violation of an order of the Commission for purposes of—

(i) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 13a or 13a–1 of this title; or

(ii) initiating proceedings under section 7b or 8(a) of this title.

(7) Any board of trade which has applied to the Commission to exempt a contract market from the regulations issued under paragraph (1) may obtain judicial review of any final action of the Commission to deny such application, to issue an exemption subject to conditions, or to revoke an exemption, only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5.

(8)(A) The Commission shall issue the regulations required under paragraph (1) not later than two hundred and seventy days after October 28, 1992. If, prior to the effective date of the prohibition on dual trading under such regulations, a board of trade submits to the Commission an application for an exemption for a contract market under paragraph (3), the Commission shall not apply the prohibition against dual trading under paragraph (1) to the contract market until the Commission has approved or denied the application.

(B) The Commission shall approve or deny any application for an exemption under paragraph (3) within seventy-five days after receipt of the application, or as soon as practicable.

(b) Trades and executions by floor brokers

If, in addition to the regulations issued pursuant to subsection (a) of this section, the Commission has reason to believe that dual trading-related or facilitated abuses are not being or cannot be effectively addressed by subsection (a) of this section, the Commission shall make a determination, after notice and opportunity for hearing, whether or not a floor broker may trade for his own account or any account in which such broker has trading discretion, and also execute a customer's order for future delivery and, if the Commission determines that such trades and such executions shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades and such executions shall be conducted: *Provided*, That any such determination shall, at a minimum, take into account the effect upon the liquidity of trading of each market: *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(c) Trades by futures commission merchants

The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required, make a determination, after notice and opportunity for hearing, whether or not a futures commission merchant may trade for its own account or any proprietary account, as defined by the Commission, and if the Commission determines that such trades shall be permitted, the Commission shall further determine the terms, conditions, and circumstances under which such trades shall be conducted: *Provided*, That any such determination, at a minimum, shall take into account the effect upon the liquidity of trading of each market: *And provided further*, That nothing herein shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

(d) Restrictions on trading among members of broker associations

(1) Except as provided in paragraph (2), a floor broker may not execute an order of a customer if such floor broker knows the opposite party to the transaction to be a floor broker or floor trader with whom such trader or broker has a relationship involving trading on such contract market as—

(A) a partner in a partnership;

(B) an employer or employee; or

(C) Such[1] other affiliation as the Commission may specify by rule.

(2) Paragraph (1) shall not apply—

(A) if the Commission has adopted rules that the Commission certifies to Congress require procedures and standards designed to prevent violations of this chapter attributable to the trading described in paragraph (1); or

(B) to any contract market that has implemented rules designed to prevent violations of this chapter attributable to the trading described in paragraph (1), except that, if the Commission determines, by rule or order, that such rules are not adequate to prevent such violations, paragraph (1) shall become effective with respect to such contract market after a reasonable period determined by the Commission.

(Sept. 21, 1922, ch. 369, §4j, as added Pub. L. 93–463, title II, §203, Oct. 23, 1974, 88 Stat. 1396; amended Pub. L. 94–16, §2, Apr. 16, 1975, 89 Stat.

[1] So in original. Probably should not be capitalized.

77; Pub. L. 102–546, title I, §§101, 102(a), Oct. 28, 1992, 106 Stat. 3591, 3594.)

REFERENCES IN TEXT

For the effective date of the Commodity Futures Trading Commission Act of 1974, referred to in subsec. (c), see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §101(a)(3), added subsec. (a).

Subsec. (b). Pub. L. 102–546, §101(a)(1), (2), redesignated par. (1) as subsec. (b) and substituted ''If, in addition to the regulations issued pursuant to subsection (a) of this section, the Commission has reason to believe that dual trading-related or facilitated abuses are not being or cannot be effectively addressed by subsection (a) of this section, the Commission shall'' for ''The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required,''.

Subsec. (c). Pub. L. 102–546, §101(a)(1), redesignated par. (2) as subsec. (c).

Subsec. (d). Pub. L. 102–546, §102(a), added subsec. (d).

1975—Pub. L. 94–16 substituted ''nine months'' for ''six months'' in pars. (1) and (2).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(b) of Pub. L. 102–546 provided that: ''The amendment made by subsection (a) [amending this section] shall become effective two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992].''

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7a, 12e of this title.

§ 6k. Registration of associates of futures commission merchants, commodity pool operators, and commodity trading advisors; required disclosure of disqualifications

(1) It shall be unlawful for any person to be associated with a futures commission merchant as a partner, officer, or employee, or to be associated with an introducing broker as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this chapter as an associated person of such futures commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, or introducing broker (and such registration is not suspended or revoked) need not also register under this paragraph.

(2) It shall be unlawful for any person to be associated with a commodity pool operator as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this chapter as an associated person of such commodity pool operator and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity pool operator to permit such a person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this paragraph. The Commission may exempt any person or class of persons from having to register under this paragraph by rule, regulation, or order.

(3) It shall be unlawful for any person to be associated with a commodity trading advisor as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this chapter as an associated person of such commodity trading advisor and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity trading advisor to permit such a person to become or remain associated with the commodity trading advisor in any such capacity if the commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this paragraph. The Commission may exempt any person or class of persons from having to register under this paragraph by rule, regulation, or order.

(4) Any person desiring to be registered as an associated person of a futures commission mer-

chant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 12a(2) of this title, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.

(Sept. 21, 1922, ch. 369, §4k, as added Pub. L. 93–463, title II, §204(a), Oct. 23, 1974, 88 Stat. 1396; amended Pub. L. 95–405, §7, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97–444, title II, §212, Jan. 11, 1983, 96 Stat. 2303.)

AMENDMENTS

1983—Par. (1). Pub. L. 97–444 amended par. (1) generally to apply to introducing brokers and persons associated with introducing brokers.

Par. (2). Pub. L. 97–444 added par. (2). Former par. (2) redesignated (4).

Par. (3). Pub. L. 97–444 added par. (3). Former par. (3), which empowered Commission to authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this chapter applicable to registrations granted by the Commission, was struck out.

Par. (4). Pub. L. 97–444 redesignated former par. (2) as (4) and substituted ''Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe'' for ''Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 9 of this title: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof''.

Par. (5). Pub. L. 97–444 added par. (5).

1978—Par. (2). Pub. L. 95–405, §7(1), inserted provisions authorizing the Commission to prescribe the period of registration of not less than one year for associated persons.

Par. (3). Pub. L. 95–405, §7(2), added par. (3).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21 of this title.

§ 6*l*. Commodity trading advisors and commodity pool operators; Congressional finding

It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed toward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets; and

(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets.

(Sept. 21, 1922, ch. 369, §4*l*, as added Pub. L. 93–463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1397.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

§ 6m. Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators; relation to other law

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more

than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2 of this title prior to October 23, 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 18 of this title.

(2) Nothing in this chapter shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 [15 U.S.C. 77a et seq.] or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.

(Sept. 21, 1922, ch. 369, § 4m, as added Pub. L. 93–463, title II, § 205(a), Oct. 23, 1974, 88 Stat. 1398; amended Pub. L. 95–405, § 8, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97–444, title I, § 103, Jan. 11, 1983, 96 Stat. 2296.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (2), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in par. (2), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

1983—Pub. L. 97–444 designated existing provisions as par. (1) and added par. (2).

1978—Pub. L. 95–405 inserted provisions relating to applicability of this section to commodity trading advisors who are dealers, processors, brokers, or sellers in cash market transactions of specifically listed commodities or nonprofit, voluntary membership, general farm organizations who provide advice on sale or purchase of specifically listed commodities if the advice by the person described in cl. (1) or (2) of this sentence is incidental solely to the conduct to the person's business and that such person be subject to proceedings under section 18 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

§ 6n. Registration of commodity trading advisors and commodity pool operators; application; expiration and renewal; record keeping and reports; disclosure; statements of account

(1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this chapter by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations, prescribe as necessary or appropriate in the public interest, including the following:

(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

(E) the basis upon which the applicant is or will be compensated; and

(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

(2) Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(3)(A) Every commodity trading advisor and commodity pool operator registered under this chapter shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publi-

cations, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(4) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(Sept. 21, 1922, ch. 369, §4n, as added Pub. L. 93–463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1398; amended Pub. L. 95–405, §9, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97–444, title II, §213, Jan. 11, 1983, 96 Stat. 2305.)

AMENDMENTS

1983—Par. (5). Pub. L. 97–444 struck out par. (5) which authorized Commission, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person was subject to an outstanding order under this chapter denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

Par. (6). Pub. L. 97–444 struck out par. (6) which authorized Commission to deny registration or revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission found that such denial, revocation, or suspension was in the public interest and that such person had been guilty of certain specified activities. See section 12a(2), (3), and (4) of this title.

1978—Par. (2). Pub. L. 95–405, §9(1)–(3), redesignated par. (3) as (2) and substituted ''Each registration'' for ''All registrations'' and inserted ''or at such other time, not less than one year from the effective date thereof, as the Commission may rule, regulation, or order prescribe,'' after ''June of each year,''. Former par. (2), which provided that registration under this section becomes effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine, was struck out.

Pars. (3) to (6). Pub. L. 95–405, §9(1), redesignated pars. (4) to (7) as (3) to (6), respectively. Former par. (3) redesignated (2).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

§6*o*. Fraud and misrepresentation by commodity trading advisors, commodity pool operators, and associated persons

(1) It shall be unlawful for a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator registered under this chapter to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof. This section shall not be construed to prohibit a statement that a person is registered under this chapter as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.

(Sept. 21, 1922, ch. 369, §4*o*, as added Pub. L. 93–463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1399; amended Pub. L. 95–405, §10, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97–444, title II, §214, Jan. 11, 1983, 96 Stat. 2305.)

AMENDMENTS

1983—Par. (1). Pub. L. 97–444 made the antifraud prohibition applicable to an associated person of a commodity trading advisor or a commodity pool operator.

Par. (2). Pub. L. 97–444 made the misrepresentation prohibition applicable to an associated person of a commodity training advisor or a commodity pool operator, authorized registration statements of such persons, and substituted ''such person'' and ''such person's abilities'' for ''he'' before ''has been sponsored'' and ''his abilities'', respectively.

1978—Par. (1). Pub. L. 95–405 struck out ''registered under this chapter'' after ''pool operator''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title.

§ 6p. Standards and examinations

(a) The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of persons required to be registered with the Commission. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 21 of this title or contract markets may adopt written proficiency examinations to be given to applicants for registration and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of customers, clients, pool participants, or other members of the public with whom such individuals deal.

(b) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this chapter, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state[1] law, rule or regulation.

(Sept. 21, 1922, ch. 369, § 4p, as added Pub. L. 93–463, title II, § 206, Oct. 23, 1974, 88 Stat. 1400; amended Pub. L. 97–444, title II, § 215, Jan. 11, 1983, 96 Stat. 2305; Pub. L. 102–546, title II, § 210(a), Oct. 28, 1992, 106 Stat. 3607.)

AMENDMENTS

1992—Pub. L. 102–546 designated existing provisions as subsec. (a) and added subsec. (b).

1983—Pub. L. 97–444 substituted ''persons required to be registered with the Commission'' for ''futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers'' in first sentence, ''customers, clients, pool participants, or other members of the public with whom such individuals deal'' for ''the customers of futures commission merchants and floor brokers'' in last sentence, and in second and third sentences struck out ''as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers,'' after ''applicants for registration''.

[1] So in original. Probably should be capitalized.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

REGULATIONS

Section 210(b) of Pub. L. 102–546 provided that: ''The Commodity Futures Trading Commission shall issue the regulations required by section 4p(b) of the Commodity Exchange Act [7 U.S.C. 6p(b)], as added by subsection (a), no later than one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992].''

§ 7. Designation of board of trade as "contract market"; conditions and requirements

The Commission is hereby authorized and directed to designate any board of trade as a ''contract market'' when, and only when, such board of trade complies with and carries out the following conditions and requirements:

(1) When located at a terminal market where any cash commodity of the kind specified in the contracts of sale of commodities for future delivery to be executed on such board is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the commodity and the differences in value between the various grades of such commodity, and where there is available to such board of trade, official inspection service approved by the Secretary of Agriculture or the Commission for the purpose: *Provided*, That any board of trade not so located shall be designated as a ''contract market'' if such board of trade provides for the delivery of commodities on such contracts at a delivery point or points and upon terms and conditions approved by the Commission.

(2) When the governing board thereof provides for the making and filing by the board or any member thereof, as the Commission may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Commission, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions or transactions for future delivery consummated on or subject to the rules of a board of trade, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Commission may direct, showing the details and terms of all cash and future transactions entered into by them, consummated on or subject to the rules of a board of trade, such record to be in permanent form, showing the parties to all such transactions, including the persons for whom made, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and shall at all times be open to the in-

spection of any representative of the Commission or United States Department of Justice.

(3) When the governing board thereof provides for the prevention of dissemination by the board or any member thereof of false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce.

(4) When the governing board thereof provides for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such board.

(5) When the governing board thereof does not exclude from membership in and all privileges on such board of trade any duly authorized representative of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility which is engaged in any cash commodity business, if such association has complied, and agrees to comply, with such terms and conditions as are or may be imposed lawfully on other members of such board: *Provided*, That no rule of a contract market shall forbid or be construed to forbid the return on a patronage basis by such cooperative association to its bona fide members of moneys collected in excess of the expense of conducting the business of such association.

(6) When the governing board provides for making effective the final orders or decisions entered pursuant to the provisions of section 9 of this title, and the orders issued pursuant to the provisions of section 7a of this title, and for compliance in all other respects with the requirements applicable to such board of trade under this chapter.

(7) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest.

(8) When such board of trade demonstrates that every contract market for which such board of trade is designated complies with the requirements of section 7a(b) of this title.

(Sept. 21, 1922, ch. 369, §5, 42 Stat. 1000; June 15, 1936, ch. 545, §§2, 6, 49 Stat. 1491, 1497; Pub. L. 90–258, §§10, 11, Feb. 19, 1968, 82 Stat. 29; Pub. L. 93–463, title I, §103(a), (f), (g), title II, §207, Oct. 23, 1974, 88 Stat. 1392, 1400; Pub. L. 102–546, title II, §§201(c), 209(b)(2), Oct. 28, 1992, 106 Stat. 3597, 3606.)

REFERENCES IN TEXT

Section 9 of this title, referred to in par. (6), was in the original ''section 6(c)'' meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

AMENDMENTS

1992—Pub. L. 102–546, §209(b)(2), in par. (6) made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Pub. L. 102–546, §201(c), redesignated pars. (a) to (g) as (1) to (7), respectively, realigned margins, and added par. (8).

1974—Pub. L. 93–463, §103(a), substituted ''Commission'' for ''Secretary of Agriculture'' in provisions preceding par. (a).

Par. (a). Pub. L. 93–463, §103(a), (g), substituted ''official inspection service approved by the Secretary of Agriculture or the Commission for the purpose'' for ''official inspection service approved by the Secretary of Agriculture for the purpose'' and ''Commission'' for ''Secretary of Agriculture''.

Par. (b). Pub. L. 93–463, §103(a), (f), substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

Par. (g). Pub. L. 93–463, §207, added par. (g).

1968—Par. (b). Pub. L. 90–258, §10, substituted ''cash transactions or transactions for future delivery consummated on or subject to the rules of a board of trade'' for ''cash transactions consummated at, on, or in a board of trade, or transactions for future delivery'' and ''consummated on or subject to the rules of a board of trade'' for ''consummated at, on, or in a board of trade'' where appearing the second time, respectively.

Par. (f). Pub. L. 90–258, §11, prescribed as additional conditions and requirements for designation of board of trade as contract market that governing board provide for making effective the orders issued pursuant to the provisions of section 7a of this title and for compliance in all other respects with the requirements applicable to the board of trade under this chapter.

1936—June 15, 1936, §2, substituted ''commodity'', ''any commodity'', or ''commodities'', as the case may require, for ''grain'' wherever appearing.

Act June 15, 1936, §6, inserted proviso in par. (a), and substituted ''and'' for ''or'' after ''prices''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

CROSS REFERENCES

Showing of compliance with conditions and requirements of this section to accompany application for designation as contract market, see section 8 of this title.

Showing of noncompliance with conditions and requirements of this section as authorizing suspension or revocation of designation as a contract market, see section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 6, 8, 13a of this title; title 15 section 78c; title 26 section 408.

§ 7a. Duties of contract markets

(a) In general

Each contract market shall—

(1) promptly furnish the Commission copies of all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or any committee, and of all changes and proposed changes therein;

(2) keep all books, records, minutes, and journals of proceedings of such contract market, and its governing board, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed by such contract market, governing board, committees, subsidiaries and affiliates and reveal any action taken in such matters, and allow inspection at all times by any authorized rep-

resentative of the Commission or United States Department of Justice of all such books, records, minutes, and journals of proceedings. Such books, records, minutes, and journals of proceedings shall be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct;

(3) require the operators of warehouses in which or out of which any commodity is deliverable on any contract for future delivery made on or subject to the rules of such contract market, to make such reports, keep such records, and permit such warehouse visitation as the Commission may prescribe. Such books and records shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, and such books, records, and warehouses shall be open at all times to inspection by any representative of the Commission or United States Department of Justice;

(4) when so directed by order of the Commission, provide for a period, after trading in contracts of sale of any commodity for future delivery in a delivery month has ceased, during which contracts of sale of such commodity for future delivery in such month may be satisfied by the delivery of the actual cash commodity. Whenever, after due notice and opportunity for hearing, the Commission finds that provision for such a period of delivery for any one or more commodities or markets would prevent or tend to prevent ''squeezes'' and market congestion endangering price stability, it shall, by order, require such period of delivery (which shall be not less than three nor more than ten business days) applicable to such commodities and markets as it finds will prevent or tend to prevent such ''squeezes'' and market congestion: *Provided, however*, That such order shall not apply to then existing contracts;

(5) require the party making delivery of any commodity on any contract of sale of such commodity for future delivery to furnish the party obligated under the contract to accept delivery, written notice of the date of delivery at least one business day prior to such date of delivery. Whenever, after due notice and opportunity for hearing, the Commission finds that the giving of longer notice of delivery is necessary to prevent or diminish unfair practices in trading in any one or more commodities or markets, it shall by order require such longer notice of delivery (which shall be not more than ten business days) applicable to such commodities and markets as it finds will prevent or diminish such unfair practices: *Provided, however*, That such order shall not apply to then existing contracts;

(6) require that all contracts of sale of any commodity for future delivery on such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards, if such standards shall have been officially promulgated and adopted by the Commission;

(7) require that receipts issued under the United States Warehouse Act [7 U.S.C. 241 et seq.] shall be accepted in satisfaction of any futures contract, made on or subject to the rules of such contract market, without discrimination and notwithstanding that the warehouseman issuing such receipts is not also licensed as a warehouseman under the laws of any state or enjoys other or different privileges than under State law: *Provided, however*, That such receipts shall be for the kind, quality, and quantity of commodity specified in such contract and that the warehouse in which the commodity is stored meets such reasonable requirements as may be imposed by such contract market on other warehouses as to location, accessibility, and suitability for warehousing and delivery purposes: *And provided further*, That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act;

(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, that (i) have been approved by the Commission pursuant to paragraph (12) of this section, (ii) have become effective under such paragraph, or (iii) must be enforced pursuant to any Commission rule, regulation, or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;

(9) enforce all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or by any committee, which provide minimum financial standards and related reporting requirements for futures commission merchants who are members of such contract market, and which have been approved by the Commission;

(10) permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this paragraph, then the Commission shall notify the contract market of its findings and afford the contract market an opportunity to make appropriate changes in such rules and regulations. If the contract market within seventy-five days of such notification fails to make the changes which in the opinion of the Commission are necessary to accomplish the objectives of this paragraph, then the Commission after granting the contract market an opportunity to be heard, may change or supplement such rules and regulations of the contract market to achieve the above objectives: *Provided*, That any order issued under this paragraph shall not apply to contracts of sale for future delivery in any months in which contracts are currently outstanding and open: *And provided further*, That no requirement for an additional de-

livery point or points shall be promulgated following hearings until the contract market affected has had notice and opportunity to file exceptions to the proposed order determining the location and number of such delivery point or points;

(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (A) the use of such procedure by a customer shall be voluntary, (B) the term ''customer'' as used in this paragraph shall not include another member of the contract market, and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation;;[1]

(12)(A) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions (''rules'') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review such rules for approval. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish a notice of such rules in the Federal Register. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this chapter or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this chapter or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this chapter or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this chapter or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be made effective by the contract market until such time as the Commission disapproves such rule in accordance with this paragraph.

(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of its governing board, make a rule (hereinafter referred to as an ''emergency rule'') effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under subparagraph (A), or during any period of review by the Commission, if the contract market makes every effort practicable to notify the Commission of such emergency rule,

[1] So in original.

along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date. The Commission may delegate the power to receive such notification and explanation to such individuals as the Commission determines necessary and appropriate.

(ii) Within ten days of the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether it is appropriate either—

(I) to permit such rule to remain in effect during the pendency of the emergency, or

(II) to suspend the effect of such rule pending review either under the procedures of subparagraph (A) or otherwise.

The Commission shall submit a report on its determination and the basis thereof with respect to such emergency rule to the affected contract market, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than ten days after the Commission's receipt of notification of such an emergency rule from a contract market, the report shall explain why submission within such ten-day period was not practicable. A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 12a(9) of this title. Nothing in this paragraph shall be construed to limit the authority of the Commission under section 12a(9) of this title;

(13) provide for disclosure to the contract market and the Commission of any trade, business, or financial partnership, cost-, profit-, or capital-sharing agreements or other formal arrangement among or between floor brokers and traders on such contract market where such partnership agreement or arrangement is material and known to the floor broker or floor trader;

(14)(A) provide for meaningful representation on the governing board of the contract market's board of trade of a diversity of interests, including—

(i) futures commission merchants;

(ii) producers of, and consumers, processors, distributors, or merchandisers of, principal commodities traded on the board of trade;

(iii) floor brokers and traders; and

(iv) participants in a variety of pits or principal groups of commodities traded on the exchange.

(B) provide that no less than 20 percent of the regular voting members of such board be comprised of nonmembers of such contract market's board of trade with—

(i) expertise in futures trading, or the regulation thereof, or in commodities traded through contracts on the board of trade; or

(ii) other eminent qualifications making such person capable of participating in and contributing to board deliberations.

(C) provide that no less than 10 percent of the regular voting members of such board be comprised where applicable of farmers, producers, merchants, or exporters of principal commodities traded on the exchange;

(15)(A) provide on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

(B) Consistent with Commission rules, a major disciplinary committee hearing a disciplinary matter shall include—

(i) a majority of qualified persons representing a trading status other than that of the subject of the proceeding; and

(ii) where appropriate to carry out the purposes of this chapter, qualified persons who are not members of the exchange.

(C) For purposes of this paragraph, a trading status on a contract market may include, consistent with Commission rules, such categories as[2]

(i) floor brokers and traders;

(ii) producers, consumers, processors, distributors, or merchandisers of commodities;

(iii) futures commission merchants; and

(iv) members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade.

(D) If a contract market takes final disciplinary action against a member for a violation that involves the execution of a customer transaction and results in financial harm to such customer, the contract market shall promptly inform the futures commission merchant identified on the records of such contract market as having cleared such transaction, and such futures commission merchant shall promptly inform the person identified on its records as the owner of the account for which such transaction was executed, of the disciplinary action and the principal facts thereof;

(16) provide that no member found by the Commission, a contract market, a registered futures association, or a court of competent jurisdiction to have committed any violation of this chapter or any other provision of law that would reflect on the fitness of the member may serve on any contract market oversight or disciplinary panel for an appropriate period (as defined by Commission rule); and

(17)(A) provide for the avoidance of conflict of interest in deliberations by the governing board and any disciplinary and oversight committees. In order to comply with this subparagraph, each contract market shall adopt rules and procedures to require, at a minimum, that[2]

(i) any member of a governing board or a disciplinary or other oversight committee must abstain from confidential deliberations

[2] So in original. Probably should be followed by a dash.

and voting on any matter where the named party in interest is the member, the member's employer, the member's employee, or any other person that has a business, employment, or family relationship with the member that warrants abstention by the member;

(ii) any member of a governing board or a disciplinary or other oversight committee must abstain from voting on any significant action that would not be submitted to the Commission for its prior approval, if, as determined in accordance with regulations promulgated by the Commission, the member knowingly has a direct and substantial financial interest in the result of the vote, based either on positions held personally or at an affiliated firm;

(iii) prior to the deliberations of the governing board, disciplinary board, or other oversight committee, acting directly or indirectly through an authorized member or contract market official, the positions of the members of such board or committee, and positions of the firm or firms with which such members are affiliated, are reviewed: *Provided, however*, That no contract market or official, employee, member, other than the member whose position or positions are being reviewed, or agent thereof shall be subject to liability, except for liability in an action initiated by the Commission, for having conducted this review and for having taken or not taken further action; and

(iv) the board or committee shall clearly reflect, in the minutes of such meeting, that the review required in clause (iii) occurred and any decisions by a member to abstain or by the board or committee whether to direct a member or members to abstain from deliberations or voting on the matter before the board or committee.

Any member prohibited from voting on a rule pursuant to this paragraph shall not be included in determining whether there has been a two-thirds vote of members of the governing board or committee as required by subparagraph [3] (12).

(B) For the purposes of this paragraph, the term ''significant action that would not be submitted to the Commission for its prior approval'' includes—

(i) any nonphysical emergency rule; or

(ii) any changes in margin levels designed to respond to extraordinary market conditions that are likely to have a substantial affect on prices in any contract traded on such contract market, but does not include any rule not submitted for prior Commission approval because such rule is unrelated to terms and conditions of any contract traded on such contract market.

(C) Notwithstanding the provisions of subparagraph (A)(ii), the Commission shall issue rules establishing the conditions under which a member of a board or committee who is required to abstain from voting on a significant action, as provided in subparagraph (A)(ii), may participate in deliberations on that action prior to such vote, where the member's participation is consistent with the public interest.

(b) Monitoring system to detect violations of rules and regulations

(1) Each contract market shall maintain and utilize a system to monitor trading to detect and deter violations of the contract market's rules and regulations committed in the making of trades and the execution of customer orders on the floor or subject to the rules of such contract market. The system shall include—

(A) physical observation of trading areas;

(B) audit trail and recordkeeping systems able to capture essential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and out-trades);

(C) systems capable of reviewing, and used to review, data on trades effectively on a regular basis to detect violations committed in making trades and executing customer orders on the floor or subject to the rules of such contract market, including—

(i) all types of violations attributable to dual trading; and

(ii) to the full extent feasible, as determined by the Commission, all other types of violations involving the making of trades and the execution of customer orders;

(D) the use of information gathered through such system on a consistent basis to bring appropriate disciplinary actions against violators;

(E) the commitment of resources to such system necessary for such system to be effective in detecting and deterring such violations, including adequate staff to develop and prosecute disciplinary actions; and

(F) the assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

(2) The audit trail system of the contract market shall, consistent with Commission regulations, accurately record—

(A) the times of trades in increments of no more than one minute in length; and

(B) the sequence of trades for each floor trader and broker.

(3) Beginning three years after October 28, 1992, the audit trail system of each contract market, except as provided in paragraph (5) and except to the extent the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply, shall—

(A) for all trades, record accurately and promptly the essential data on terms, participants, and times as required by the Commission by rule, including the time of execution of such trade, through a means that—

(i) records such data in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

(ii) continually provides such data to the contract market;

[3] So in original. Probably should be ''paragraph''.

(iii) identifies such time, to the extent practicable as determined by the Commission—

(I) independently of the person making the trade;

(II) through a mechanism that records the time automatically when entered by the person making the trade; or

(III) through such other means that will capture a similarly reliable time; and

(iv) is adequately precise to determine, to the extent practicable as determined by the Commission by rule or order—

(I) the sequence of all trades by each floor trader; and

(II) the sequence of all trades by each floor broker; and

(B) to the extent practicable as determined by the Commission by rule or order, for customer trades, record the time that each order is received on the floor of the board of trade, is received by the floor broker for execution (or when such order is transmitted in an extremely rapid manner to the broker), and is reported from the floor of the board of trade as executed, through a means that—

(i) records such times in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

(ii) continually provides such data to the contract market;

(iii) identifies such time—

(I) independently of the person making the trade or processing the order;

(II) through a mechanism that records the time automatically when entered by the person making the trade or processing such order, as appropriate; or

(III) through such other means as will capture a similarly reliable time; and

(iv) is adequately precise to determine—

(I) the sequence in which, for each futures commission merchant, floor broker, or member firm, as applicable, all orders are received on and reported from the floor of the contract market; and

(II) the sequence in which orders are received by each floor broker for execution.

(4) The Commission may, by rule, establish standards under which the audit trail systems required under paragraph (3) shall record, to the extent practicable—

(A) the sequence of all trades made by all floor traders and floor brokers; and

(B) the interval between the time of receipt and the time of execution of each order by the floor broker executing the order.

(5)(A) The Commission shall, by rule or order, make exemptions from the requirements of paragraph (3)—

(i) for an exchange with respect to which the Commission finds that—

(I) the volume of trading on such exchange is relatively small and the exchange has demonstrated substantial compliance with the objectives of such paragraph; and

(II) the trade monitoring system at such exchange otherwise maintains a high level of compliance with this subsection; and

(ii) to the extent determined appropriate by the Commission, for categories of customer orders with respect to which the Commission finds that such orders are transmitted to and reported from the trading pit in an extremely rapid manner such that substantial compliance with the objectives of paragraph (3) can be otherwise achieved.

(B) For purposes of subparagraph (A)(i)(I) the Commission shall find that the volume of trading at an exchange is relatively small if, among other things, the Commission determines that the average daily trading volume for each contract market for which the board of trade is designated is less than the threshold trading level established for the contract market under section 6j(a)(4) of this title.

(6) Any rule or order adopted by the Commission under paragraphs (4) and (5) shall become effective thirty legislative days or ninety calendar days, whichever is later, after submission of such rule or order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. For purposes of this paragraph, the term ''legislative day'' means any day on which either House of Congress is in session.

(Sept. 21, 1922, ch. 369, §5a, as added June 15, 1936, ch. 545, §7, 49 Stat. 1497; amended Pub. L. 90–258, §12, Feb. 19, 1968, 82 Stat. 29; Pub. L. 93–463, title I, §103(a), (e), (f), title II, §§208–210, title IV, §§406, 407, Oct. 23, 1974, 88 Stat. 1392, 1400, 1401, 1413; Pub. L. 95–405, §§11, 12, Sept. 30, 1978, 92 Stat. 870, 871; Pub. L. 97–444, title II, §§216, 217(a), Jan. 11, 1983, 96 Stat. 2306, 2307; Pub. L. 99–641, title I, §110(2), Nov. 10, 1986, 100 Stat. 3561; Pub. L. 102–546, title I, §103, title II, §§201(a), 206(a)(1), 213(a), 217, 222(a), Oct. 28, 1992, 106 Stat. 3594, 3595, 3601, 3609, 3611, 3615.)

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subsec. (a)(7), is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of this title. For complete classification of this Act to the Code, see section 241 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §201(a)(1), designated existing provisions as subsec. (a).

Subsec. (a)(11). Pub. L. 102–546, §222(a), substituted ''(A)'' for ''(i)'' and ''voluntary, (B)'' for ''voluntary and (ii)'', inserted ''and'' after ''contract market'', and added subpar. (C).

Subsec. (a)(12). Pub. L. 102–546, §213(a), designated existing provisions as subpar. (A), added subpar. (B), and struck out last two sentences of subpar. (A) which read as follows: ''The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make a rule effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may immediately make effective a temporary rule dealing with such emergency if the contract market notifies the Commission of such action with a complete explanation of the emergency involved;''.

Subsec. (a)(13). Pub. L. 102–546, §103, added par. (13).

Subsec. (a)(14) to (16). Pub. L. 102–546, §206(a)(1), added pars. (14) to (16).

Subsec. (a)(17). Pub. L. 102–546, §217, added par. (17).

Subsec. (b). Pub. L. 102–546, §201(a)(2), added subsec. (b).

1986—Par. (12). Pub. L. 99–641 substituted ''participate'' for ''particpate''.

1983—Par. (8). Pub. L. 97–444, §216(1), struck out after initial ''any committee,'' the clause ''which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements,''; incorporated existing text in provisions designated cl. (i); inserted cls. (ii) and (iii); and in revocation provision, struck out ''such'' before ''bylaw'' and substituted ''that'' for ''which''.

Par. (11). Pub. L. 97–444, §217(a), redesignated cl. (iv) as (ii) and substituted ''another member of the contract market'' for ''a futures commission merchant or a floor broker''; and struck out clauses ''(ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties,''.

Par. (12). Pub. L. 97–444, §216(2), amended par. (12) generally to reduce the types of contract market rules that require prior approval of the Commission before they may be implemented.

1978—Par. (11). Pub. L. 95–405, §11, inserted ''(such as by delegation to a registered futures association having rules providing for such procedures)'' after ''arbitration or otherwise''.

Par. (12). Pub. L. 95–405, §12, inserted ''(or within sixty days of their receipt if the Commission determines them to be of major economic significance)'' after ''thirty days of their receipt'' and inserted provisions requiring that the Commission at least thirty days before approving any bylaws, rules, etc., of major economic significance publish such bylaws, rules, etc., in the Federal Register and that the Commission give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments and making the determination of the Commission as to whether any such bylaws, rules, etc., are of major economic significance final and not subject to judicial review.

1974—Par. (1). Pub. L. 93–463, §103(a), substituted ''Commission'' for ''Secretary of Agriculture''.

Par. (2). Pub. L. 93–463, §103(a), (f), substituted ''Commission'' for ''United States Department of Agriculture'' and ''Secretary of Agriculture''.

Par. (3). Pub. L. 93–463, §103(a), (f), substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

Pars. (4), (5). Pub. L. 93–463, §103(a), (e), substituted ''Commission'' for ''Secretary of Agriculture'' and ''it'' for ''he''.

Par. (6). Pub. L. 93–463, §406, inserted ''and adopted by the Commission'' after ''officially promulgated''.

Par. (7). Pub. L. 93–463, §208(a), inserted '': *And provided further*, That this paragraph shall apply only to futures contracts for those commodities which may be delivered from a warehouse subject to the United States Warehouse Act''.

Par. (8). Pub. L. 93–463, §407, substituted ''been approved by the Commission pursuant to paragraph (12) of this section'' for ''not been disapproved by the Secretary of Agriculture pursuant to paragraph (7) of section 12a of this title'' and ''has been disapproved by the Commission'' for ''has been so disapproved''.

Par. (9). Pub. L. 93–463, §103(a), substituted ''Commission'' for ''Secretary of Agriculture''.

Par. (10). Pub. L. 93–463, §208(d), added par. (10).

Par. (11). Pub. L. 93–463, §209, added par. (11).

Par. (12). Pub. L. 93–463, §210, added par. (12).

1968—Par. (2). Pub. L. 90–258, §12(a), required contract markets to keep their books and records of proceedings of the contract markets and their governing boards, committees, subsidiaries, and affiliates in a manner that will clearly describe all matters discussed and action taken.

Pars. (8), (9). Pub. L. 90–258, §12(b), (c), added pars. (8) and (9).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

REGULATIONS

Section 206(c) of Pub. L. 102–546 provided that: ''Not later than two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992], the Commodity Futures Trading Commission shall adopt such rules as are necessary to carry out the amendments made by subsections (a) and (b) [amending this section and sections 12c and 21 of this title], including rules that—

''(1) specify membership categories that shall be represented on disciplinary panels;

''(2) define 'major disciplinary committee' for purposes of sections 5a(a)(15) and 17(b)(12) of the Commodity Exchange Act [7 U.S.C. 7a(a)(15) and 21(b)(12)] (as added by subsections (a) and (b), respectively); and

''(3) specify the conditions under which such panels shall include qualified persons who are not members of the exchange or association, which shall include at a minimum—

''(A) any disciplinary action where the subject of such action is a member of the contract market or association governing board or of any major disciplinary committee of such contract market or association; and

''(B) any disciplinary action based on facts related to a claim that the subject of such action manipulated or attempted to manipulate the price of a commodity or future or option.''

Section 213(b) of Pub. L. 102–546 provided that: ''The Commodity Futures Trading Commission shall issue regulations to implement section 5a(12)(B) of the Commodity Exchange Act [7 U.S.C. 7a(a)(12)(B)], as added by subsection (a), no later than one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992]. Until the effective date of such regulations, any regulation of the Commission that implements the last two sentences of section 5a(12), as such sentences were in effect immediately before the date of enactment of this Act, shall remain in effect.''

STUDY

Section 201(b) of Pub. L. 102–546 provided that:

''(1) IN GENERAL.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commodity Futures Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

''(A) an assessment of the progress of each contract market in developing and implementing systems to

record the times of transactions independently, precisely, and completely as required under section 5a(b) of the Commodity Exchange Act [7 U.S.C. 7a(b)] (as added by subsection (a) of this section); and

''(B) recommendations as to whether any extension of time for the completion of such systems or any modification of the standards contained in such section is appropriate.

''(2) GAO VIEWS.—The Comptroller General of the United States shall state to Congress the views of the Comptroller General with regard to the issues addressed in such report.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6j, 7, 12e, 25 of this title.

§ 7b. Suspension or revocation of designation as "contract market"

The failure or refusal of any board of trade to comply with any of the provisions of this chapter, or any of the rules, regulations, or orders of the Commission or the commission[1] thereunder, shall be cause for suspending for a period not to exceed six months or revoking the designation of such board of trade as a ''contract market'' in accordance with the procedure and subject to the judicial review provided in section 8(b) of this title.

(Sept. 21, 1922, ch. 369, § 5b, as added June 15, 1936, ch. 545, § 7, 49 Stat. 1498; amended Pub. L. 90–258, § 13, Feb. 19, 1968, 82 Stat. 30; Pub. L. 93–463, title I, § 103(a), (b), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 102–546, title II, § 209(b)(3), Oct. 28, 1992, 106 Stat. 3607.)

AMENDMENTS

1992—Pub. L. 102–546 substituted reference to section 8(b) of this title for reference to section 8 of this title.

1974—Pub. L. 93–463, § 103(a), provided for substitution of ''Commission'' for ''Secretary of Agriculture'' except where such words would be stricken by section 103(b), which directed striking the words ''the Secretary of Agriculture or'' where they appeared in the phrase ''the Secretary of Agriculture or the Commission''. Because the word ''commission'' was not capitalized in the text of this section, section 103(b) did not apply to this section and therefore section 103(a) was executed, resulting in the substitution of ''the Commission or the commission'' for ''the Secretary of Agriculture or the commission''.

1968—Pub. L. 90–258 substituted ''rules, regulations, or orders of the Secretary of Agriculture or the commission'' for ''rules and regulations of the Secretary of Agriculture''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6j, 12e of this title.

[1] So in original. The words ''or the commission'' probably should not appear.

§ 8. Application for designation as "contract market"; time; suspension or revocation of designation; hearing; review by court of appeals

(a) Any board of trade desiring to be designated a ''contract market'' shall make application to the Commission for such designation and accompany the same with a showing that it complies with the conditions of section 7 of this title, and with a sufficient assurance that it will continue to comply with the requirements of such section 7. The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial. In the event of a refusal to designate as a ''contract market'' any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in subsection (b) of this section.

(b) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a ''contract market'' upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission or the Commission[1] thereunder. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing on the record: *Provided*, That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be

[1] So in original. The words ''or the Commission'' probably should not appear.

considered by the court of appeals as the evidence in the case. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Commission.

(Sept. 21, 1922, ch. 369, § 6(a), (b), formerly § 6(a), 42 Stat. 1001; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 7(a), Aug. 28, 1958, 72 Stat. 944; Pub. L. 90–258, §§ 14, 15, Feb. 19, 1968, 82 Stat. 30; Pub. L. 93–463, title I, § 103(a)–(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95–405, § 13(1), (2), Sept. 30, 1978, 92 Stat. 871; Pub. L. 97–444, title II, § 218, Jan. 11, 1983, 96 Stat. 2308; Pub. L. 98–620, title IV, § 402(3), Nov. 8, 1984, 98 Stat. 3357; renumbered § 6(a), (b) and amended Pub. L. 102–546, title II, § 209(a)(1)–(3), title IV, § 402(1)(B), (9)(A), Oct. 28, 1992, 106 Stat. 3606, 3624, 3625.)

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 6 of act Sept. 21, 1922. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546, § 209(a)(1), (2), designated first par. as subsec. (a) and redesignated former par. (a) as subsec. (b).

Subsec. (a). Pub. L. 102–546, § 209(a)(3), substituted ''subsection (b)'' for ''paragraph (a)''.

Subsec. (b). Pub. L. 102–546, § 402(9)(A), which directed amendment of first sentence by striking ''the Secretary of Agriculture or'', could not be executed because of amendment by Pub. L. 93–463, § 103(a). See 1974 Amendment note below.

Pub. L. 102–546, § 402(1)(B), substituted ''Commission'' for ''commission'' wherever appearing.

1984—Par. (a). Pub. L. 98–620 struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1983—Pub. L. 97–444 required approval or denial of application within one year period of filing of application, stay of such period following notification that application was incomplete and deficient until resubmission of application, minimum period prior to acting upon resubmitted application, and specification of grounds for denial of application.

1978—Pub. L. 95–405, § 13(1), in provisions before par. (a) inserted ''on the record'' after ''opportunity for a hearing''.

Par. (a). Pub. L. 95–405, § 13(2), inserted ''on the record'' after ''upon a hearing''.

1974—Pub. L. 93–463, § 103(a), substituted ''Commission'' for ''Secretary of Agriculture'' in first par.

Par. (a). Pub. L. 93–463, § 103(c), struck out ''the Secretary of Agriculture, who shall thereupon notify the other members of'' after ''The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to''.

Pub. L. 93–463, § 103(a), provided for substitution of ''Commission'' for ''Secretary of Agriculture'' except where such words would be stricken by section 103(b), which directed striking the words ''the Secretary of Agriculture or'' where they appeared in the phrase ''the Secretary of Agriculture or the Commission''. Because the word ''commission'' was not capitalized in that phrase in par. (a), section 103(b) did not apply to par. (a) and therefore section 103(a) was executed, resulting in the substitution of ''the Commission or the commission'' for ''the Secretary of Agriculture or the commission''.

1968—Pub. L. 90–258, § 14, inserted provision affording any board of trade refused a contract market designation a hearing before the Commission with right to appeal in adverse decision to the court of appeals as provided for in par. (a) of this section at end of first par.

Par. (a). Pub. L. 90–258, § 15, amended par. (a) generally, striking out such parts both of first sentence and of proviso of last sentence as described the commission as made up of the Secretary of Agriculture, Secretary of Commerce, and Attorney General (covered in definition of ''Commission'' in section 2 of this title, including representation of such officials by their designees), extending grounds for suspension or revocation of designation to include violations of any provisions of this chapter or rules, regulations, or orders of the Secretary of Agriculture or commission, requiring delivery of appeal petitions to Secretary of Agriculture rather than any member of the commission, who would notify the other members, and filing of commission records of proceedings on appeal by the Secretary of Agriculture and not the commission, striking out provisions describing Secretary of Agriculture as Chairman (now found in section 2 of this title), superseding such part of proviso of seventh sentence as authorized appeals to the commission from Secretary of Agriculture's refusal of a contract market designation by provisions of first par. of this section, and striking out such other part as made decision of court on appeal from commission final and binding on the parties.

1958—Pub. L. 85–791 substituted ''thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28'' for ''forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings including the notice to the board of trade, a copy of the charges, the evidence, and the report and order'' in third notice, and struck out ''certified and'' after ''duly'' in fourth sentence.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' wherever appearing in this section.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

CROSS REFERENCES

Cease and desist orders, review of, see section 13a of this title.

Orders with respect to exclusion from boards of trade of cooperative associations and corporations, review of

under the procedure provided in this section, see section 10a of this title.

Suspension or revocation of designation as contract market in accordance with procedure and subject to judicial review provided in this section, see section 7b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 6j, 7b, 10a, 12, 12a, 12e, 13a of this title.

§ 9. Exclusion of persons from privilege of "contract markets"; procedure for exclusion; review by court of appeals

If the Commission has reason to believe that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under this chapter, or willfully omitted to state in any such application or report any material fact which is required to be stated therein, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission or the Commission[1] thereunder, it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made prohibiting him from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to such person, until further notice of the Commission, and to show cause why the registration of such person, if registered with the Commission in any capacity, should not be suspended or revoked. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the Commission, or before an Administrative Law Judge designated by the Commission, which Administrative Law Judge shall cause all evidence to be reduced to writing and forthwith transmit the same to the Commission. Upon evidence received, the Commission may (1) prohibit such person from trading on or subject to the rules of any contract market and require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in the order, (2) if such person is registered with the Commission in any capacity, suspend, for a period not to exceed six months, or revoke, the registration of such person, (3) assess such person a civil penalty of not more than the higher of $100,000 or triple the monetary gain to such person for each such violation[2] and (4) require restitution to customers of damages proximately caused by violations of such persons. Notice of such order shall be sent forthwith by registered mail or by certified mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the Commission, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States court of appeals of the circuit in which the petitioner is doing business, or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located, a written petition, within fifteen days after the notice of such order is given to the offending person praying that the order of the Commission be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and thereupon the Commission shall file in the court the record theretofore made, as provided in section 2112 of title 28. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.

(Sept. 21, 1922, ch. 369, § 6(c), formerly § 6(b), 42 Stat. 1002; June 15, 1936, ch. 545, § 8(a)–(d), (h)–(j), 49 Stat. 1498, 1499; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 7(b), Aug. 28, 1958, 72 Stat. 944; Pub. L. 86–507, § 1(2), June 11, 1960, 74 Stat. 200; Pub. L. 90–258, § 16, Feb. 19, 1968, 82 Stat. 30; Pub. L. 93–463, title I, § 103(a), (b), (e), title II, §§ 204(b), 205(b), 212(a)(1), (2), title IV, § 408, Oct. 23, 1974, 88 Stat. 1392, 1397, 1400, 1403, 1414; Pub. L. 97–444, title II, § 219, Jan. 11, 1983, 96 Stat. 2308; renumbered § 6(c) and amended Pub. L. 102–546, title II, §§ 209(a)(1), 212(b), 223, title IV, § 402(1)(C), (6), (9)(B), Oct. 28, 1992, 106 Stat. 3606, 3609, 3617, 3624, 3625.)

CODIFICATION

Section is comprised of part of subsec. (c) of section 6 of act Sept. 21, 1922. A further provision of subsec. (c) is contained in section 15 of this title. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546, § 402(9)(B), which directed amendment of first sentence by striking ''the Secretary of Agriculture or'', could not be executed because of amendment by Pub. L. 93–463, § 103(a). See 1974 Amendment note below.

Pub. L. 102–546, §§ 209(a)(1), 212(b), 223, 402(1)(C), (6), substituted, in first sentence, ''Commission thereunder'' for ''commission thereunder'', in sentence beginning ''Upon evidence received'', inserted ''(1)'', substituted ''(2) if'' for ''and, if'', ''suspend'' for ''may suspend'', ''(3)'' for ''and may'', ''the higher of $100,000 or triple the monetary gain to such person'' for ''$100,000'', and inserted before period ''and (4) require restitution to customers of damages proximately caused by violations of such persons'', and in sentence beginning ''After the issuance'', substituted ''offending person'' for ''offending person.''.

1983—Pub. L. 97–444 struck out ''as futures commission merchant or any person associated therewith as described in section 6k of this title, commodity trading advisor, commodity pool operator, or as floor broker hereunder'' after ''such person, if registered'' and also after ''such person is registered'' and inserted '', or in the case of an order denying registration, the circuit in

[1] So in original. The words ''or the Commission'' probably should not appear.

[2] So in original. Probably should be followed by a comma.

which the petitioner's principal place of business listed on petitioner's application for registration is located,'' after ''court of appeals of the circuit in which the petitioner is doing business''.

1974—Pub. L. 93–463, §§103(e), 204(b), 205(b), 212(a)(1), (2), 408, substituted ''it'' for ''he'', inserted ''or any person associated therewith as described in section 6k of this title,'' after ''futures commission merchant'' wherever appearing, inserted ''commodity trading advisor, commodity pool operator'' before ''or as floor broker'' wherever appearing, inserted provision for the assessment of civil penalties of not more than $100,000 for each violation, set a limit of fifteen days after the issuance of an order within which period the person against whom the order was issued must file with the court of appeals his petition that the order be set aside, and substituted ''an Administrative Law Judge'' and ''Administrative Law Judge'' for ''a referee'' and ''referee'', respectively.

Pub. L. 93–463, §103(a), provided for substitution of ''Commission'' for ''Secretary of Agriculture'' except where such words would be stricken by section 103(b), which directed striking the words ''the Secretary of Agriculture or'' where they appeared in the phrase ''the Secretary of Agriculture or the Commission''. Section 103(a) was executed wherever the term ''Secretary of Agriculture'' appeared in this section including in the phrase ''the Secretary of Agriculture or the commission'' in the first sentence. Because the word ''commission'' was not capitalized in that phrase in the first sentence, section 103(b) did not apply to that phrase and therefore section 103(a) was executed, resulting in the substitution of ''the Commission or the commission'' for ''the Secretary of Agriculture or the commission''.

1968—Pub. L. 90–258 amended first sentence generally, providing for denial of trading privileges to persons other than contract markets and suspension or revocation of registration of futures commission merchants and floor brokers, who are manipulating or have attempted to manipulate prices, for willful, material, misstatements in, or omissions from, reports or registration statements, and for violations of orders of Secretary of Agriculture or commission, and authorizing the Secretary to prohibit such persons from trading on or subject to rules of any contract market.

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

1958—Pub. L. 85–791 substituted ''transmitted by the clerk of the court to the Secretary of Agriculture and thereupon the Secretary of Agriculture shall file in the court the record theretofore made, as provided in section 2112 of Title 28'' for ''served upon the Secretary of Agriculture by delivering such copy to him and thereupon the Secretary of Agriculture shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received'' in seventh sentence, and substituted ''petition'' for ''transcript'' in eighth sentence.

1936—Act June 15, 1936, among other changes, amended section by inserting provisions relating to the service of complaints and penalties for violations of this chapter.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' wherever appearing in this section.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of act June 15, 1936, set out as a note under section 1 of this title.

CROSS REFERENCES

Conditional requirements for designation of board of trade as ''contract market'', see section 7 of this title.

Suspension or revocation of registration as futures commission merchant for accepting orders from person denied trading privileges pursuant to order under provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 7, 9a, 12, 12a, 13b, 18, 21 of this title.

§ 9a. Assessment of money penalties

(1) In determining the amount of the money penalty assessed under section 9 of this title, the Commission shall consider the appropriateness of such penalty to the gravity of the violation.

(2) Unless the person against whom a money penalty is assessed under section 9 of this title shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by section 9 of this title has been taken or payment of the full amount of the penalty then due has been made, at the end of such fifteen-day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made—

(A) such person shall be prohibited automatically from trading on all contract markets; and

(B) if such person is registered with the Commission, such registration shall be suspended automatically.

(3) If a person against whom a money penalty is assessed under section 9 of this title takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of thirty days from the date of entry of judgment on the appeal—

(A) such person shall be prohibited automatically from trading on all contract markets; and

(B) if such person is registered with the Commission, such registration shall be suspended automatically.

If the person against whom the money penalty is assessed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

(Sept. 21, 1922, ch. 369, §6(e), formerly §6(d), as added Pub. L. 93–463, title II, §212(a)(3), Oct. 23, 1974, 88 Stat. 1403; renumbered §6(e) and amended Pub. L. 102–546, title II, §209(a)(1), (5), Oct. 28, 1992, 106 Stat. 3606.)

REFERENCES IN TEXT

Section 9 of this title, referred to in text, was in the original ''subsection (c)'' meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out below.

CODIFICATION

Section is comprised of subsec. (e) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d) and (f) of section 6 are classified to sections 13b and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546 amended section generally. Prior to amendment, section read as follows: ''In determining the amount of the money penalty assessed under section 9 of this title, the Commission shall consider, in the case of a person whose primary business involves the use of the commodity futures market—the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's ability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of the commodity futures market—the appropriateness of such penalty to the net worth of the person charged, and the gravity of the violation. If the offending person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.''

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

§ 9b. Rules prohibiting deceptive and other abusive telemarketing acts or practices

(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 6102(a) of title 15, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this chapter in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

(A) rules adopted by the Commission under this chapter provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 6102(a) of title 15; or

(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.

(Sept. 21, 1922, ch. 369, § 6(f), as added Pub. L. 103–297, § 3(e)(2), Aug. 16, 1994, 108 Stat. 1547.)

CODIFICATION

Section is comprised of subsec. (f) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d) and (e) of section 6 are classified to sections 13b and 9a of this title, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 6102.

§ 10. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, acts Sept. 21, 1922, ch. 369, § 6(b), 42 Stat. 1001; June 15, 1936, ch. 545, § 8(k), 49 Stat. 1499, related to review by Supreme Court on certiorari. See section 1254 of Title 28, Judiciary and Judicial Procedure.

§ 10a. Cooperative associations and corporations, exclusion from board of trade; rules of board inapplicable to payment of compensation by association

(a) No board of trade which has been designated as a ''contract market'' shall exclude from membership in, and all privileges on, such board of trade, any association or corporation engaged in cash commodity business having adequate financial responsibility which is organized under the cooperative laws of any State, or which has been recognized as a cooperative association of producers by the United States Government or by any agency thereof, if such association or corporation complies and agrees to comply with such terms and conditions as are or may be imposed lawfully upon other members of such board, and as are or may be imposed lawfully upon a cooperative association of producers engaged in cash commodity business, unless such board of trade is authorized by the commission to exclude such association or corporation from membership and privileges after hearing held upon at least three days' notice subsequent to the filing of complaint by the board of trade: *Provided*, *however*, That if any such association or corporation shall fail to meet its obligations with any established clearing house or clearing agency of any contract market, such association or corporation shall be ipso facto debarred from further trading on such contract market, except such trading as may be necessary to close open trades and to discharge existing contracts in accordance with the rules of such contract market applicable in such cases. Such commission may prescribe that such association or corporation shall have and retain membership and privileges, with or without imposing conditions, or it may permit such board of trade immediately to bar such association or corporation from membership and privileges. Any order of said commission entered hereunder shall be reviewable by the court of appeals for the circuit in which such association or corporation, or such board of trade, has its principal place of business, on written petition either of such association or

corporation, or of such board of trade, under the procedure provided in section 8(b) of this title, but such order shall not be stayed by the court pending review.

(b) No rule of any board of trade designated as a contract market shall forbid or be construed to forbid the payment of compensation on a commodity-unit basis, or otherwise, by any federated cooperative association to its regional member-associations for services rendered or to be rendered in connection with any organization work, educational activity, or procurement of patronage, provided no part of any such compensation is returned to patrons (whether members or nonmembers) of such cooperative association, or of its regional or local member-associations, otherwise than as a dividend on capital stock or as a patronage dividend out of the net earnings or surplus of such federated cooperative association.

(Sept. 21, 1922, ch. 369, § 6a, as added June 15, 1936, ch. 545, § 9, 49 Stat. 1499; amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 102–546, title II, § 209(b)(4), title IV, § 402(8), Oct. 28, 1992, 106 Stat. 3607, 3625.)

AMENDMENTS

1992—Pub. L. 102–546 redesignated subsecs. (1) and (2) as (a) and (b), respectively, and in subsec. (a) substituted reference to section 8(b) of this title for reference to section 8 of this title.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' wherever appearing.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 11. Vacation on request of designation as "contract market"; redesignation

Any board of trade that has been designated a contract market in the manner provided in this chapter may have such designation vacated and set aside by giving notice in writing to the Commission requesting that its designation as a contract market be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when the vacation of designation shall take effect. Upon receipt of such notice the Commission shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and its order to all other contract markets. From and after the date upon which the vacation became effective the said board of trade can thereafter be designated again a contract market by making application to the Commission in the manner in this chapter provided for an original application.

(Sept. 21, 1922, ch. 369, § 7, 42 Stat. 1002; Pub. L. 93–463, title I, § 103(a), (e), Oct. 23, 1974, 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'' and ''its order'' for ''his order''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

§ 12. Public disclosure

(a) Investigations respecting operations of boards of trade and others subject to this chapter; publication of results; restrictions; information received from foreign futures authorities; undercover operations

(1) For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this chapter. The Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this chapter, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers: *Provided further*, That the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person. The Commission shall not be compelled to disclose any information or data obtained from a foreign futures authority if—

(A) the foreign futures authority has in good faith determined and represented to the Commission that disclosure of such information or data by that foreign futures authority would violate the laws applicable to that foreign futures authority; and

(B) the Commission obtains such information pursuant to—

(i) such procedure as the Commission may authorize for use in connection with the administration or enforcement of this chapter; or

(ii) a memorandum of understanding with that foreign futures authority;

except that nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced involving a receiver appointed in a judicial proceeding by the United States or the Commission, or in any proceeding under title 11 in which the Commission has intervened or in which the Commission has the right to appear and be heard. Nothing in this subsection shall be construed to authorize the Commission to withhold information or data from Congress. For purposes of section 552 of

title 5, this subsection shall be considered a statute described in subsection (b)(3)(B) of section 552.

(2) In conducting investigations authorized under this subsection or any other provision of this chapter, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies. The Commission and the Department of Justice shall assess the effectiveness of such undercover operations and, within two years of October 28, 1992, shall recommend to Congress any additional undercover or other authority for the Commission that the Commission or the Department of Justice believes to be necessary.

(b) Business matters; congressional, administrative, judicial, and bankruptcy proceedings

The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, in an administrative or judicial proceeding brought under this chapter, in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this chapter, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11. This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.

(c) Reports respecting conduct of boards of trade or transactions of violators; contents

The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this chapter or the rules, regulations, or orders of the Commission thereunder in proceedings brought under sections 8, 9 and 15 of this title. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this chapter.

(d) Investigations respecting marketing conditions of commodities and commodity products and byproducts; reports

The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

(e) Names and addresses of traders of boards of trade previously disclosed; disclosure to Congress and agencies or departments of States or foreign governments or foreign futures authority

The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party. Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, any foreign futures authority, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such foreign futures authority, department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this chapter or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a foreign futures authority or to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such foreign futures authority, department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or

any department or agency thereof, or foreign futures authority.[1] is a party.

(f) Compliance with subpoena after notice to informant; congressional subpoenas and requests for information excepted

The Commission shall disclose information in its possession pursuant to a subpoena or summons only if—

(1) a copy of the subpoena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpoena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpoena or summons to such person, and

(2) at least fourteen days have expired from the date of such mailing of the subpoena or summons, or such other notice.

This subsection shall not apply to congressional subpoenas or congressional requests for information.

(g) Requests for information by State agencies or subdivisions; volunteering of information by Commission

The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.

(h) Annual report to Congress

The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this chapter and its powers and functions under this chapter.

(i) Review and audits by Comptroller General

The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptroller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.

(Sept. 21, 1922, ch. 369, §8, 42 Stat. 1003; June 15, 1936, ch. 545, §2, 49 Stat. 1491; Pub. L. 90–258, §19(a), Feb. 19, 1968, 82 Stat. 32; Pub. L. 93–463, title I, §103(a), (e), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95–405, §16, Sept. 30, 1978, 92 Stat. 873; Pub. L. 97–444, title II, §222, Jan. 11, 1983, 96 Stat. 2309; Pub. L. 102–546, title II, §205, title III, §§304, 305, title IV, §402(7), Oct. 28, 1992, 106 Stat. 3600, 3623, 3624.)

REFERENCES IN TEXT

Sections 8, 9, and 15 of this title, referred to in subsec. (c), were in the original ''section 6 of this Act'' meaning section 6 of act Sept. 21, 1922, ch. 369, which is classified to sections 8, 9, 9a, 13b, and 15 of this title. See Codification note set out under section 8 of this title.

CODIFICATION

Section is comprised of first par. of section 8 of act Sept. 21, 1922. Second, third, and fourth pars. of section 8 are classified to sections 12–1, 12–2, and 12–3 of this title, respectively.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §§205, 304(1), designated existing provisions as par. (1), inserted provisions at end relating to disclosure of information received from foreign futures authorities, and added par. (2).

Subsec. (b). Pub. L. 102–546, §304(2), inserted at end ''This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.''

Subsec. (e). Pub. L. 102–546, §305, inserted references to foreign futures authority in fifth and last sentences.

Subsec. (f). Pub. L. 102–546, §402(7), substituted ''subpoena'' for ''subpena'' wherever appearing and ''subpoenas'' for ''subpenas'' in last sentence.

1983—Subsec. (a). Pub. L. 97–444, §222(1), inserted proviso authorizing Commission to withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person.

Subsec. (b). Pub. L. 97–444, §222(2), inserted references to receivership proceedings involving a receiver appointed in a judicial proceeding brought under this chapter and to bankruptcy proceedings in which the Commission has intervened or in which Commission has right to appear and be heard under title 11.

Subsec. (e). Pub. L. 97–444, §222(3), struck out ''of the Executive Branch'' after ''Upon the request of any department or agency'' and inserted ''Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this chapter or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding

[1] So in original. The period probably should be a comma.

brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.''

Subsecs. (f), (g). Pub. L. 97–444, § 222(5), added subsecs. (f) and (g). Former subsecs. (f) and (g) were redesignated (h) and (i), respectively.

Subsecs. (h), (i). Pub. L. 97–444, § 222(4), redesignated former subsecs. (f) and (g) as (h) and (i), respectively.

1978—Pub. L. 95–405 consolidated under this section provisions formerly contained in this section and sections 12–1, 12–2, and 12–3 of this title, generally revised provisions thus consolidated to clarify and expand disclosure to public of traders and their positions on boards of trade, and divided provisions thus consolidated and revised into subsecs. (a) to (g).

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'', ''it'' for ''he'', ''its'' for ''his'', and ''It'' for ''He''.

1968—Pub. L. 90–258 authorized investigations to ascertain facts regarding operations of other persons subject to any provisions of this chapter.

1936—Act June 15, 1936, substituted ''commodity'' for ''grain'' wherever appearing.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of act June 15, 1936, set out as a note under section 1 of this title.

CROSS REFERENCES

Publication of harmful acts notwithstanding the provisions of this section, see section 12a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6f, 12a, 20 of this title.

§§ 12–1 to 12–3. Omitted

CODIFICATION

Sections 12–1 to 12–3 comprised the second, third, and fourth pars., respectively, of section 8 of the Commodity Exchange Act, Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003. Such section 8 was amended generally by Pub. L. 95–405, § 16, Sept. 30, 1978, 92 Stat. 873, and is classified in its entirety to section 12 of this title.

Section 12–1, as added Dec. 19, 1947, ch. 523, 61 Stat. 941; amended Feb. 19, 1968, Pub. L. 90–258, § 19(b), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93–463, title I, § 103(a), (e), (f), 88 Stat. 1392, related to disclosure of names of traders on commodity markets by Commission. See section 12(e) of this title.

Section 12–2, as added Oct. 23, 1974, Pub. L. 93–463, title I, § 105, 88 Stat. 1392, required an annual report to Congress. See section 12(h) of this title.

Section 12–3, as added Oct. 23, 1974, Pub. L. 93–463, title I, § 105, 88 Stat. 1392, related to reviews and audits by Comptroller General. See section 12(i) of this title.

§ 12a. Registration of commodity dealers and associated persons; regulation of contract markets

The Commission is authorized—

(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, floor brokers, and floor traders upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof: *Provided*, That notwithstanding any provision of this chapter, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt, except that the term of any such temporary license shall not exceed six months from the date of its issuance;

(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and with such a hearing as may be appropriate to revoke the registration of any person—

(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or affiliated person or employee of any of the foregoing or (ii) engaging in or con-

tinuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities;

(D) if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 6c or 23 of this title, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (iv) involves the violation of section 152, 1001, 1341, 1342, 1343, 1503, 1623, 1961, 1962, 1963, or 2314, or chapter 25, 47, 95, or 96 of title 18, or section 7201 or 7206 of title 26;

(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found in a proceeding brought by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this chapter, the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 et seq.], the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.], the Securities Investors[1] Protection Act of 1970 [15 U.S.C. 78aaa et seq.], the Foreign Corrupt Practices Act of 1977, chapter 96 of title 18, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this chapter or with a member of a contract market or with a member of a registered futures association;

(G) if, as to any of the matters set forth in this paragraph and paragraph (3), such person willfully made any materially false or misleading statement or omitted to state any material fact in such person's application or any update thereto; or

(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph:

Provided, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in section 9 of this title; and

Provided, further, That for the purposes of paragraphs (2) and (3) of this section, ''principal'' shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission;

(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of this chapter, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 et seq.], the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15

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

U.S.C. 80b–1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.], the Securities Investors[2] Protection Act of 1970 [15 U.S.C. 78aaa et seq.], the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this chapter, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this subparagraph if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

(D) such person pleaded guilty to or was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section, or was convicted of a felony of the type specified in paragraph (2)(D) of this section more than ten years preceding the filing of the application;

(E) such person pleaded guilty to or was convicted of any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 6c or 23 of this title or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, or section 7203, 7204, 7205, or 7207 of title 26;

(F) such person was debarred by any agency of the United States from contracting with the United States;

(G) such person willfully made any materially false or misleading statement or willfully omitted to state any material fact in such person's application or any update thereto, in any report required to be filed with the Commission by this chapter or the regulations thereunder, in any proceeding before the Commission or in any registration disqualification proceeding;

(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court, in a United States military court, or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this chapter or under the rules or regulations of the Commission, such person has not established that such person meets such minimum financial requirements;

(J) such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, any other self-regulatory organization, or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program or barring or suspending such person from being associated with any member or members of such contract market, association, self-regulatory organization, or foreign regulatory body;

(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

(L) such person has associated with such person any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

(M) there is other good cause; or

(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph, registration shall not be granted: *Provided further*, That such person

[2] So in original. Probably should be ''Investor''.

may appeal from a decision to refuse registration or to condition registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(4) in accordance with the procedure provided for in section 9 of this title, to suspend, revoke, or place restrictions upon the registration of any person registered under this chapter if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under section 9 of this title and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or place restrictions upon registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(5) to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this chapter;

(6) to communicate to the proper committee or officer of any contract market, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(26)], notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this chapter: *Provided*, That any information furnished by the Commission under this paragraph shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding;

(7) to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or by-product thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as—

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, excepting the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts;

(8) to make and promulgate such rules and regulations with respect to those persons registered under this chapter, who are not members of a contract market, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation;

(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action. The term ''emergency'' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based upon an examination of all the information before the Commission at the time the determination was made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms ''market emergency'', ''emergency'', or equivalent language in its own bylaws, rules, regulations, or resolutions;

(10) to authorize any person to perform any portion of the registration functions under this chapter, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for

review pursuant to section 21(j) of this title, and subject to the provisions of this chapter applicable to registrations granted by the Commission; and

(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this chapter who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this chapter, or a violation of any other provision of Federal or State law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding one year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the continued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this chapter.

(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 8(b) of this title.

(Sept. 21, 1922, ch. 369, §8a, as added June 15, 1936, ch. 545, §10, 49 Stat. 1500; amended Aug. 5, 1955, ch. 574, 69 Stat. 535; Pub. L. 90–258, §§20–23, Feb. 19, 1968, 82 Stat. 32, 33; Pub. L. 93–463, title I, §103(a), title II, §§204(c), 205(c), 213–215, Oct. 23, 1974, 88 Stat. 1392, 1397, 1400, 1404; Pub. L. 95–405, §17, Sept. 30, 1978, 92 Stat. 874; Pub. L. 97–444, title I, §104, title II, §§223–225, Jan. 11, 1983, 96 Stat. 2297, 2310–2315; Pub. L. 102–546, title II, §§207(b)(3), (4), 208, 209(b)(6), 227, title IV, §402(10), Oct. 28, 1992, 106 Stat. 3604, 3607, 3618, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in pars. (2) to (4), was in the original ''section 6(c) of this Act'' meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

The Securities Act of 1933, referred to in pars. (2)(E) and (3)(B), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in pars. (2)(E) and (3)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Public Utility Holding Company Act of 1935, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 838, as amended, which is classified generally to chapter 2C (§79 et seq.) of Title 15. For complete classification of this Act to the Code, see section 79 of Title 15 and Tables.

The Trust Indenture Act of 1939, referred to in pars. (2)(E) and (3)(B), is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, as amended, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77aaa of Title 15 and Tables.

The Investment Advisers Act of 1940, referred to in pars. (2)(E) and (3)(B), is title II of act Aug. 22, 1940, ch. 686, 54 Stat. 847, as amended, which is classified generally to subchapter II (§80b–1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80b–20 of Title 15 and Tables.

The Investment Company Act of 1940, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a–1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

The Securities Investor Protection Act of 1970, referred to in pars. (2)(E) and (3)(B), is Pub. L. 91–598, Dec. 30, 1970, 84 Stat. 1636, as amended, which is classified generally to chapter 2B–1 (§78aaa et seq.) of Title 15. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in pars. (2)(E) and (3)(B), is title I of Pub. L. 95–213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd–1 and 78dd–2 of Title 15, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

AMENDMENTS

1992—Par. (1). Pub. L. 102–546, §207(b)(3), substituted ''floor brokers, and floor traders'' for ''and floor brokers''.

Par. (2). Pub. L. 102–546, §209(b)(6)(A), made technical amendment to reference to section 9 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (2)(C)(i). Pub. L. 102–546, §207(b)(4), inserted ''floor trader,'' after ''floor broker,''.

Par. (2)(C)(ii). Pub. L. 102–546, §208(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities''.

Par. (2)(D)(ii). Pub. L. 102–546, §207(b)(4), inserted ''floor trader,'' after ''floor broker,''.

Par. (2)(D)(iv). Pub. L. 102–546, §208(b), inserted references to sections 1001, 1503, 1623, 1961 to 1963, and 2314 of title 18 and sections 7201 and 7206 of title 26.

Par. (2)(E). Pub. L. 102–546, §208(c), substituted ''in a proceeding brought'' for ''by any court of competent jurisdiction,'' and in cl. (i) inserted reference to chapter 96 of title 18.

Par. (2)(G). Pub. L. 102–546, §208(d), substituted ''this paragraph and paragraph (3)'' for ''subparagraphs (A)

through (F) of this paragraph'', ''materially false'' for ''material false'', and ''application or any update thereto'' for ''application''.

Par. (3). Pub. L. 102–546, §209(b)(6)(B), made technical amendment to reference to section 9 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (3)(D). Pub. L. 102–546, §208(e), inserted ''pleaded guilty to or'' after ''person'', substituted ''section,'' for ''section within ten years preceding the filing of the application or at any time thereafter,'' and ''felony of the type specified in paragraph (2)(D) of this section more'' for ''felony, including a felony of the type specified in paragraph (2)(D) of this section, more''.

Par. (3)(E). Pub. L. 102–546, §208(f)(1), (2), inserted ''pleaded guilty to or'' after ''person'' and struck out ''within ten years preceding the filing of the application for registration or at any time thereafter'' before ''of any misdemeanor''.

Par. (3)(E)(ii). Pub. L. 102–546, §207(b)(4), inserted ''floor trader,'' after ''floor broker,''.

Par. (3)(E)(iv). Pub. L. 102–546, §208(f)(3), inserted reference to sections 7203 to 7205 and 7207 of title 26.

Par. (3)(G). Pub. L. 102–546, §208(g)(5), which directed the insertion of ''or in any registration disqualification proceeding'' after ''Commission'', was executed by making the insertion after ''Commission'' the second time it appeared to reflect the probable intent of Congress.

Pub. L. 102–546, §208(g)(1)–(4), substituted ''materially false'' for ''material false'', ''application or any update thereto,'' for ''application,'' and struck out ''or'' after ''thereunder,''.

Par. (3)(H). Pub. L. 102–546, §208(h), inserted '', in a United States military court,'' after ''State court''.

Par. (3)(J). Pub. L. 102–546, §208(i), struck out ''or'' before ''any other self-regulatory'', inserted ''or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program'', and substituted ''association, self-regulatory organization, or foreign regulatory body'' for ''association, or self-regulatory organization''.

Par. (4). Pub. L. 102–546, §209(b)(6)(C), made technical amendment to references to section 9 of this title in concluding provisions to reflect change in references to corresponding section of original act.

Par. (5). Pub. L. 102–546, §402(10)(A), struck out ''and'' at end.

Par. (7). Pub. L. 102–546, §402(10)(B), substituted ''matters as—'' for ''matters as:'' in introductory provisions.

Par. (11). Pub. L. 102–546, §227, added par. (11).

1983—Par. (1). Pub. L. 97–444, §223, substituted authorization for registration of ''associated persons of futures commission merchants'' for ''and persons associated therewith as described in section 6k of this title''; authorized registration of introducing brokers, associated persons of introducing brokers, associated persons of commodity trading advisors and associated persons of commodity pool operators, substituted ''such persons'' for ''any persons'' before ''associated with the applicant'', and authorized establishment of registration and renewal fees and charges and granting of temporary licenses for terms not exceeding six months from date of issuance.

Par. (2). Pub. L. 97–444, §224(1), added par. (2) and struck out prior par. (2) which authorized Commission ''to refuse to register any person—

''(A) if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked;

''(B) if it is found, after opportunity for hearing, that the applicant is unfit to engage in the business for which the application for registration is made, (i) because such applicant, or, if the applicant is a partnership, any general partner, or, if the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, at any time engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made any material false or misleading statement in his application or willfully omitted to state any material fact in connection with the application, or (ii) for other good cause shown; or

''(C) in the case of an applicant for registration as futures commission merchant, if it is found after opportunity for hearing that the applicant has not established that he meets the minimum financial requirements under section 6f of this title: *Provided*, That pending final determination under subparagraph (B) or (C), registration shall not be granted: *And provided further*, That the applicant may appeal from the refusal of registration under subparagraph (B) or (C) in the manner provided in section 9 of this title; and''.

Par. (3). Pub. L. 97–444, §224(3), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 97–444, §224(2), (4), struck out par. (4) provision for establishment of registration and renewal fees and charges, covered in par. (1), redesignated par. (3) as (4), and in redesignated par. (4), authorized placing of restrictions on registrations, suspension or revocation of registration of an introducing broker and appeals from registration decisions made pursuant to this paragraph as provided in section 9 of this title, and substituted ''if cause exists under paragraph (3) of this section'' for ''if cause exists under paragraph (2)(B) or (C) of this section''.

Par. (6). Pub. L. 97–444, §104, authorized communication of full facts respecting transactions or market operations to registered futures associations and self-regulatory organizations, included concern for investors, provided for communications when necessary or appropriate to effectuate purposes of this chapter, and prohibited disclosure of furnished information except in self-regulatory actions or proceedings.

Pars. (6) to (8). Pub. L. 97–444, §224(5), struck out ''and'' at end of pars. (6), (7), and (8).

Par. (9). Pub. L. 97–444, §225, authorized Commission to direct the contract market to take certain action, including, but not limited to, setting of temporary emergency margin levels on any futures contract, and fixing of limits that may apply to a market position acquired in good faith prior to the effective date of Commission's action and inserted provisions respecting judicial review.

Par. (10). Pub. L. 97–444, §224(6), added par. (10).

1978—Par. (1). Pub. L. 95–405, §17(1), inserted '', which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing'' after ''by the Commission''.

Par. (6). Pub. L. 95–405, §17(2), struck out ''and to publish'' after ''any contract market''.

1974—Pub. L. 93–463, §103(a), substituted ''Commission'' for ''Secretary of Agriculture'' in provisions preceding par. (1).

Par. (1). Pub. L. 93–463, §§103(a), 204(c), 205(c), substituted ''Commission'' for ''Secretary of Agriculture'', inserted ''and persons associated therewith as described in section 6k of this title,'' after ''futures commission merchants'', and inserted ''commodity trading advisors, commodity pool operators'' before ''and floor brokers''.

Pars. (3), (5), (6). Pub. L. 93–463, §103(a), substituted ''Commission'' for ''Secretary of Agriculture''.

Par. (7). Pub. L. 93–463, §213, amended par. (7) generally, substituting provisions covering the altering or supplementing of the rules of a contract market for provisions covering the disapproval of bylaws, rules, regulations, and resolutions made, issued, or proposed by a contract market.

Par. (8). Pub. L. 93–463, §214, added par. (8).

Par. (9). Pub. L. 93–463, §215, added par. (9).

1968—Par. (2). Pub. L. 90–258, §20, designated existing provisions as subpar. (A), substituted ''if the prior registration of such person'' for ''if such person has vio-

lated any of the provisions of this chapter or any of the rules or regulations promulgated by the Secretary of Agriculture hereunder for which the registration of such person'' and added subpars. (B) and (C).

Par. (3). Pub. L. 90–258, § 21, authorized Secretary of Agriculture, in accordance with procedure provided for in section 9 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under par. (2)(B) or (C) of this section which would warrant a refusal of registration of such person.

Par. (4). Pub. L. 90–258, § 22, struck out authorization for establishment of fees for copies of registration certificates.

Par. (7). Pub. L. 90–258, § 23, added par. (7).

1955—Par. (4). Act Aug. 5, 1955, authorized Secretary to fix and establish reasonable fees for registrations and renewals, and struck out provisions which set the fee for each registration and renewal at not more than $10.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 207(b)(3), (4) of Pub. L. 102–546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102–546, set out as a note under section 6e of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2a, 4a, 6f, 6k, 7a, 21 of this title.

§ 12b. Trading ban violations; prohibition

It shall be unlawful for any person, against whom there is outstanding any order of the Commission prohibiting him from trading on or subject to the rules of any contract market, to make or cause to be made in contravention of such order, any contract for future delivery of any commodity, on or subject to the rules of any contract market.

(Sept. 21, 1922, ch. 369, § 8b, as added Pub. L. 90–258, § 24, Feb. 19, 1968, 82 Stat. 33; amended Pub. L. 93–463, title I, § 103(a), Oct. 23, 1974, 88 Stat. 1392.)

AMENDMENTS

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463 see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 12c. Disciplinary actions

(a) Action taken; written notice of reasons for action

(1) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(2) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.

(b) Review by Commission

The Commission may, in its discretion and in accordance with such standards and procedures as it deems appropriate, review any decision by an exchange whereby a person is suspended, expelled, otherwise disciplined, or denied access to the exchange. In addition, the Commission may, in its discretion and upon application of any person who is adversely affected by any other exchange action, review such action.

(c) Affirmance, modification, set aside, or remand of action

The Commission may affirm, modify, set aside, or remand any exchange decision it reviews pursuant to subsection (b) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter. Subject to judicial review, any order of the Commission entered pursuant to subsection (b) of this section shall govern the exchange in its further treatment of the matter.

(d) Stay of action

The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (a) of this section pending review thereof.

(e) Major disciplinary rule violations

(1) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.

(Sept. 21, 1922, ch. 369, § 8c, as added Pub. L. 93–463, title II, § 216, Oct. 23, 1974, 88 Stat. 1405; amended Pub. L. 95–405, § 18, Sept. 30, 1978, 92 Stat. 874; Pub. L. 102–546, title II, § 206(a)(2), Oct. 28, 1992, 106 Stat. 3602.)

AMENDMENTS

1992—Pub. L. 102–546 redesignated pars. (1) to (4) as subsecs. (a) to (d), respectively, in subsec. (a) redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, in subsec. (c) substituted references to subsection (b) for references to paragraph (2), in subsec. (d) substituted reference to subsection (a) for reference to paragraph (1), and added subsec. (e).

1978—Par. (1)(B). Pub. L. 95–405 substituted ''An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined or denied access, and to the Commission'' for ''Otherwise the notice and reasons shall be kept confidential''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 12d. Commission action for noncompliance with export sales reporting requirements

The Commission may, in accordance with the procedures provided for in this chapter, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 612c–3[1] of this title, or of any regulation issued thereunder.

(Sept. 21, 1922, ch. 369, § 8d, as added Pub. L. 97–444, title II, § 226, Jan. 11, 1983, 96 Stat. 2316.)

REFERENCES IN TEXT

Section 612c–3 of this title, referred to in text, was repealed by Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

[1] See References in Text note below.

§ 12e. Commission oversight; deficiency orders

(a) Assessments

At least once every two years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 7a(b) of this title.

(b) Deficiency orders

(1) Causes

The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system implemented pursuant to section 7a(b) of this title does not satisfy one or more of the requirements of such section.

(2) Contents

A proposed deficiency order issued under this subsection shall specify—

(A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;

(B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and

(C) a date, not less than twenty days from the date of issuance of the proposed deficiency order, when such deficiency order will become final, subject to subsection (d)[1] of this section.

(3) Remedies

On becoming final, the Commission deficiency order may—

(A) require the contract market to—

(i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;

(ii) satisfy stated objective performance criteria to correct such deficiencies;

(iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 6j(a) of this title, if the deficiency noted in such deficiency order relates to—

(i) the audit trail system the contract market is required to maintain under paragraph (2), (3), or (4) of section 7a(b) of this title; or

(ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 6j(a) of this title; or

(C) take any combination of the actions described in subparagraphs (A) and (B).

[1] So in original. Probably should be subsection ''(c)''.

(4) Removal

If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

(A) violated this chapter, the rules or regulations of the Commission thereunder, or the rules of such contract market;

(B) abused the authority of such person; or

(C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

the Commission may issue a deficiency order under this section to remove such officer, director, committee member, or employee.

(5) Designation as contract market

Notwithstanding section 8 of this title, during the period that a proposed or final deficiency order under this section is in effect, the Commission may refrain from approving any application for designation as a contract market made by the board of trade whose contract market is the subject of such deficiency order.

(6) Delegation

The Commission shall not delegate the authority to issue deficiency orders under this subsection.

(c) Rescission, modification, or delay of deficiency orders

Before any proposed deficiency order issued by the Commission under subsection (b) of this section may become final, the Commission shall—

(1) provide the affected contract market with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the contract market, through an oral presentation of views and comments to the Commission, in order to petition the Commission to rescind, modify, or delay such deficiency order; and

(2) rule on such petition, not less than twenty days before the deficiency order takes effect, making findings, as appropriate, as to whether—

(A) the deficiencies cited by the Commission have been corrected or are being corrected under an expeditious timetable acceptable to the Commission;

(B) the trade monitoring system of the contract market is deficient as noted in the deficiency order; or

(C) the timetable for corrective action by the contract market in the proposed deficiency order, and the particular corrective action proposed, is appropriate in light of the deficiencies noted and the purposes of this chapter.

(d) Penalties

Violation of a final deficiency order issued under subsection (c) of this section shall be considered a violation of an order of the Commission for purposes of—

(1) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 13a or 13a–1 of this title; or

(2) initiating proceedings under section 7b or 8(a) of this title.

(e) Judicial review

(1) Persons

Any person, other than a contract market, aggrieved by a deficiency order issued under subsection (b)(4) of this section, may obtain review of such deficiency order when issued by the Commission under the terms and conditions in section 8(b) of this title.

(2) Contract markets

Any contract market that has petitioned the Commission to rescind, modify, or delay any proposed deficiency order issued under subsection (b) of this section may obtain judicial review of any final such deficiency order only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5.

(Sept. 21, 1922, ch. 369, § 8e, as added Pub. L. 102–546, title II, § 202(a), Oct. 28, 1992, 106 Stat. 3598.)

REFERENCES IN TEXT

Section 8 of this title, referred to in subsec. (b)(5), was in the original ''section 6'' meaning section 6 of act Sept. 21, 1922, ch. 369, which is classified to sections 8, 9, 9a, 13b, and 15 of this title. See Codification note set out under section 8 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6j of this title.

§ 13. Violations generally; punishment; costs of prosecution

(a) Felonies generally

It shall be a felony punishable by a fine of not more than $1,000,000 (or $500,000 in the case of a person who is an individual) or imprisonment for not more than five years, or both, together with the costs of prosecution, for:

(1) Any person registered or required to be registered under this chapter, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word ''value'' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such

commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 6, section 6b, subsections (a) through (e) of subsection[1] 6c, section 6h, section 6*o*(1), or section 23 of this title.

(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement required under this chapter, or by any contract market or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a contract market, board of trade, or futures association designated or registered under this chapter acting in furtherance of its official duties under this chapter.

(5) Any person willfully to violate any other provision of this chapter, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

(b) Suspension of convicted felons

Any person convicted of a felony under this section shall be suspended from registration under this chapter and shall be denied registration or reregistration for five years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.

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

(c) Transactions by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'', or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission. The foregoing prohibitions shall not apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this subsection.

(d) Use of information by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'', or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any trans-

action in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an ''option'', ''privilege'', ''indemnity'', ''bid'', ''offer'', ''put'', ''call'', ''advance guaranty'', or ''decline guaranty'', or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(e) Redesignated (d)

(f) Insider trading prohibited

It shall be a felony for any person—

(1) who is an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of, or willfully and knowingly to disclose for any purpose inconsistent with the performance of such person's official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties.[2]

(2) willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association.

Such felony shall be punishable by a fine of not more than $500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.

(Sept. 21, 1922, ch. 369, § 9, 42 Stat. 1003; June 15, 1936, ch. 545, §§ 2, 11, 49 Stat. 1491, 1501; Pub. L. 90–258, § 25, Feb. 19, 1968, 82 Stat. 33; Pub. L. 93–463, title II, § 212(d), title IV, §§ 401, 409, Oct. 23, 1974, 88 Stat. 1404, 1412, 1414; Pub. L. 95–405, § 19, Sept. 30, 1978, 92 Stat. 875; Pub. L. 97–444, title II, § 227, Jan. 11, 1983, 96 Stat. 2316; Pub. L. 99–641, title I, §§ 105, 110(3), (4), Nov. 10, 1986, 100 Stat. 3558, 3561; Pub. L. 102–546, title II, §§ 212(a), 214(a), Oct. 28, 1992, 106 Stat. 3608, 3610.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, § 212(a)(1)(A), (C), added subsec. (a) and struck out former subsec. (a) which related to penalty for embezzlement and larcenous actions.

Subsec. (b). Pub. L. 102–546, § 212(a)(1)(A), (C), added subsec. (b) and struck out former subsec. (b) which related to penalty for price manipulation, cornering, and fraudulent information.

Subsec. (c). Pub. L. 102–546, § 212(a)(1)(A), (B), (2), redesignated subsec. (d) as (c), substituted ''$500,000'' for ''$100,000'', and struck out former subsec. (c) which related to penalty for misdemeanors.

Subsecs. (d) to (f). Pub. L. 102–546, §§ 212(a)(1)(B), (3), 214(a), redesignated subsec. (e) as (d), substituted ''$500,000'' for ''$100,000'', and added subsec. (f).

1986—Subsec. (c). Pub. L. 99–641, § 110(3), substituted ''6k,'' for ''6k.''

Subsec. (d). Pub. L. 99–641, § 110(4), substituted ''advance guaranty'' for ''advance guarantee''.

Pub. L. 99–641, § 105, inserted ''if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission'' after ''actual commodity'', and substituted provisions which related to foregoing prohibitions not being applicable to transactions determined by Commission not contrary to public interest or inconsistent with this subsection for provisions which read as follows: ''Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.''

1983—Subsec. (a). Pub. L. 97–444, § 227(1), expanded applicability to any person registered or required to be registered under this chapter and inserted provision suspending persons convicted under this subsec. from registration and denying reregistration for five years or longer as determined by the Commission, unless such suspension or denial is not required to protect the public interest.

Subsec. (b). Pub. L. 97–444, § 227(2), inserted ''A person convicted of a felony under this subsection shall be suspended from any registration under this chapter, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.''

Subsec. (c). Pub. L. 97–444, § 227(3), inserted ''A person convicted under this subsection of knowingly violating the provisions of section 6a of this title shall be suspended from any registration under this chapter, de-

[2] So in original. The period probably should be ''; or''.

nied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.''

Subsec. (d). Pub. L. 97–444, §227(4), in amending subsec. (d) generally, added to range of felonious conduct, participation in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, and added to nonapplicability of prohibition against any investment transaction in an actual commodity, a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction.

Subsec. (e). Pub. L. 97–444, §227(5), inserted after words '' 'decline guaranty' '' each place they appear the following: '', or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract''.

1978—Subsec. (a). Pub. L. 95–405, §19(1), substituted ''$500,000'' for ''$100,000'' and inserted provision relating to a fine of not more than $100,000 plus costs of prosecution for a violation by a person who is an individual.

Subsec. (b). Pub. L. 95–405, §19(2), substituted ''$500,000'' for ''$100,000'' and inserted provisions making felonies the violation of sections 6, 6b, 6c(b) to (e), 6h, 6*o*(1) and 23 of this title, knowingly making any false or misleading statement of material fact, or omitting such fact in any application or report, and setting the fine for such felonies at not more than $100,000 for a person who is an individual.

Subsec. (c). Pub. L. 95–405, §19(3), inserted references to subsecs. (d) and (e) of this section and substituted ''sections 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6*o*(2), or 12b of this title'' for ''sections 6 to 6e, 6h, 6i, 6k, 6m, 6*o* or 12b of this title''.

Subsecs. (d), (e). Pub. L. 95–405, §19(4), (5), substituted ''$100,000'' for ''$10,000''.

1974—Subsecs. (a), (b). Pub. L. 93–463, §212(d)(1), (2), substituted ''$100,000'' for ''$10,000''.

Subsec. (c). Pub. L. 93–463, §§212(d)(3), 409, substituted ''$100,000'' for ''$10,000'' and inserted reference to sections 6k, 6m, and 6*o* of this title.

Subsecs. (d), (e). Pub. L. 93–463, §401, added subsecs. (d) and (e).

1968—Subsec. (a). Pub. L. 90–258 added subsec. (a).

Subsec. (b). Pub. L. 90–258 incorporated existing offenses in provisions designated as subsec. (b), changed classification thereof from misdemeanors to felonies, and increased term of imprisonment from not more than one year to not more than five years.

Subsec. (c). Pub. L. 90–258 incorporated existing offenses in provisions designated as subsec. (c), and included penalty for violation of section 12b of this title.

1936—Act June 15, 1936, amended section generally and provided that price manipulations of commodities in interstate commerce was a violation.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

REGULATIONS

Section 214(b) of Pub. L. 102–546 provided that: ''The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) [amending this section] not later than three hundred and sixty days after the date of enactment of this Act [Oct. 28, 1992].''

PENALTIES STUDY AND GUIDELINES

Section 225 of Pub. L. 102–546 provided that:

''(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

''(b) REPORT.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

''(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offenses, and, if so, the causes of such differences;

''(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

''(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6a, 13b of this title.

§ 13–1. Violations, prohibition against dealings in onion futures; punishment

(a) No contract for the sale of onions for future delivery shall be made on or subject to the

rules of any board of trade in the United States. The terms used in this section shall have the same meaning as when used in this chapter.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than $5,000.

(Pub. L. 85–839, § 1, Aug. 28, 1958, 72 Stat. 1013.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

Section 2 of Pub. L. 85–839 provided that: ''This Act [enacting this section] shall take effect thirty days after its enactment [Aug. 28, 1958].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1a of this title.

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing on the record and subject to appeal as in other cases provided for in section 8(b) of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $500,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties.

(Sept. 21, 1922, ch. 369, § 6b, as added June 15, 1936, ch. 545, § 9, 49 Stat. 1500; amended Pub. L. 90–258, § 18, Feb. 19, 1968, 82 Stat. 31; Pub. L. 93–463, title II, § 212(b), Oct. 23, 1974, 88 Stat. 1403; Pub. L. 95–405, § 14, Sept. 30, 1978, 92 Stat. 872; Pub. L. 102–546, title II, §§ 209(b)(5), 212(c), Oct. 28, 1992, 106 Stat. 3607, 3609.)

AMENDMENTS

1992—Pub. L. 102–546 substituted ''section 8(b) of this title'' for ''paragraph (a) of section 8 of this title'', substituted ''$500,000'' for ''$100,000'' in two places, and in last sentence struck out ''the appropriateness of such penalty to the net worth of the offending person and'' after ''Commission shall consider''.

1978—Pub. L. 95–405 inserted ''on the record'' after ''notice and hearing''.

1974—Pub. L. 93–463 inserted provision for assessment of a civil penalty of not more than $100,000 for each violation, substituted ''not more than $100,000'' for ''not less than $500 nor more than $10,000'' as permissible range of fines imposed, inserted provisions for enforcement of a penalty, and substituted ''orders of the Commission'' for ''orders of the Secretary of Agriculture or the commission''.

1968—Pub. L. 90–258 amended section to clarify application only to boards of trade designated as contract markets, to include as grounds for cease and desist orders failure to enforce the market's rules of government made a condition of its designation and violation of rules or regulations of the commission or orders of the Secretary, and to authorize such orders in conjunction with a suspension or revocation of designation as a contract market rather than in lieu of suspension or revocation.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6j, 12e of this title.

§ 13a–1. Enjoining or restraining violations

(a) Action to enjoin or restrain violations

Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such ac-

tions: *Provided*, That no restraining order (other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property, and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate) or injunction for violation of the provisions of this chapter shall be issued ex parte by said court.

(b) Injunction or restraining order

Upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(c) Writs or other orders

Upon application of the Commission, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that such person take such action as is necessary to remove the danger of violation of this chapter or any such rule, regulation, or order: *Provided*, That no such writ of mandamus, or order affording like relief, shall be issued ex parte.

(d) Civil penalties

(1) In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation a civil penalty in the amount of not more than the higher of $100,000 or triple the monetary gain to the person for each violation.

(2) If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.

(e) Venue and process

Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or in the district where the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(f) Action by Attorney General

In lieu of bringing actions itself pursuant to this section, the Commission may request the Attorney General to bring the action.

(g) Notice to Attorney General of action brought by Commission

Where the Commission elects to bring the action, it shall inform the Attorney General of such suit and advise him of subsequent developments.

(Sept. 21, 1922, ch. 369, §6c, as added Pub. L. 93–463, title II, §211, Oct. 23, 1974, 88 Stat. 1402; amended Pub. L. 97–444, title II, §220, Jan. 11, 1983, 96 Stat. 2308; Pub. L. 99–641, title I, §104, Nov. 10, 1986, 100 Stat. 3557; Pub. L. 102–546, title II, §221, Oct. 28, 1992, 106 Stat. 3614.)

AMENDMENTS

1992—Pub. L. 102–546 designated first, second, and third sentences as subsecs. (a) to (c), respectively, added subsec. (d), and designated fourth, fifth, and sixth sentences as subsecs. (e) to (g), respectively.

1986—Pub. L. 99–641 inserted '', and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate''.

1983—Pub. L. 97–444 inserted ''(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property)'' after ''*Provided*, That no restraining order''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6j, 12e of this title.

§ 13a–2. Jurisdiction of States

(1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, floor broker, or floor trader) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this chapter, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of

all suits in equity and actions at law brought under this section to enforce any liability or duty created by this chapter or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this chapter or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(5) For purposes of bringing any suit or action under this section, nothing in this chapter shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) For purposes of this section, ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(8)(A) Nothing in this chapter shall prohibit an authorized State official from proceeding in a State court against any person registered under this chapter (other than a floor broker, floor trader, or registered futures association) for an alleged violation of any antifraud provision of this chapter or any antifraud rule, regulation, or order issued pursuant to the chapter.

(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such proceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as amicus curiae in any such proceeding.

(Sept. 21, 1922, ch. 369, § 6d, as added Pub. L. 95–405, § 15, Sept. 30, 1978, 92 Stat. 872; amended Pub. L. 97–444, title II, § 221, Jan. 11, 1983, 96 Stat. 2308; Pub. L. 102–546, title II, § 207(b)(1), (2), Oct. 28, 1992, 106 Stat. 3604.)

AMENDMENTS

1992—Pars. (1), (8)(A). Pub. L. 102–546 inserted reference to floor trader.

1983—Par. (8). Pub. L. 97–444 added par. (8).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102–546, set out as a note under section 6e of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2.

Rules as governing the procedure in all suits of a civil nature whether cognizable as cases at common law or in equity, see rule 1.

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81.

§ 13b. Manipulations or other violations; cease and desist orders against persons other than contract markets; punishment; misdemeanor or felony; separate offenses

If any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any contract markets, or otherwise is violating or has violated any of the provisions of this chapter or of the rules, regulations, or orders of the Commission or the commission[1] thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in section 9 of this title, make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse

[1] So in original. The words ''or the commission'' probably should not appear.

to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of $100,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within paragraph (a) or (b) of section 13 of this title, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said paragraph (a) or (b): *Provided*, That any such cease and desist order against any respondent in any case of manipulation of, or attempt to manipulate, the price of any commodity shall be issued only in conjunction with an order issued against such respondent under section 9 of this title. Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.

(Sept. 21, 1922, ch. 369, §6(d), formerly §6(c), as added Pub. L. 90–258, §17, Feb. 19, 1968, 82 Stat. 31; amended Pub. L. 93–463, title I, §103(a), (b), title II, §212(c), Oct. 23, 1974, 88 Stat. 1392, 1404; renumbered §6(d) and amended Pub. L. 102–546, title II, §§209(a)(1), (4), 212(b), Oct. 28, 1992, 106 Stat. 3606, 3609.)

REFERENCES IN TEXT

Section 9 of this title, referred to in text, was in the original ''subsection (c)'' meaning subsec. (c) of section 6 of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out below.

CODIFICATION

Section is comprised of subsec. (d) of section 6 of act Sept. 21, 1922. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (e) and (f) of section 6 are classified to sections 9a and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546 made technical amendment to references to section 9 of this title to reflect change in reference to corresponding section of original act and substituted ''the higher of $100,000 or triple the monetary gain to such person'' for ''$100,000''.

1974—Pub. L. 93–463, §§103(a), 212(c), substituted ''Commission'' for ''Secretary'' before ''may'' and substituted ''not more than $100,000'' for ''not less than $500 nor more than $10,000''.

Pub. L. 93–463, §103(a), provided for substitution of ''Commission'' for ''Secretary of Agriculture'' except where such words would be stricken by section 103(b), which directed striking the words ''the Secretary of Agriculture or'' where they appeared in the phrase ''the Secretary of Agriculture or the Commission''. Because the word ''commission'' was not capitalized in the text of this section, section 103(b) did not apply to this section and therefore section 103(a) was executed, resulting in the substitution of ''the Commission or the commission'' for ''the Secretary of Agriculture or the commission''.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 13c. Responsibility as principal; minor violations

(a) Any person who commits, or who willfully aids, abets, counsels, commands, induces, or procures the commission of, a violation of any of the provisions of this chapter, or any of the rules; regulations, or orders issued pursuant to this chapter, or who acts in combination or concert with any other person in any such violation, or who willfully causes an act to be done or omitted which if directly performed or omitted by him or another would be a violation of the provisions of this chapter or any of such rules, regulations, or orders may be held responsible for such violation as a principal.

(b) Any person who, directly or indirectly, controls any person who has violated any provision of this chapter or any of the rules, regulations, or orders issued pursuant to this chapter may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.

(c) Nothing in this chapter shall be construed as requiring the Commission or the Commission[1] to report minor violations of this chapter for prosecution, whenever it appears that the public interest does not require such action.

(Sept. 21, 1922, ch. 369, §13, as added Pub. L. 90–258, §26, Feb. 19, 1968, 82 Stat. 34; amended Pub. L. 93–463, title I, §103(a), (b), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 97–444, title II, §230, Jan. 11, 1983, 96 Stat. 2319; Pub. L. 102–546, title IV, §402(1)(D), (9)(C), Oct. 28, 1992, 106 Stat. 3624, 3625.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–546, §402(9)(C), which directed that ''the Secretary of Agriculture or'' be struck out, could not be executed because of amendment by Pub. L. 93–463, §103(a). See 1974 Amendment note below.

Pub. L. 102–546, §402(1)(D), substituted ''Commission'' for ''commission'' before ''to report''.

1983—Subsec. (a). Pub. L. 97–444, §230(1), struck out ''in administrative proceedings under this chapter'' after ''may be held responsible''.

Subsecs. (b), (c). Pub. L. 97–444, §230(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (b). Pub. L. 93–463, §103(a), provided for substitution of ''Commission'' for ''Secretary of Agriculture'' except where such words would be stricken by section 103(b), which directed striking the words ''the Secretary of Agriculture or'' where they appeared in the phrase ''the Secretary of Agriculture or the Commission''. Because the word ''commission'' was not capitalized in the text of this section, section 103(b) did not apply to this section and therefore section 103(a) was executed, resulting in the substitution of ''the Commission or the commission'' for ''the Secretary of Agriculture or the commission''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

[1] So in original. The words ''or the Commission'' probably should not appear.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

§ 14. Repealed. Pub. L. 99–641, title I, § 110(5), Nov. 10, 1986, 100 Stat. 3561

Section, act Sept. 21, 1922, ch. 369, § 11, 42 Stat. 1003, provided that violations of this chapter occurring before Nov. 1, 1922, should not be punishable.

§ 15. Enforcement powers of Commission

For the purpose of securing effective enforcement of the provisions of this chapter, for the purpose of any investigation or proceeding under this chapter, and for the purpose of any action taken under section 16(f) of this title, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in the third sentence of this section) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing. A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

(Sept. 21, 1922, ch. 369, § 6(c), formerly § 6(b), 42 Stat. 1002; June 15, 1936, ch. 545, § 8(e)–(g), 49 Stat. 1499; June 16, 1955, ch. 151, 69 Stat. 160; Pub. L. 91–452, title II, § 202, Oct. 15, 1970, 84 Stat. 928; Pub. L. 93–463, title I, § 103(d), title IV, § 408(b), Oct. 23, 1974, 88 Stat. 1392, 1414; Pub. L. 95–405, § 13(3), Sept. 30, 1978, 92 Stat. 871; Pub. L. 99–641, title I, § 103, Nov. 10, 1986, 100 Stat. 3557; renumbered § 6(c) and amended Pub. L. 102–546, title II, § 209(a)(1), title III, § 301, title IV, § 402(7), Oct. 28, 1992, 106 Stat. 3606, 3622, 3624.)

REFERENCES IN TEXT

This section, referred to in text, means section 6 of act Sept. 21, 1922, ch. 369, 42 Stat. 1001. For classification of section 6 to the Code, see Codification note below.

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section is comprised of part of subsec. (c) of section 6 of act Sept. 21, 1922. A further provision of subsec. (c) is contained in section 9 of this title. This subsec. (c) [former par. (a)] prior to its incorporation into the Code contained a provision as to finality of judgments and review by the Supreme Court and is covered by section 1254 of Title 28, Judiciary and Judicial Procedure. Subsecs. (a) and (b) of section 6 are classified to section 8 of this title. Subsecs. (d), (e), and (f) of section 6 are classified to sections 13b, 9a, and 9b of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–546 substituted ''chapter,'' for ''chapter and'' after ''provisions of this'', ''chapter, and for the purpose of any action taken under section 16(f) of this title, any'' for ''chapter, any'', and ''subpoena'' for ''subpena'' wherever appearing.

1986—Pub. L. 99–641 inserted ''(except as provided in the third sentence of this section)'', substituted '', any State, or any foreign country or jurisdiction'' for ''or any State'', and inserted provisions which related to service of subpena upon person not found within territorial jurisdiction of United States.

1978—Pub. L. 95–405 substituted provisions giving Commission or any Administrative Law Judge or other officer designated by Commission independent authority to administer oaths and affirmations, to subpena witnesses, and related actions for the purpose of conducting investigations and proceedings with regard to this chapter for provisions basing authority of Commission or any Administrative Law Judge with regard to investigations and proceedings under this chapter on the Interstate Commerce Act and inserted provisions authorizing Commission to invoke the aid of the courts in requiring attendance and testimony of witnesses and the production of books and other records.

1974—Pub. L. 93–463 struck out ''the Secretary of Agriculture (or any person designated by him),'' after ''jurisdiction, and authority of'' and substituted ''Administrative Law Judge'' for ''referee''.

1970—Pub. L. 91–452 struck out references to sections 46–48 of title 49, and provisions relating to the immunity of witnesses.

1955—Act June 16, 1955, extended subpoena power to investigations.

1936—Act June 15, 1936, § 8(e), (f), substituted ''sections 12 and 46–48 of title 49'' for ''section 12 of title 49''.

Act June 15, 1936, § 8(g), substituted ''and'' for ''or'' after ''commission''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment of Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12 of this title.

§ 15a. Repealed. Pub. L. 95–405, § 24, Sept. 30, 1978, 92 Stat. 877

Section, Pub. L. 93–463, title II, § 217, Oct. 23, 1974, 88 Stat. 1405, related to leverage contracts for gold and silver. See section 23(b) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 15b. Cotton futures contracts

(a) Short title

This section may be cited as the ''United States Cotton Futures Act''.

(b) Repeal of tax on cotton futures

Subchapter D of chapter 39 of title 26 (relating to tax on cotton futures) is repealed.

(c) Definitions

For purposes of this section—

(1) Cotton futures contract

The term ''cotton futures contract'' means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a ''contract market'' by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act [7 U.S.C. 1 et seq.] and the term ''contract of sale'' as so used shall be held to include sales, agreements of sale, and agreements to sell, except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and section.

(2) Future delivery

The term ''future delivery'' shall not include any cash sale of cotton for deferred shipment or delivery.

(3) Person

The term ''person'' includes an individual, trust, estate, partnership, association, company, or corporation.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture of the United States.

(5) Standards

The term ''standards'' means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended [7 U.S.C. 51 et seq.].

(d) Bona fide spot markets and commercial differences

(1) Definition

For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) Determination

In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3) of this section, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f)(1) and (2) of this section shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) Withholding information

Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) Form and validity of cotton futures contracts

Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) of this section and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) Basis grade contracts

(1) Conditions

Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with regulations

Conform to the regulations made pursuant to this section.

(B) Specification of grade, price, and dates of sale and settlement

Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) Provision for delivery of standard grades only

Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) Provision for settlement on basis of actual commercial differences

Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as here-inafter provided.

(E) Prohibition of delivery of inferior cotton

Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is ''gin cut'' or reginned, or cotton that is ''repacked'' or ''false packed'' or ''mixed packed'' or ''water packed'', shall not be delivered on, under, or in settlement of such contract.

(F) Provisions for tender in full, notice of delivery date, and certificate of grade

Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) Provision for tender and settlement in accordance with Government classification

Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations and shall be credited to the account referred to in section 55 of this title. The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this act shall become the property of the United States and may be sold and the proceeds credited to the foregoing account: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) Incorporation of conditions in contracts

The provisions of paragraphs (1)(C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase ''Subject to United States Cotton Futures Act, subsection (f).''

(3) Delivery allowances

For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic[1] grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) Tendered grade contracts

(1) Conditions

Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) Compliance with subsection (f)

Comply with all the terms and conditions of subsection (f) of this section not inconsistent with this subsection; and

(B) Provision for contingent specific performance

Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) Incorporation of conditions in contract

Contracts made in compliance with this subsection shall be known as ''subsection (g) Contracts''. The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase ''Subject to United States Cotton Futures Act, subsection (g)''.

(3) Application of subsection

Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any ''fixed difference'' system, or by arbitration, or by any other method not provided for by this section.

(h) Specific grade contracts

(1) Conditions

Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) Conformity with rules and regulations

Conform to the rules and regulations made pursuant to this section.

(B) Specification of grade, price, dates of sale and delivery

Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) Prohibition of delivery of other than specified grade

Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) Provision for specific performance

Provide that the delivery of cotton under the contract shall not be effected by means of ''setoff'' or ''ring'' settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) Incorporation of conditions in contract

The provisions of paragraphs (1)(A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words ''Subject to United States Cotton Futures Act, subsection (h)''.

(3) Application of subsection

This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g) of this section.

(i) Liability of principal for acts of agent

When construing and enforcing the provisions of this section, the act, omission, or failure of

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

any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) Regulations

The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) Violations

Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d)(3) of this section.

(*l*) Applicability to contracts prior to effective date

The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954[2] as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954[2] which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 94–455, title XIX, §1952(a)–(m), Oct. 4, 1976, 90 Stat. 1841–1846; Pub. L. 97–35, title I, §156(c), Aug. 13, 1981, 95 Stat. 374; Pub. L. 102–237, title I, §123, Dec. 13, 1991, 105 Stat. 1844.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c)(1), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

The United States Cotton Standards Act, as amended, referred to in subsec. (c)(5), is act Mar. 4, 1923, ch. 288, 42 Stat. 1517, as amended, which is classified generally to chapter 2 (§51 et seq.) of this title. For complete classification of this Act to the Code, see section 51 of this title and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (f)(1)(G), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

The Internal Revenue Code of 1954, referred to in subsec. (*l*), was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, and is classified to Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as part of the Tax Reform Act of 1976, and not as part of the Commodity Exchange Act which comprises this chapter.

This section, referred to in subsec. (c)(1), was in the original a reference to this ''Act'', meaning the United States Cotton Futures Act, which comprises this section.

AMENDMENTS

1991—Subsec. (c)(1). Pub. L. 102–237 inserted before period at end '', except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and section''.

1981—Subsec. (f)(1)(G). Pub. L. 97–35 inserted provisions relating to crediting to account referred to in section 55 of this title and provisions respecting cotton samples submitted or used becoming the property of the United States.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97–35, set out as an Effective Date note under section 61a of this title.

EFFECTIVE DATE

Section 1952(*o*) of Pub. L. 94–455 provided that: ''The provisions of this section [enacting this section, amending section 6808 of Title 26, Internal Revenue Code, and repealing sections 7233 and 7263, subchapter D of chapter 39, and subchapter E of chapter 76 of Title 26] shall take effect on the 90th day after the date of enactment of this Act [Oct. 4, 1976].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 16. Commission operations

(a) Cooperation with other agencies

The Commission may cooperate with any Department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, any foreign futures authority, any department or agency of a foreign government or political subdivision thereof, or any person.

(b) Employment of investigators, experts, Administrative Law Judges, consultants, clerks, and other personnel; contracts

(1) The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

(2) The Commission may employ experts and consultants in accordance with section 3109 of title 5, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5.

(3) The Commission shall also have authority to make and enter into contracts with respect to

[2] See References in Text note below.

all matters which in the judgment of the Commission are necessary and appropriate to effectuate the purposes and provisions of this chapter, including, but not limited to, the rental of necessary space at the seat of Government and elsewhere.

(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on October 28, 1992.

(c) Expenses

All of the expenses of the Commissioners, including all necessary expenses for transportation incurred by them while on official business of the Commission, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter for each of fiscal years 1995 through 2000.

(e) Relation to other laws, departments, or agencies

Nothing in this chapter shall supersede or preempt—

(1) criminal prosecution under any Federal criminal statute;

(2) the application of any Federal or State statute, including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or, in the case of any State or local law that prohibits or regulates gaming or the operation of ''bucket shops'' (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 6 of this title, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange, or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 6c or 23 of this title; or

(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this chapter who shall fail or refuse to obtain such registration or designation.

The Commission may refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action, or proceedings as that department or agency shall deem appropriate.

(f) Investigative assistance to foreign futures authorities

(1) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States.

(2) In deciding whether to provide assistance under this subsection, the Commission shall consider whether—

(A) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

(B) compliance with the request would prejudice the public interest of the United States.

(3) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation, or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

(g) Computerized futures trading

Consistent with its responsibilities under section 22 of this title, the Commission is directed to facilitate the development and operation of computerized trading as an adjunct to the open outcry auction system. The Commission is further directed to cooperate with the Office of the United States Trade Representative, the Department of the Treasury, the Department of Commerce, and the Department of State in order to remove any trade barriers that may be imposed by a foreign nation on the international use of electronic trading systems.

(Sept. 21, 1922, ch. 369, §12, 42 Stat. 1003; Pub. L. 93–463, title I, §101(b), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 95–405, §20, Sept. 30, 1978, 92 Stat. 875; Pub. L. 97–444, title II, §§228, 229, Jan. 11, 1983, 96 Stat. 2318; Pub. L. 99–641, title I, §106, Nov. 10, 1986, 100 Stat. 3558; Pub. L. 102–546, title II, §§216, 220(a), title III, §§302, 303, title IV, §401, title V, §502(c), Oct. 28, 1992, 106 Stat. 3611, 3614, 3622, 3624, 3631; Pub. L. 104–9, §2, Apr. 21, 1995, 109 Stat. 154.)

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–9 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''There are authorized to be appropriated to carry out this chapter—

''(1) $53,000,000 for fiscal year 1993; and

''(2) $60,000,000 for fiscal year 1994.''

1992—Subsec. (a). Pub. L. 102–546, §302, inserted ''any foreign futures authority, any department or agency of a foreign government or political subdivision thereof,'' after ''thereof,''.

Subsec. (b). Pub. L. 102–546, §216, designated first through third sentences as pars. (1) to (3), respectively, and added par. (4).

Subsec. (d). Pub. L. 102–546, § 401, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.''

Subsec. (e)(2)(A). Pub. L. 102–546, § 502(c), inserted ''or, in the case of any State or local law that prohibits or regulates gaming or the operation of 'bucket shops' (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 6 of this title,'' after ''market,''.

Subsec. (f). Pub. L. 102–546, § 303, added subsec. (f).

Subsec. (g). Pub. L. 102–546, § 220(a), added subsec. (g).

1986—Subsec. (d). Pub. L. 99–641 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''There are authorized to be appropriated to carry out the provisions of this chapter such sums as may be required for each of the fiscal years during the period beginning October 1, 1982, and ending September 30, 1986.''

1983—Subsec. (d). Pub. L. 97–444, § 228, substituted appropriation authorization for fiscal years during period beginning Oct. 1, 1982, and ending Sept. 30, 1986, for prior authorization for fiscal years during period beginning Oct. 1, 1978, and ending Sept. 30, 1982.

Subsec. (e). Pub. L. 97–444, § 229, added subsec. (e).

1978—Subsec. (d). Pub. L. 95–405 substituted ''for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982'' for ''for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978''.

1974—Pub. L. 93–463 designated existing unlettered provisions as subsecs. (a) to (d), substituted ''Commission'' for ''Secretary of Agriculture'', inserted provisions authorizing the expenditure of funds for expenses upon the presentation of itemized vouchers therefor approved by the Commission, substituted provisions authorizing appropriations specifically for fiscal years ending June 30, 1975, 1976, 1977, and 1978, for provisions making a general authorization of appropriations without a fiscal year limitation, and inserted authorization to enter into contracts and compensate experts and consultants in accordance with section 3109 of title 5 at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15 of this title.

§ 16a. Service fees and National Futures Association study

(a) Development and implementation of plan for user fees; report to and approval by Congressional committees

Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) National Futures Association regulatory experience; report; contents

The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association for the period beginning January 1, 1983 and ending September 30, 1985. The report shall be submitted not later than January 1, 1986. The report shall include (but not to be limited to) the following—

(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17(p) and (q) of the Commodity Exchange Act [7 U.S.C. 21(p), (q)] and the effectiveness of the operation of such program;

(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

(4) problem areas, if any, encountered by the Association;

(5) the nature of the working relationship between the Association and the Commission;

(6) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

(c) Schedule of fees for services, activities and functions; notice and hearing; actual cost standard

Nothing in this section shall limit the authority of the Commission to promulgate, after no-

tice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act [7 U.S.C. 1 et seq.]: *Provided*, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.

(Pub. L. 95–405, § 26, Sept. 30, 1978, 92 Stat. 877; Pub. L. 97–444, title II, § 237, Jan. 11, 1983, 96 Stat. 2325.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsec. (c), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§ 1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was enacted as part of the Futures Trading Act of 1978, and not as part of the Commodity Exchange Act which comprises this chapter.

AMENDMENTS

1983—Pub. L. 97–444 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

STUDY OF ASSESSMENTS ON TRANSACTIONS

Pub. L. 102–546, title II, § 218, Oct. 28, 1992, 106 Stat. 3612, provided that:

''(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether—

''(1) it is feasible to fund some or all of the enforcement and market surveillance activities of the Commodity Futures Trading Commission, as required by the amendments to the Commodity Exchange Act made by the Futures Trading Practices Act of 1992 [see Short Title of 1992 Amendment note set out under section 1 of this title], through the imposition of an assessment on commodity futures and options transactions executed pursuant to the Commodity Exchange Act [7 U.S.C. 1 et seq.]; and

''(2) a program of assessment-based funding for some or all of such enforcement and market surveillance activities would better provide resources to the Commodity Futures Trading Commission to enable the Commission to—

''(A) protect the interests of market users (including hedgers and speculators), producers of commodities traded on the futures markets, and the general public; and

''(B) maintain and enhance the credibility of such futures and options markets.

''(b) REPORT.—Not later than one year after the date of enactment of this Act [Oct. 28, 1992], the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the Comptroller General's determinations pursuant to subsection (a), together with any appropriate recommendations for the implementation of such a program of assessment-based funding for some or all of the Commodity Futures Trading Commission's enforcement and market surveillance activities.''

§ 17. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Sept. 21, 1922, ch. 369, § 10, 42 Stat. 1003.)

§ 17a. Separability of 1936 amendment

If any provision of the act of June 15, 1936, ch. 545, 49 Stat. 1491, which amends this chapter, or the application thereof to any person or circumstances is held invalid, the provisions of the section of this chapter which is amended by such provision of said act shall apply to such person or circumstances. No proceeding shall be abated by reason of any amendment to this chapter made by said act but shall be disposed of pursuant to said act.

(June 15, 1936, ch. 545, § 12, 49 Stat. 1501.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

§ 17b. Separability of 1968 amendment

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby, and the provisions of the section of this chapter which is amended by such provision of this Act shall apply to such person or circumstances. Pending proceedings shall not be abated by reason of any provision of this Act but shall be disposed of pursuant to the provisions of this chapter, in effect prior to the effective date of this Act.

(Pub. L. 90–258, § 27, Feb. 19, 1968, 82 Stat. 34.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 90–258, Feb. 19, 1968, 82 Stat. 26. For complete classification of this Act to the Code, see Tables.

Effective date of this Act, referred to in text, as one hundred and twenty days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

§ 18. Complaints against registered persons

(a) Petition for actual damages

(1) Any person complaining of any violation of any provision of this chapter, or any rule, regulation, or order issued pursuant to this chapter, by any person who is registered under this chapter may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding—

(A) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

(B) in the case of any action arising from a willful and intentional violation in the execution of an order on the floor of a contract market, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.

(2)(A) An action may be brought under this subsection by any one or more persons described in this subsection for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission.

(B) Not later than two hundred and seventy days after October 28, 1992, the Commission shall propose and publish for public comment such rules as are necessary to carry out subparagraph (A). In developing such rules, the Commission shall consider the potential impact of such actions on resources available to the reparations system established under this chapter and the relative merits of bringing such actions in Federal court.

(b) Rules and regulations; control over right of appeal

The Commission may promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.

(c) Bond requirement when complainant is nonresident; waiver

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Commission against the complainant on any counterclaim by respondent: *Provided*, That the Commission shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(d) Enforcement of reparation award

If any person against whom an award has been made does not pay the reparation award within the time specified in the Commission's order, the complainant, or any person for whose benefit such order was made, within three years of the date of the order, may file a certified copy of the order of the Commission, in the district court of the United States for the district in which he resides or in which is located the principal place of business of the respondent, for enforcement of such reparation award by appropriate orders. The orders, writs, and processes of such district court may in such case run, be served, and be returnable anywhere in the United States. The petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. Subject to the right of appeal under subsection (e) of this section, an order of the Commission awarding reparations shall be final and conclusive.

(e) Review

Any order of the Commission entered hereunder shall be reviewable on petition of any party aggrieved thereby, by the United States Court of Appeals for any circuit in which a hearing was held, or if no hearing was held, any circuit in which the appellee is located, under the procedure provided in section 9 of this title. Such appeal shall not be effective unless within 30 days from and after the date of the reparation order the appellant also files with the clerk of the court a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The appellee shall not be liable for costs in said court. If the appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

(f) Automatic bar from trading and suspension for noncompliance; effect of appeal

Unless the party against whom a reparation order has been issued shows to the satisfaction

of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(g) Effective date

The provisions of this section shall not become effective until fifteen months after October 23, 1974: *Provided*, That claims which arise within one year immediately prior to the effective date of this section may be heard by the Commission after such 15-month period.

(Sept. 21, 1922, ch. 369, §14, as added Pub. L. 93–463, title I, §106, Oct. 23, 1974, 88 Stat. 1393; amended Pub. L. 94–16, §3, Apr. 16, 1975, 89 Stat. 77; Pub. L. 95–405, §21, Sept. 30, 1978, 92 Stat. 875; Pub. L. 97–444, title II, §231, Jan. 11, 1983, 96 Stat. 2319; Pub. L. 102–546, title II, §§209(b)(7), 222(b), 224, title IV, §402(11), Oct. 28, 1992, 106 Stat. 3607, 3615, 3617, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in subsec. (e), was in the original ''section 6(c) of this Act'' meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–546, §224, designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Pub. L. 102–546, §222(b), substituted ''awarding—'' and pars. (1) and (2) for ''awarding actual damages proximately caused by such violation.''

Subsec. (e). Pub. L. 102–546, §209(b)(7), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (g). Pub. L. 102–546, §402(11), substituted ''15-month'' for second reference to ''fifteen months''.

1983—Subsec. (a). Pub. L. 97–444, §231(1), substituted provisions relating to complaints against violations by persons ''registered under this chapter'' for provisions relating to complaints against persons ''registered or required to be registered under section 6d, 6e, 6j, or 6m of this title'', and substituted provisions for application to Commission for an award of actual damages caused by such violation, for provisions authorizing application to Commission by petition, and forwarding of complaint, if warranted, to respondent for satisfaction or answer.

Subsec. (b). Pub. L. 97–444, §231(2), substituted provisions relating to promulgation by Commission of rules, regulations, and orders necessary or appropriate for administration of this section, including rules of practice and procedure governing proceedings before the Commission, for provisions relating to investigation and service of complaint by Commission, and hearing thereon before an Administrative Law Judge, except that where amount claimed as damages did not exceed $5,000, hearing need not be held, and proofs could be supplied by deposition or verified statements of fact.

Subsec. (c). Pub. L. 97–444, §231(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), which provided that after opportunity for hearing on complaints where the damages claimed exceeded the sum of $5,000 had been provided or waived and on complaints where damages claimed did not exceed the sum of $5,000 not requiring hearing as provided herein, Commission would determine whether or not the respondent had violated any provision of this chapter or any rule, regulation, or order thereunder, was struck out.

Subsec. (d). Pub. L. 97–444, §231(4), (5), redesignated subsec. (f) as (d) and substituted ''subsection (e)'' for ''subsection (g)''. Former subsec. (d) was redesignated (c).

Subsec. (e). Pub. L. 97–444, §231(3), (4), redesignated subsec. (g) as (e). Former subsec. (e), which provided that if, after a hearing on a complaint made by any person under subsection (a) of this section, or without hearing as provided in subsections (b) and (c) of this section, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Commission determined that the respondent had violated any provision of this chapter, or any rule, regulation, or order thereunder, the Commission would unless the offender had already made reparation to the person complaining, determine the amount of damage, if any, to which such person was entitled as a result of such violation and would make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order, and that if, after the respondent had filed his answer to the complaint, it appeared therein that the respondent had admitted liability for a portion of the amount claimed in the complaint as damages, the Commission under such rules and regulations as it would prescribe, unless the respondent had already made reparation to the person complaining, could issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination, with the remaining disputed amount to be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Commission with respect to the undisputed sum, was struck out.

Subsec. (f). Pub. L. 97–444, §231(4), (6), redesignated subsec. (h) as (f), made certain grammatical changes, and inserted provision allowing party against whom a reparation order has been issued to show compliance by payment of the full amount of the order or any agreed settlement thereof.

Subsecs. (g) to (i). Pub. L. 97–444, §231(4), redesignated subsecs. (g), (h), and (i), as (e), (f), and (g), respectively.

1978—Subsec. (a). Pub. L. 95–405, §21(1), substituted ''who is registered or required to be registered'' for ''registered''.

Subsecs. (b), (c). Pub. L. 95–405, §21(2), (3), substituted ''$5,000'' for ''$2,500'' wherever appearing.

1975—Subsec. (i). Pub. L. 94–16 substituted ''fifteen months'' for ''one year'' in two places, and ''one year'' for ''nine months''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6m, 25 of this title.

§ 19. Antitrust laws; anticompetitive means

The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this chapter, as well as the policies and purposes of this chapter, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 6(c) or 6c(b) of this title), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 21 of this title.

(Sept. 21, 1922, ch. 369, §15, as added Pub. L. 93–463, title I, §107, Oct. 23, 1974, 88 Stat. 1395; amended Pub. L. 102–546, title V, §502(b), Oct. 28, 1992, 106 Stat. 3631.)

REFERENCES IN TEXT

The antitrust laws, referred to in text, are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

AMENDMENTS

1992—Pub. L. 102–546 substituted ''regulation (including any exemption under section 6(c) or 6c(b) of this title)'' for ''regulation''.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

§ 20. Market reports

(a) Information

The Commission may conduct regular investigations of the markets for goods, articles, services, rights, and interests which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall, where appropriate, include information on the supply, demand, prices, and other conditions in the United States and other countries with respect to such goods, articles, services, rights, interests, and information respecting the futures markets.

(b) Avoidance of duplication

The Commission shall cooperate with the Department of Agriculture and any other Department or Federal agency which makes market investigations to avoid unnecessary duplication of information-gathering activities.

(c) Furnishing of information; confidentiality

The Department of Agriculture and any other Department or Federal agency which has market information sought by the Commission shall furnish it to the Commission upon the request of any authorized employee of the Commission. The Commission shall abide by any rules of confidentiality applying to such information.

(d) Disclosure of business transactions, market positions, trade secrets, or names of customers

The Commission shall not disclose in such reports data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except as provided in section 12 of this title.

(Sept. 21, 1922, ch. 369, §16, as added Pub. L. 93–463, title IV, §414, Oct. 23, 1974, 88 Stat. 1414; amended Pub. L. 97–444, title II, §232, Jan. 11, 1983, 96 Stat. 2320.)

AMENDMENTS

1983—Subsec. (d). Pub. L. 97–444 prohibited disclosure of market positions.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

STUDY OF TRADING IN CATTLE FUTURES CONTRACTS

Pub. L. 99–641, title I, §111, Nov. 10, 1986, 100 Stat. 3561, provided that:

''(a) STUDY.—The Comptroller General of the United States shall conduct and complete a comprehensive study of the effect of trading in contracts for the future delivery of live cattle on the cash market price of live cattle, with particular emphasis on—

''(1) whether the reaction of the live cattle futures market to the results of the milk production termination program in March 1986, conducted under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), was based on and accurately reflected the then prevailing conditions of supply and demand;

''(2) the effect of the trading in contracts for the future delivery of live cattle on—

''(i) the price relationship between feeder cattle and fed cattle;

''(ii) the price discovery process with respect to live cattle; and

''(iii) price competition within the cattle industry;

''(3) the effect of the use of packer contracts, as a means of obtaining slaughter cattle, on the increase in short hedging in contracts for the future delivery of live cattle and the effect of this increase in short hedging on prices in the futures and cash markets;

''(4) the effect on the ability of the cash markets to accurately reflect prevailing conditions of supply and demand if packer contracts become the prevalent method of marketing fed cattle;

''(5) whether the present delivery system for contracts for the future delivery of live cattle creates any bias (either upward or downward) in the cash price for cattle;

''(6) whether the present delivery system for contracts for the future delivery of live cattle creates price volatility during the delivery month; and

''(7) whether there are advantages or disadvantages to a cash settlement system in lieu of the present delivery system in the case of contracts for the future delivery of live cattle.

''(b) REPORTS.—

''(1) PRELIMINARY REPORT.—Not later than January 15, 1987, the Comptroller General shall submit a preliminary report on the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee

on Agriculture, Nutrition, and Forestry of the Senate.

''(2) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 10, 1986], the Comptroller General shall submit to such committees a detailed final report of the results of the study required under subsection (a).''

POTATO FUTURES STUDY; SUBMISSION OF REPORT TO CONGRESS

Pub. L. 95–405, § 27, Sept. 30, 1978, 92 Stat. 877, required, within one year of Oct. 1, 1978, Secretary of Agriculture to (1) conduct a comprehensive study of marketing of Irish potatoes and of making and trading of contracts of sale for future delivery of Irish potatoes, including rules and regulations pertaining to such trading issued by Commodity Futures Trading Commission or any contract market designated by Commission; and (2) submit to each House of Congress a detailed report on results of such study, and that report should also include any proposals Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by Commission or any contract market designated by Commission.

§ 21. Registered futures associations

(a) Registration statement

Any association of persons may be registered with the Commission as a registered futures association pursuant to subsection (b) of this section, under the terms and conditions hereinafter provided in this section, by filing with the Commission for review and approval a registration statement in such form as the Commission may prescribe, setting forth the information, and accompanied by the documents, below specified:

(1) Data as to its organization, membership, and rules of procedure, and such other information as the Commission may by rules and regulations require as necessary or appropriate in the public interest; and

(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its bylaws, and of any rules or instruments corresponding to the foregoing, whatever the name, hereinafter in this section collectively referred to as the ''rules of the association''.

(b) Standards for registration; Commission findings

An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

(1) such association is in the public interest and that it will be able to comply with the provisions of this section and the rules and regulations thereunder and to carry out the purposes of this section;

(2) the rules of the association provide that any person registered under this chapter, contract market, or any other person designated pursuant to the rules of the Commission as eligible for membership may become a member of such association, except such as are excluded pursuant to paragraph (3) or (4) of this subsection, or a rule of the association permitted under this subparagraph. The rules of the association may restrict membership in such association on such specified basis relating to the type of business done by its members, or on such other specified and appropriate basis, as appears to the Commission to be necessary or appropriate in the public interest and to carryout the purpose of this section. Rules adopted by the association may provide that the association may, unless the Commission directs otherwise in cases in which the Commission finds it appropriate in the public interest so to direct, deny admission to, or refuse to continue in such association any person if (i) such person, whether prior or subsequent to becoming registered as such, or (ii) any person associated within the meaning of ''associated person'' as set forth in section 6k of this title, whether prior or subsequent to becoming so associated, has been and is suspended or expelled from a contract market or has been and is barred or suspended from being associated with all members of such contract market, for violation of any rule of such contract market;

(3) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall be admitted to or continued in membership in such association, if such person—

(A) has been and is suspended or expelled from a registered futures association or from a contract market or has been and is barred or suspended from being associated with all members of such association or from being associated with all members of such contract market, for violation of any rule of such association or contract market which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade, or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade;

(B) is subject to an order of the Commission denying, suspending, or revoking his registration pursuant to section 9 of this title, or expelling or suspending him from membership in a registered futures association or a contract market, or barring or suspending him from being associated with a futures commission merchant;

(C) whether prior or subsequent to becoming a member, by his conduct while associated with a member, was a cause of any suspension, expulsion, or order of the character described in clause (A) or (B) which is in effect with respect to such member, and in entering such a suspension, expulsion, or order, the Commission or any such contract market or association shall have jurisdiction to determine whether or not any person was a cause thereof; or

(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who would be ineligible for admission to or continuance in membership under clause (A), (B), or (C) of this paragraph;

(4) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commis-

sion finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the association finds necessary or desirable, and in the case of a member, the financial responsibility of such a member. For the purpose of defining such standards and the application thereof, such rules may—

(A) appropriately classify prospective members (taking into account relevant matters, including type or nature of business done) and persons proposed to be associated with members;

(B) specify that all or any portion of such standard shall be applicable to any such class;

(C) require persons in any such class to pass examinations prescribed in accordance with such rules;

(D) provide that persons in any such class other than prospective members and partners, officers and supervisory employees (which latter term may be defined by such rules and as so defined shall include branch managers of members) of members, may be qualified solely on the basis of compliance with specified standards of training and such other qualifications as the association finds appropriate;

(E) provide that applications to become a member or a person associated with a member shall set forth such facts as the association may prescribe as to the training, experience, and other qualifications (including, in the case of an applicant for membership, financial responsibility) of the applicant and that the association shall adopt procedures for verification of qualifications of the applicant, which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing; and

(F) require any class of persons associated with a member to be registered with the association in accordance with procedures specified by such rules (and any application or document supplemental thereto required by such rules of a person seeking to be registered with such association shall, for the purposes of section 9 of this title, be deemed an application required to be filed under this section);

(5) the rules of the association assure a fair representation of its members in the adoption of any rule of the association or amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

(6) the rules of the association provide for the equitable allocation of dues among its members, to defray reasonable expenses of administration;

(7) the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, in general, to protect the public interest, and to remove impediments to and perfect the mechanism of free and open futures trading;

(8) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by expulsion, suspension, fine, censure, or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules;

(9) the rules of the association provide a fair and orderly procedure with respect to the disciplining of members and persons associated with members and the denial of membership to any person seeking membership therein or the barring of any person from being associated with a member. In any proceeding to determine whether any member or other person shall be disciplined, such rules shall require that specific charges be brought; that such member or person shall be notified of, and be given an opportunity to defend against, such charges; that a record shall be kept; and that the determination shall include—

(A) a statement setting forth any act or practice in which such member or other person may be found to have engaged, or which such member or other person may be found to have omitted;

(B) a statement setting forth the specific rule or rules of the association of which any such act or practice, or omission to act, is deemed to be in violation;

(C) a statement whether the acts or practices prohibited by such rule or rules, or the omission of any act required thereby, are deemed to constitute conduct inconsistent with just and equitable principles of trade; and

(D) a statement setting forth the penalty imposed;[1]

In any proceeding to determine whether a person shall be denied membership or whether any person shall be barred from being associated with a member, such rules shall provide that the person shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial or bar which are under consideration; that a record shall be kept; and that the determination shall set forth the specific grounds upon which the denial or bar is based;

(10) the rules of the association provide a fair, equitable, and expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (A) the use of such procedure by a customer shall be voluntary, (B) the term ''customer'' as used in this paragraph shall not include another member of the association, and (C) in the case of a claim arising from a

[1] So in original. The semicolon probably should be a period.

violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation; and[2]

(11) such association provides for meaningful representation on the governing board of such association of a diversity of membership interests and provides that no less than 20 percent of the regular voting members of such board be comprised of qualified nonmembers of or persons who are not regulated by such association.[3]

(12)(A)[4] such association provides on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.[5]

(13) A[6] major disciplinary committee hearing a disciplinary matter shall include—

(A) qualified persons representing segments of the association membership other than that of the subject of the proceeding; and

(B) where appropriate to carry out the purposes of this paragraph, qualified persons who are not members of the association.

(c) Suspension of registration

The Commission may, after notice and opportunity for hearing, suspend the registration of any futures association if it finds that the rules thereof do not conform to the requirements of the Commission, and any such suspension shall remain in effect until the Commission issues an order determining that such rules have been modified to conform with such requirements.

(d) Fees and charges

In addition to the fees and charges authorized by section 12a(1) of this title, each person registered under this chapter, who is not a member of a futures association registered pursuant to this section, shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of a registered futures association. The Commission shall establish such additional fees and charges by rules and regulations.

(e) Registered persons not members of registered associations

Any person registered under this chapter, who is not a member of a futures association registered pursuant to this section, in addition to the other requirements and obligations of this chapter and the regulations thereunder shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.

(f) Denial of registration

Upon filing of an application for registration pursuant to subsection (a) of this section, the Commission may by order grant such registration if the requirements of this section are satisfied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

(g) Withdrawal from registration; notice of withdrawal

A registered futures association may, upon such reasonable notice as the Commission may deem necessary in the public interest, withdraw from registration by filing with the Commission a written notice of withdrawal in such form as the Commission may by rules and regulations prescribe.

(h) Commission review of disciplinary actions taken by registered futures associations

(1) If any registered futures association takes any final disciplinary action against a member of the association or a person associated with a member, denies admission to any person seeking membership therein, or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule or regulation, may prescribe as necessary or appropriate to carry out the purposes of this chapter.

(2) Any action with respect to which a registered futures association is required by paragraph (1) to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved by the action. Such application shall be filed within 30 days

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[2] So in original. The word ''and'' probably should not appear.

[3] So in original. The period probably should be a semicolon.

[4] So in original. No subpar. (B) has been enacted.

[5] So in original. The period probably should be ''; and''.

[6] So in original. Probably should not be capitalized.

after the date such notice is filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

(3)(A) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments).

(B) The Commission shall establish procedures for expedited consideration and determination of the question of a stay.

(i) Notice; hearing; findings; cancellation, reduction, or remission of penalties; review by court of appeals

(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

(A) if the Commission finds that—

(i) the member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted;

(ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and

(iii) such rules are, and were applied in a manner, consistent with the purposes of this chapter,

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2), or remand the case to the association for further proceedings; or

(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

(2) If, after a proceeding under paragraph (1), the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

(3) In a proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)—

(A) if the Commission finds that—

(i) the specific grounds on which the denial or bar is based exist in fact;

(ii) the denial or bar is in accordance with the rules of the association; and

(iii) such rules are, and were applied in a manner, consistent with the purposes of this chapter,

the Commission, by order, shall so declare and, as appropriate, affirm or modify the action of the association, or remand the case to the association for further proceedings; or

(B) if the Commission does not make any such finding, the Commission, by order, shall set aside the action of the association and require the association to admit the applicant to membership or permit the person to be associated with a member, or, as appropriate, remand the case to the association for further proceedings.

(4) Any person aggrieved by a final order of the Commission entered under this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 9 of this title.

(j) Changes or additions to association rules

Every registered futures association shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, copies of any changes in or additions to the rules of the association, and such other information and documents as the Commission may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (a) of this section. A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this chapter or the regulations issued pursuant to this chapter, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this chapter or the regulations issued pursuant to this chapter. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission dis-

approves such rule in accordance with this subsection.

(k) Abrogation of association rules; requests to associations by Commission to alter or supplement rules

(1) The Commission is authorized by order to abrogate any rule of a registered futures association, if after appropriate notice and opportunity for hearing, it appears to the Commission that such abrogation is necessary or appropriate to assure fair dealing by the members of such association, to assure a fair representation of its members in the administration of its affairs or effectuate the purposes of this section.

(2) The Commission may in writing request any registered futures association to adopt any specified alteration or supplement to its rules with respect to any of the matters hereinafter enumerated. If such association fails to adopt such alteration or supplement within a reasonable time, the Commission is authorized by order to alter or supplement the rules of such association in the manner theretofore requested, or with such modifications of such alteration or supplement as it deems necessary if, after appropriate notice and opportunity for hearing, it appears to the Commission that such alteration or supplement is necessary or appropriate in the public interest or to effectuate the purposes of this section, with respect to—

(A) the basis for, and procedure in connection with, the denial of membership or the barring from being associated with a member or the disciplining of members or persons associated with members, or the qualifications required for members or natural persons associated with members or any class thereof;

(B) the method for adoption of any change in or addition to the rules of the association;

(C) the method of choosing officers and directors.

(*l*) Suspension and revocation of registration; expulsion of members; removal of association officers or directors

The Commission is authorized, if such action appears to it to be necessary or appropriate in the public interest or to carry out the purposes of this section—

(1) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered futures association, if the Commission finds that such association has violated any provisions of this chapter or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this chapter;

(2) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person—

(A) has violated any provision of this chapter or any rule or regulation thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this chapter or any rule or regulation thereunder; or

(B) has willfully violated any provision of this chapter, or of any rule, regulation, or order thereunder, or has effected any transaction for any other person who, he had reason to believe, was willfully violating with respect to such transaction any provision of this chapter or rule, regulation, or order; and

(3) after appropriate notice and opportunity for hearing, by order to remove from office any officer or director of a registered futures association who, the Commission finds, has willfully failed to enforce the rules of the association, or has willfully abused his authority.

(m) Rules requiring membership in associations

Notwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this chapter.

(n) Reports to Congress

The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members.

(*o*) Delegation to futures associations of registrative functions; discretionary review by Commission; judicial appeal

(1) The Commission may require any futures association registered pursuant to this section to perform any portion of the registration functions under this chapter with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to subsection (j) of this section, and subject to the provisions of this chapter applicable to registrations granted by the Commission.

(2) In performing any Commission registration function authorized by the Commission under section 12a(10) of this title, this section, or any other applicable provisions of this chapter, a futures association may issue orders (A) to refuse to register any person, (B) to register conditionally any person, (C) to suspend the registration of any person, (D) to place restrictions on the registration of any person, or (E) to revoke the registration of any person. If such an order is the final decision of the futures association, any person against whom the order has been issued may petition the Commission to review the decision. The Commission may on its own initiative or upon petition decline review or grant review and affirm, set aside, or modify such an order of the futures association; and the findings

of the futures association as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

(3) Nothing in this section shall affect the Commission's authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized by the Commission under section 12a(10) of this title, this section, or any other applicable provision of this chapter.

(4) If a person against whom a futures association has issued a registration order under this subsection petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States court of appeals, in accordance with section 9 of this title.

(p) Establishment of rules for futures associations; approval by Commission

Notwithstanding any other provision of this section, each futures association registered under this section on January 11, 1983, shall adopt and submit for Commission approval not later than ninety days after such date, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

(1) establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the provisions of this chapter, supervisors of such persons, and all persons for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such requirements may not be less stringent than those imposed on such firms by this chapter or by Commission regulation;

(3) establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this chapter; and

(4) establish special supervisory guidelines to protect the public interest relating to the solicitation by telephone of new futures or options accounts and make such guidelines applicable to those members determined to require such guidelines in accordance with standards established by the Commission consistent with this chapter. Such guidelines may include a requirement that, with respect to a customer with no previous futures or commodity options trading experience, the member may not enter an order for the account of such customer for a period of three days following opening of the account and receipt of a signed acknowledgment by the customer of receipt of a risk disclosure statement.

(q)[7] Major disciplinary rule violations

(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any major violation from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.

(q)[7] Program for implementation of rules

Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than September 30, 1985, in the case of any futures association registered on January 11, 1983, and not later than two and one-half years after the date of registration in the case of any other futures association registered under this section.

(Sept. 21, 1922, ch. 369, § 17, as added Pub. L. 93–463, title III, § 301, Oct. 23, 1974, 88 Stat. 1406; amended Pub. L. 95–405, § 22, Sept. 30, 1978, 92 Stat. 876; Pub. L. 97–444, title II, §§ 217(b), 233, Jan. 11, 1983, 96 Stat. 2307, 2320; Pub. L. 99–641, title I, §§ 107, 108, 110(6), (7), Nov. 10, 1986, 100 Stat. 3558, 3559, 3561; Pub. L. 102–546, title II, §§ 204(a), 206(b), 209(b)(8), 222(c), 228, title IV, § 402(12), Oct. 28, 1992, 106 Stat. 3600, 3602, 3607, 3616, 3619, 3625.)

REFERENCES IN TEXT

Section 9 of this title, referred to in subsecs. (b)(3)(B), (4)(F), (i)(4), and (*o*)(4), was in the original reference to section 6(c) of this Act, meaning section 6(c) of act Sept. 21, 1922, ch. 369, which is classified to sections 9 and 15 of this title. See Codification note set out under section 8 of this title.

AMENDMENTS

1992—Subsec. (a)(1), (2). Pub. L. 102–546, § 402(12)(A), realigned margins.

Subsec. (b)(3). Pub. L. 102–546, §§ 206(b)(1)(A), (B), 209(b)(8)(A)(i), struck out ''or'' at end of subpar. (A), in subpar. (B) made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act and struck out ''or'' at end, and in subpar. (D) substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 102–546, §§ 206(b)(1)(B), (C), 209(b)(8)(A)(ii), substituted a semicolon for period at end of subpars. (A) to (D), in subpar. (E) substituted ''; and'' for period at end, and in subpar. (F) made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act and substituted a semicolon for period at end.

Subsec. (b)(5) to (9). Pub. L. 102–546, § 206(b)(1)(B), (C), substituted a semicolon for period at end of pars. (5) to (9) and subpars. (A), (B), and (D) of par. (9) and in par. (9)(C) substituted ''; and'' for period at end.

Subsec. (b)(10). Pub. L. 102–546, §§ 206(b)(1)(C), 222(c), substituted ''(A)'' for ''(i)'' and ''voluntary, (B)'' for ''voluntary and (ii)'', inserted '', and'' and subpar. (C)

[7] Two subsecs. (q) have been enacted.

after ''association'', and substituted ''; and'' for period at end.

Subsec. (b)(11) to (13). Pub. L. 102–546, § 206(b)(1)(D), added pars. (11) to (13).

Subsec. (i)(4). Pub. L. 102–546, § 228, which directed that ''(other than a registered futures association).'' be struck out, was executed by striking ''(other than a registered futures association)'' after ''Any person'' to reflect the probable intent of Congress.

Pub. L. 102–546, § 209(b)(8)(B), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (*l*)(2)(B). Pub. L. 102–546, § 402(12)(B), made technical amendment to reference to this chapter appearing after ''violated any provision of'' to reflect change in reference to corresponding provision of original act and substituted ''; and'' for period at end.

Subsec. (*o*)(4). Pub. L. 102–546, § 209(b)(8)(C), made technical amendment to reference to section 9 of this title to reflect change in reference to corresponding section of original act.

Subsec. (p)(4). Pub. L. 102–546, § 204(a), added par. (4).

Subsec. (q). Pub. L. 102–546, § 206(b)(2), added subsec. (q) relating to major disciplinary rules violations.

1986—Subsec. (b)(2). Pub. L. 99–641, § 110(6), substituted ''within'' for ''with in'' before ''the meaning''.

Subsec. (h). Pub. L. 99–641, § 107, amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''If any registered futures association takes any disciplinary action against any member thereof or any person associated with such a member or denies admission to any person seeking membership therein, or bars any person from being associated with a member, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall operate as a stay of such action until an order is issued upon such review pursuant to subsection (i) of this section unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).''

Subsec. (i). Pub. L. 99–641, § 107, amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows:

''(1) In a proceeding to review disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, if the Commission, after appropriate notice and opportunity for hearing, upon consideration of the record before the association and such other evidence as it may deem relevant—

''(A) finds that such member or person has engaged in such acts or practices, or has omitted such act, as the association has found him to have engaged in or omitted, and

''(B) determines that such acts or practices, or omission to act, are in violation of such rules of the association as have been designated in the determination of the association, the Commission shall by order dismiss the proceeding, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. The Commission shall likewise determine whether the acts or practices prohibited, or the omission of any act required, by any such rule constitute conduct inconsistent with just and equitable principles of trade, and shall so declare. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the association, or that such act as is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the association.

''(2) If, after appropriate notice and opportunity for hearing, the Commission finds that any penalty imposed upon a member or person associated with a member is excessive or oppressive, having due regard to the public interest, the Commission shall by order cancel, reduce, or require the remission of such penalty.

''(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, if the Commission, after appropriate notice and hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, the Commission shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the association and require it to admit the applicant to membership therein, or to permit such person to be associated with a member.''

Subsec. (j). Pub. L. 99–641, § 108, struck out sentence which read as follows: ''The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time.''

Subsec. (k)(1). Pub. L. 99–641, § 110(7), substituted ''section'' for ''title''.

1983—Subsec. (b)(4)(E). Pub. L. 97–444, § 233(1), inserted '', which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing'' after ''adopt procedures for verification of qualifications of the applicant''.

Subsec. (b)(10). Pub. L. 97–444, § 217(b), required association rules to provide for ''expeditious'' procedure, redesignated cl. (iv) as (ii) and substituted '' 'customer' as used in this paragraph shall not include another member of the association'' for '' 'customer' as used in this subsection shall not include a futures commission merchant or a floor broker'', and struck out clauses ''(ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties,''.

Subsec. (d). Pub. L. 97–444, § 233(2), substituted ''section 12a(1) of this title'' for ''section 12a(4) of this title''.

Subsec. (h). Pub. L. 97–444, § 233(3), substituted ''subsection (i) of this section'' for ''subsection (k) of this section''.

Subsec. (j). Pub. L. 97–444, § 233(4), substituted ''A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this chapter or the regulations issued pursuant to this chapter, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Com-

mission determines at any time to be inconsistent with the requirements of this section or in violation of this chapter or the regulations issued pursuant to this chapter. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection'' for ''Any change in or addition to the rules of a registered futures association shall be submitted to the Commission for approval and shall take effect upon the thirtieth day after such approval by the Commission, or upon such earlier date as the Commission may determine, unless the Commission shall enter an order disapproving such change or addition; and the Commission shall enter such an order unless such change or addition appears to the Commission to be consistent with the requirements of this section and the provisions of this chapter''.

Subsecs. (*o*) to (q). Pub. L. 97–444, § 233(5), added subsecs. (*o*), (p), and (q).

1978—Subsec. (b)(3)(B). Pub. L. 95–405, § 22(1), struck out ''(7 U.S.C. 9)'' after ''section 9 of this title''.

Subsec. (b)(10). Pub. L. 95–405, § 22(2), substituted ''$15,000'' for ''$5,000''.

Subsec. (*l*)(1), (2)(A). Pub. L. 95–405, § 22(3), substituted ''chapter'' for ''section'' wherever appearing.

Subsecs. (m), (n). Pub. L. 95–405, § 22(4), added subsec. (m) and redesignated former subsec. (m) as (n).

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

IMPLEMENTATION

Section 204(b) of Pub. L. 102–546 provided that: ''The guidelines required under section 17(p)(4) of the Commodity Exchange Act [7 U.S.C. 21(p)(4)] (as added by subsection (a) of this section) shall be submitted by a futures association registered with the Commodity Futures Trading Commission on the date of enactment of this Act [Oct. 28, 1992] to the Commission for the approval of the Commission not later than one hundred and eighty days after the date of enactment of this Act.''

STUDY ON COMPUTERIZED FUTURES TRADING

Pub. L. 102–546, title II, § 220(b), (c), Oct. 28, 1992, 106 Stat. 3614, provided that:

''(b) STUDY.—The Commodity Futures Trading Commission shall conduct a study to assess—

''(1) the progress made under initiatives to conduct trading in futures and options subject to the jurisdiction of the Commission under the Commodity Exchange Act [7 U.S.C. 1 et seq.] through systems of computers or by other electronic means; and

''(2) whether the experience with such systems of trading indicates that they may be useful or effective to enhance access to the futures and options markets by potential market participants, improve the ability of the Commission to audit the activities of the futures and options markets, reduce the opportunity for trading abuses, and otherwise be in the public interest or raise other related issues.

''(c) REPORT.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6p, 12a, 16a, 19, 25 of this title; title 15 section 78c.

§ 22. Research and information programs; reports to Congress

(a) The Commission shall establish and maintain, as part of its ongoing operations, research and information programs to (1) determine the feasibility of trading by computer, and the expanded use of modern information system technology, electronic data processing, and modern communication systems by commodity exchanges, boards of trade, and by the Commission itself for purposes of improving, strengthening, facilitating, or regulating futures trading operations; (2) assist in the development of educational and other informational materials regarding futures trading for dissemination and use among producers, market users, and the general public; and (3) carry out the general purposes of this chapter.

(b) The Commission shall include in its annual reports to Congress plans and findings with respect to implementing this section.

(Sept. 21, 1922, ch. 369, § 18, as added Pub. L. 93–463, title IV, § 416, Oct. 23, 1974, 88 Stat. 1415.)

EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93–463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16 of this title.

§ 23. Standardized contracts for certain commodities

(a) Margin accounts or contracts and leverage accounts or contracts prohibited except as authorized

Except as authorized under subsection (b) of this section, no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) Permission to enter into contracts for delivery of silver or gold bullion, bulk silver or gold coins, or platinum; rules and regulations

(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the

execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a) of this section, contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

(2) No person may engage in any activity described in paragraph (1) who is not permitted to engage in such activity, by the rules, regulations, and orders of the Commission in effect on November 10, 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2) of this section.

(c) Survey of persons interested in engaging in transactions of silver and gold, etc.; assistance of futures association; regulations

(1)(A) Not later than 2 years after November 10, 1986, the Commission shall—

(i) with the assistance of a futures association registered under this chapter, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1) of this section; and

(ii) transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(B) Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this chapter to render such assistance as the Commission shall specify.

(C) Such report shall include the findings and any recommendations of the Commission concerning—

(i) whether such transactions serve an economic purpose;

(ii) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

(iii) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.

(2) The report shall also include Commission regulations governing such transactions. The regulations shall provide for permitting additional persons to engage in such transactions. The regulations shall become effective on the expiration of 90 calendar days on which either House of Congress is in session after the date of the transmittal of the report to Congress. The regulations—

(A) may authorize or require, notwithstanding any other provision of law, a futures association registered under this chapter to perform such responsibilities in connection with such transactions as the Commission may specify; and

(B) may require that permission for additional persons to engage in such business be given on a gradual basis, so as not to place an undue burden on the resources of the Commission.

(d) Savings provision

This section shall not affect any rights or obligations arising out of any transaction subject to this section, as in effect before November 10, 1986, that was entered into, or the execution of which was confirmed, before November 10, 1986.

(Sept. 21, 1922, ch. 369, §19, as added Pub. L. 95–405, §23, Sept. 30, 1978, 92 Stat. 876; amended Pub. L. 97–444, title II, §234, Jan. 11, 1983, 96 Stat. 2322; Pub. L. 99–641, title I, §109, Nov. 10, 1986, 100 Stat. 3560.)

PRIOR PROVISIONS

Provisions similar to those appearing in subsec. (b) were formerly contained in section 15a of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–641 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.''

Subsec. (b). Pub. L. 99–641 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing.''

Subsec. (c). Pub. L. 99–641 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule, regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms and conditions for such transactions involving different commodities. Notwithstanding any other provision of this section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the public interest.''

Subsec. (d). Pub. L. 99–641, in amending section generally, added subsec. (d).

1983—Subsec. (c). Pub. L. 97–444, §234(1), substituted ''shall regulate'' for ''may prohibit or regulate'' and au-

thorized Commission prohibition of transactions for delivery of commodities under a standardized contract that was not permitted by the rules, regulations and orders of the Commission in effect on Dec. 9, 1982, where transactions are determined to be contrary to the public interest.

Subsec. (d). Pub. L. 97–444, § 234(2), struck out subsec. (d) which provided for regulation of transactions in accordance with applicable provisions of this chapter where Commission determined the transactions under subsecs. (b) and (c) of this section were contracts for future delivery within the meaning of this chapter.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 2, 12a, 13, 16, 25 of this title; title 11 section 761.

§ 24. Regulations respecting commodity broker debtors; definitions

(a) Notwithstanding title 11, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11, by rule or regulation—

(1) that certain cash, securities, other property, or commodity contracts are to be included in or excluded from customer property or member property;

(2) that certain cash, securities, other property, or commodity contracts are to be specifically identifiable to a particular customer in a specific capacity;

(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter, including the payment and allocation of margin with respect to commodity contracts not specifically identifiable to a particular customer pending their orderly liquidation;

(4) any persons to which customer property and commodity contracts may be transferred under section 766 of title 11; and

(5) how the net equity of a customer is to be determined.

(b) As used in this section, the terms ''commodity broker'', ''commodity contract'', ''customer'', ''customer property'', ''member property'', ''net equity'', and ''security'' have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11.

(Sept. 21, 1922, ch. 369, § 20, formerly § 19, as added Pub. L. 95–598, title III, § 302, Nov. 6, 1978, 92 Stat. 2673; renumbered and amended Pub. L. 97–222, § 20, July 27, 1982, 96 Stat. 241.)

AMENDMENTS

1982—Subsec. (a)(3). Pub. L. 97–222, § 20(b), inserted '', including the payment and allocation of margin with respect to commodity contracts not specifically identifiable to a particular customer pending their orderly liquidation''.

EFFECTIVE DATE

Section effective Nov. 6, 1978, see section 402(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

§ 25. Private rights of action

(a) Actual damages; actionable transactions; exclusive remedy

(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this chapter or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this chapter shall be liable for actual damages resulting from one or more of the transactions referred to in subparagraphs (A) through (D) of this paragraph and caused by such violation to any other person—

(A) who received trading advice from such person for a fee;

(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity); or who deposited with or paid to such person money, securities, or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

(C) who purchased from or sold to such person or placed through such person an order for the purchase or sale of—

(i) an option subject to section 6c of this title (other than an option purchased or sold on a contract market or other board of trade);

(ii) a contract subject to section 23 of this title; or

(iii) an interest or participation in a commodity pool; or

(D) who purchased or sold a contract referred to in subparagraph (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

(2) Except as provided in subsection (b) of this section, the rights of action authorized by this subsection and by sections 7a(11),[1] 18, and 21(b)(10) of this title shall be the exclusive remedies under this chapter available to any person who sustains loss as a result of any alleged violation of this chapter. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration.

(3) In any action arising from a violation in the execution of an order on the floor of a contract market, the person referred to in paragraph (1) shall be liable for—

(A) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor

[1] See References in Text note below.

broker's violation, such futures commission merchant may be required to satisfy such award; and

(B) where the violation is willful and intentional, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under sections 2, 2a, and 4 of this title for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.

(b) Liabilities of organizations and individuals; bad faith requirement; exclusive remedy

(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by section 7a(8)[1] and section 7a(9)[1] of this title, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market, or licensed board of trade that in enforcing any such bylaw, rule, regulation, or resolution violates this chapter or any Commission rule, regulation, or order, shall be liable for actual damages sustained by a person who engaged in any transaction on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations, or resolutions.

(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 21 of this title or in enforcing any such bylaw or rule violates this chapter or any Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in any transaction specified in subsection (a) of this section to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaw or rule.

(3) Any individual who, in the capacity as an officer, director, governor, committee member, or employee of a contract market, clearing organization, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces, or procures any failure by any such entity to enforce (or any violation of the chapter in enforcing) any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person who engaged in any transaction specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member, or employee of a registered futures association, any transaction specified in subsection (a) of this section, in either case to the extent of such person's actual losses that resulted from such transaction and were caused by such failure or violation.

(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

(5) The rights of action authorized by this subsection shall be the exclusive remedy under this chapter available to any person who sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member, or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action in enforcing any bylaw, rule, regulation, or resolution referred to in this subsection that is alleged to have violated this chapter, or any Commission rule, regulation, or order.

(c) Jurisdiction; statute of limitations; venue; process

The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought not later than two years after the date the cause of action arises. Any action brought under subsection (a) of this section may be brought in any judicial district wherein the defendant is found, resides, or transacts business, or in the judicial district wherein any act or transaction constituting the violation occurs. Process in such action may be served in any judicial district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Dates of application to actions

The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982 [January 11, 1983]: *Provided*, That the enactment of the Futures Trading Act of 1982 shall not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.

(Sept. 21, 1922, ch. 369, § 22, as added Pub. L. 97–444, title II, § 235, Jan. 11, 1983, 96 Stat. 2322; amended Pub. L. 102–546, title II, §§ 211, 222(d), title IV, § 402(14), Oct. 28, 1992, 106 Stat. 3607, 3616, 3625.)

REFERENCES IN TEXT

Sections 7a(8), 7a(9), and 7a(11) of this title, referred to in subsecs. (a)(2) and (b)(1)(A), were redesignated sections 7a(a)(8), 7a(a)(9), and 7a(a)(11), respectively, by Pub. L. 102–546, title II, § 201(a)(1), Oct. 28, 1992, 106 Stat. 3595.

The Futures Trading Act of 1982, referred to in subsec. (d), is Pub. L. 97–444, Jan. 11, 1983, 96 Stat. 2294, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title of 1983 Amendment note set out under section 1 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–546, § 402(14)(A), substituted ''subparagraphs'' for ''clauses'' in introductory provisions and ''subparagraph'' for ''clause'' in subpar. (D).

Subsec. (a)(2). Pub. L. 102–546, § 402(14)(B), made technical amendment to reference to section 21(b)(10) of this title to correct reference to corresponding section of original act.

Subsec. (a)(3). Pub. L. 102–546, § 222(d), added par. (3).

Subsec. (c). Pub. L. 102–546, § 211, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.''

EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

§ 26. Repealed. Pub. L. 102–546, title IV, § 402(15), Oct. 28, 1992, 106 Stat. 3625

Section, act Sept. 21, 1922, ch. 369, § 23, as added Jan. 11, 1983, Pub. L. 97–444, title II, § 236, 96 Stat. 2324, provided for special studies to be conducted by Commission, Board of Governors of Federal Reserve System, and Securities and Exchange Commission.

EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

CHAPTER 2—COTTON STANDARDS

Sec.

51. Short title.
51a. Extension of classification facilities to cotton growers.
51a–1. Contracts with cooperatives furnishing classers; amount and type of payment.
51b. Licensing samplers; revocation and suspension of license.
52. Use of nonofficial standards prohibited; sales by sample excepted.
53. Licensing classifiers; revocation and suspension of license.
54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification.
55. Fees and charges for cotton classing and related services; criteria; disposition of moneys and samples.
56. Establishment of cotton standards; furnishing copies of established standards sold.
57. Disposition of proceeds of sale of cotton and of copies of standards.
57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards.
58. General inspection and sampling of cotton.
59. Offenses in relation to cotton standards.
60. Penalties for violations.
61. General regulations, investigations, tests, etc., by Secretary.
61a. Annual review meetings with cotton industry representatives; purposes, etc.
62. Definitions.
63. Liability of principal for act of agent.
64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation.
65. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15b, 61a of this title.

§ 51. Short title

This chapter shall be known by the short title of ''United States Cotton Standards Act.''

(Mar. 4, 1923, ch. 288, § 1, 42 Stat. 1517.)

EFFECTIVE DATE

Section 14 of act Mar. 4, 1923, provided: ''That this Act [enacting this chapter] shall become effective on and after Aug. 1, 1923.''

§ 51a. Extension of classification facilities to cotton growers

The Secretary of Agriculture is requested to extend to cotton growers facilities for the classification of cotton authorized in this chapter, with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures Act.

(Mar. 4, 1933, ch. 284, § 1, 47 Stat. 1621.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

CODIFICATION

This section was not enacted as part of the United States Cotton Standards Act which comprises this chapter.

§ 51a–1. Contracts with cooperatives furnishing classers; amount and type of payment

On and after July 5, 1952 the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services in amount, some part of which may be in kind, not in excess of the value of the samples.

(July 5, 1952, ch. 574, title I, § 101, 66 Stat. 349.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1953, and not as part of the United States Cotton Standards Act which comprises this chapter.

§ 51b. Licensing samplers; revocation and suspension of license

Further to carry out the purposes of this chapter the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued hereunder, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by

licensed samplers for the purpose of classification by officers of the Department of Agriculture, or by licensed cotton classifiers.

(Mar. 4, 1933, ch. 284, § 2, 47 Stat. 1621.)

CODIFICATION

This section was not enacted as part of the United States Cotton Standards Act which comprises this chapter.

§ 52. Use of nonofficial standards prohibited; sales by sample excepted

It shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after August 1, 1923, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after August 1, 1923, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after August 1, 1923, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this chapter by a name, description, or designation, or any system of names, description, or designation not used in said standards: *Provided*, That nothing herein shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards.

(Mar. 4, 1923, ch. 288, § 2, 42 Stat. 1517.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 53. Licensing classifiers; revocation and suspension of license

The Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with the official cotton standards of the United States. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing.

(Mar. 4, 1923, ch. 288, § 3, 42 Stat. 1517.)

CROSS REFERENCES

Charges for licenses issued to classifiers of cotton under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples.

(Mar. 4, 1923, ch. 288, § 4, 42 Stat. 1517.)

CROSS REFERENCES

Charges for determinations made under this section, see section 55 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 58 of this title.

§ 55. Fees and charges for cotton classing and related services; criteria; disposition of moneys and samples

(a) The Secretary of Agriculture shall cause to be collected such fees and charges for licenses issued to classifiers of cotton under section 53 of this title, for determinations made under section 54 of this title, and for the establishment of standards and sale of copies of standards under sections 56, 57, and 57a of this title, as will cover, as nearly as practicable, and after taking into consideration net proceeds from any sale of samples, the costs incident to providing services and standards under such sections, including administrative and supervisory costs. The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this chapter shall become the property of the United States and may be sold with the proceeds credited to the foregoing account: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this chapter, and shall remain available without fiscal year limitation to pay the

expenses of the Secretary incident to providing services and standards under this chapter and section 15b of this title. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(b) The price established by the Secretary of Agriculture under the foregoing provisions of this section for practical forms representing the official cotton standards of the United States shall cover, as nearly as practicable, the estimated actual cost to the Department of Agriculture for developing and preparing such practical forms.

(Mar. 4, 1923, ch. 288, § 5, 42 Stat. 1518; Pub. L. 97–35, title I, § 156(a), Aug. 13, 1981, 95 Stat. 373; Pub. L. 100–518, § 4, Oct. 24, 1988, 102 Stat. 2587.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–518 included late payment penalties, proceeds, and interest within amounts to be credited to current appropriation account and remain available until expended, and authorized investment of such funds in certain interest-bearing accounts or debt instruments.

1981—Pub. L. 97–35 designated existing provisions as subsec. (a), substituted provisions requiring Secretary to cause to be collected fees and charges, for provisions authorizing Secretary to cause to be collected charges, and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97–35, set out as an Effective Date note under section 61a of this title.

APPROPRIATION ACCOUNT

Effective July 1, 1935, the appropriation account for expenses provided for in this chapter was abolished by act June 26, 1934, ch. 756, § 5, 48 Stat. 1228.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15b of this title.

§ 56. Establishment of cotton standards; furnishing copies of established standards sold

The Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than one year after the date of such order: *Provided*, That the official cotton standards established, effective August 1, 1923, under the United States Cotton Futures Act shall be at the same time the official cotton standards for the purpose of this chapter unless and until changed or replaced under this chapter. Whenever any standard or change or replacement thereof shall become effective under this chapter, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act and supersede any inconsistent standard established under said Act. Whenever the official cotton standards of the United States established under this chapter shall be represented by practical forms the Department of Agriculture shall furnish copies thereof, upon request, to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorized representatives of the Department of Agriculture as he may find to be necessary to the proper application of the official cotton standards of the United States.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518; renumbered § 6(a), Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

CODIFICATION

Section is composed of the first five sentences of subsec. (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b), of act Sept. 21, 1944. Last sentence of subsec. (a) of section 6 is classified to section 57 of this title. Subsec. (b) of section 6 is classified to section 57a of this title.

CROSS REFERENCES

Disposition of proceeds of sale of cotton and of copies of standards, see section 57 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 57 of this title.

§ 57. Disposition of proceeds of sale of cotton and of copies of standards

Any moneys received from or in connection with the sale of cotton purchased for the preparation of the copies mentioned in section 56 of this title and condemned as unsuitable for such use or with the sale of such copies may be expended for the purchase of other cotton for such use.

(Mar. 4, 1923, ch. 288, § 6(a), formerly § 6, 42 Stat. 1518; renumbered § 6(a), Sept. 21, 1944, ch. 412, § 401(b), 58 Stat. 738.)

CODIFICATION

Section is composed of the last sentence of subsec. (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401(b) of act Sept. 21, 1944. First five sentences of subsec. (a) of section 6 is classified to section 56 of this

title. Subsec. (b) of section 6 is classified to section 57a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards

The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification, (2) the arbitration or settlement of disputes with respect thereto, and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements.

(Mar. 4, 1923, ch. 288, § 6(b), as added Sept. 21, 1944, ch. 412, title IV, § 401(b), 58 Stat. 738.)

CODIFICATION

Section was enacted as subsec. (b) of section 6 of act Mar. 4, 1923, by act Sept. 21, 1944, § 401(b). Subsec. (a) of section 6 is classified to sections 56 and 57 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 55 of this title.

§ 58. General inspection and sampling of cotton

In order to carry out the provisions of this chapter, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 54 of this title.

(Mar. 4, 1923, ch. 288, § 7, 42 Stat. 1518.)

§ 59. Offenses in relation to cotton standards

It shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this chapter; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under this chapter; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned.

(Mar. 4, 1923, ch. 288, § 8, 42 Stat. 1519.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 60 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 60 of this title.

§ 60. Penalties for violations

(a) Any person who shall knowingly violate any provision of sections 52 or 59 of this title, or (b) any person licensed under this chapter who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this chapter in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to influence improperly any person employed under this chapter in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding $1,000, or imprisoned not exceeding six months, or both, in the discretion of the court.

(Mar. 4, 1923, ch. 288, § 9, 42 Stat. 1519.)

§ 61. General regulations, investigations, tests, etc., by Secretary

For the purposes of this chapter the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publications to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Mar. 4, 1923, ch. 288, § 10, 42 Stat. 1519.)

§ 61a. Annual review meetings with cotton industry representatives; purposes, etc.

The Secretary of Agriculture shall hold annual meetings with representatives of the cotton industry to review (1) activities and operations under the Cotton Standards Act [7 U.S.C. 51 et seq.], and the Cotton Statistics and Estimates Act [7 U.S.C. 471 et seq.], (2) activities and operations relating to cotton under the United States Warehouse Act [7 U.S.C. 241 et seq.], and (3) the effect of such activities and operations on prices received by producers and sales to domestic and foreign users, for the purpose of improving procedures for financing and administering such activities and operations for the benefit of the industry and the Government. Notwithstanding any other provision of law, the Secretary shall take such action as may be necessary to insure that the universal cotton standards system and the licensing and inspection procedures for cotton warehouses are preserved and that the Government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description.

(Pub. L. 97–35, title I, § 156(d), Aug. 13, 1981, 95 Stat. 374.)

REFERENCES IN TEXT

The Cotton Standards Act, referred to in text, probably meaning the United States Cotton Standards Act,

is act Mar. 4, 1923, ch. 288, 42 Stat. 1517, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 51 of this title and Tables.

The Cotton Statistics and Estimates Act, referred to in text, is act Mar. 3, 1927, ch. 337, 44 Stat. 1372, as amended, which is classified generally to chapter 19 (§ 471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

The United States Warehouse Act, referred to in text, is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§ 241 et seq.) of this title. For complete classification of this Act to the Code, see section 241 of this title and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the United States Cotton Standards Act which comprises this chapter.

EFFECTIVE DATE

Section 156(e) of Pub. L. 97–35 provided that: ''The provisions of this section [enacting this section, amending sections 15b, 55, and 473a of this title, and enacting provision set out as a note under section 473a of this title] shall become effective October 1, 1981.''

§ 62. Definitions

Wherever used in this chapter, (a) the word ''person'' imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word ''commerce'' means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word ''cotton'' means cotton of any variety produced within the continental United States, including linters.

(Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the first sentence of section 11 of act Mar. 4, 1923. The remainder of section 11 is contained in section 63 of this title.

§ 63. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person.

(Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the second sentence of section 11 of act Mar. 4, 1923. The first sentence of section 11 is contained in section 62 of this title.

§ 64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 4, 1923, ch. 288, § 12, 42 Stat. 1519.)

§ 65. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Mar. 4, 1923, ch. 288, § 13, 42 Stat. 1520.)

CHAPTER 3—GRAIN STANDARDS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 420 of this title.

§ 71. Short title

This chapter may be cited as the ''United States Grain Standards Act.''

(Aug. 11, 1916, ch. 313, pt. B, §1, 39 Stat. 482; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 761.)

CODIFICATION

This chapter constitutes part B of ''An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes,'' approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, containing the ''United States Cotton Futures Act,'' was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part C of that act contained the ''United States Warehouse Act,'' and is incorporated, as amended, as section 241 et seq. of this title.

Section is comprised of part of section 1 of part B of act Aug. 11, 1916. Other provisions contained in section 1 were classified to former sections 72 and 73 of this title.

AMENDMENTS

1968—Pub. L. 90–487 substituted ''may be cited as'' for ''shall be known by the short title of''.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–487 effective 180 days after Aug. 15, 1968, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–156, §1(a), Nov. 24, 1993, 107 Stat. 1525, provided that: ''This Act [amending sections 75 to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f–1, 87h, 87j, and 87k of this title, enacting provisions set out as a note under section 75 of this title, and repealing provisions set out as a note under section 79 of this title] may be cited as the 'United States Grain Standards Act Amendments of 1993'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XX, §2001, Nov. 28, 1990, 104 Stat. 3928, provided that: ''This title [enacting sections 75b, 87k, 1427–1, 1593a, and 1622a of this title, amending sections 74, 76, 77, 87b, 1423, and 1445e of this title, and enacting provisions set out as a note under section 76 of this title] may be cited as the 'Grain Quality Incentives Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–518, §1, Oct. 24, 1988, 102 Stat. 2584, provided that: ''This Act [enacting sections 79d and 87j of this title, amending sections 55, 79, 79a, and 87h of this title, and enacting provisions set out as notes under sections 79 and 1421 of this title] may be cited as the 'United States Grain Standards Act Amendments of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–641, title III, §301, Nov. 10, 1986, 100 Stat. 3564, provided that: ''This title [amending sections 74 and 87b of this title and enacting provisions set out as notes under sections 76 and 87b of this title] may be cited as the 'Grain Quality Improvement Act of 1986'.''

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–582, Oct. 21, 1976, 90 Stat. 2867, provided: ''That this Act [enacting sections 75a, 79a, 79b, 87e–1, 87f–1, and 87f–2 of this title, amending sections 74, 75, 76, 77, 78, 79, 84, 85, 86, 87, 87a, 87b, 87c, 87e, 87f, 87g, and 87h of this title, section 5316 of Title 5, Government Organization and Employees, and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 74, 75a, 76, and 79 of this title] may be cited as the 'United States Grain Standards Act of 1976'.''

§§ 72, 73. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 72, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, defined the words ''person'' and ''in interstate or foreign commerce''. See section 75 of this title.

Section 73, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, made associations, partnerships, and corporations liable for the acts of their agents within the scope of their employment or office. See section 87d of this title.

§ 74. Congressional findings and declaration of policy

(a) Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this chapter is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

(b) It is also declared to be the policy of Congress—

(1) to promote the marketing of grain of high quality to both domestic and foreign buyers;

(2) that the primary objective of the official United States standards for grain is to certify

the quality of grain as accurately as practicable; and

(3) that official United States standards for grain shall—

(A) define uniform and accepted descriptive terms to facilitate trade in grain;

(B) provide information to aid in determining grain storability;

(C) offer users of such standards the best possible information from which to determine end-product yield and quality of grain;

(D) provide the framework necessary for markets to establish grain quality improvement incentives;

(E) reflect the economic value-based characteristics in the end uses of grain; and

(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.

(Aug. 11, 1916, ch. 313, pt. B, §2, 39 Stat. 482; July 18, 1940, ch. 636, 54 Stat. 765; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 761; Pub. L. 94–582, §2, Oct. 21, 1976, 90 Stat. 2867; Pub. L. 99–641, title III, §302, Nov. 10, 1986, 100 Stat. 3564; Pub. L. 101–624, title XX, §2004, Nov. 28, 1990, 104 Stat. 3929.)

AMENDMENTS

1990—Subsec. (b)(3)(E), (F). Pub. L. 101–624 added subpars. (E) and (F).

1986—Pub. L. 99–641 designated existing provisions as subsec. (a) and added subsec. (b).

1976—Pub. L. 94–582 expressed the policy of Congress to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce and the finding of Congress of the necessity to regulate grain transactions to prevent or eliminate burdens on commerce and to regulate effectively such interstate or foreign commerce, and provided that the grain be marketed in a timely manner.

1968—Pub. L. 90–487 substituted a declaration of policy by the Congress for provisions authorizing promulgation and establishment of grain standards by Secretary of Agriculture.

1940—Act July 18, 1940, inserted ''soybeans,'' after ''flaxseed,''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 27 of Pub. L. 94–582, as amended by Pub. L. 95–113, title XVI, §§1602(d), 1605(b), 1607(b), 1608, Sept. 29, 1977, 91 Stat. 1025, 1030, 1031, provided that: ''This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976]; and thereafter no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act as amended by this Act [this chapter], at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act, except that any agency or person then providing such service in any area may continue to operate in that area without a delegation or designation or other authorization under such Act but shall be subject to all provisions of the United States Grain Standards Act and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

''(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act; or

''(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain: *Provided*, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: *Provided further*, That the Administrator shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination; or

''(3) with respect to export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

''(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act, to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act [Oct. 21, 1976], at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended [this section].''

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86, 87e, 87f–2, 87j of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

(a) the term ''Secretary'' means the Secretary of Agriculture of the United States or delegates of the Secretary;

(b) the term ''Department of Agriculture'' means the United States Department of Agriculture;

(c) the term ''person'' means any individual, partnership, corporation, association, or other business entity;

(d) the term ''United States'' means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term ''State'' means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term ''interstate or foreign commerce'' means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term ''grain'' means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans,

mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

(h) the term ''export grain'' means grain for shipment from the United States to any place outside thereof;

(i) the term ''official inspection'' means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Secretary under this chapter (the term ''officially inspected'' shall be construed accordingly);

(j) the term ''official inspection personnel'' means persons licensed or otherwise authorized by the Secretary pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) the term ''official mark'' means any symbol prescribed by regulations of the Secretary to show the official determination of official inspection or official weighing;

(*l*) the term ''official grade designation'' means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain, provided for in this chapter;

(m) the term ''official agency'' means any State or local governmental agency, or any person, designated by the Secretary pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

(n) the terms ''official certificate'' and ''official form'' mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this chapter;

(*o*) the term ''official sample'' means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term ''official sampling'' shall be construed accordingly);

(p) the term ''submitted sample'' means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term ''lot'' means a specific quantity of grain identified as such;

(r) the term ''interested person'' means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb ''ship'' with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

(t) the terms ''false'', ''incorrect'', and ''misleading'' mean, respectively, false, incorrect, and misleading in any particular;

(u) the term ''deceptive loading, handling, weighing, or sampling'' means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this chapter;

(v) the term ''export elevator'' means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Secretary, from which grain is shipped from the United States to an area outside thereof;

(w) the term ''export port location'' means a commonly recognized port of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States;

(x) the term ''official weighing'' means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms ''officially weigh'' and ''officially weighed'' shall be construed accordingly);

(y) the term ''supervision of weighing'' means such supervision by official inspection personnel of the grain-weighing process as is determined by the Secretary to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance; and

(z) the term ''intracompany shipment'' means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.

(Aug. 11, 1916, ch. 313, pt. B, §3, 39 Stat. 483; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 761; Pub. L. 94–582, §3, Oct. 21, 1976, 90 Stat. 2867; Pub. L. 95–113, title XVI, §§1604(a), 1606(a), Sept. 29, 1977, 91 Stat. 1026, 1030; Pub. L. 96–437, §1, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 102–237, title X, §1007(1), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103–156, §12(a), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(1), (7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (i) to (k),

(m), (n), (u) to (w), and (y), redesignated subsec. (bb) as (z), and struck out former subsecs. (z) and (aa) which read as follows:

''(z) the term 'Administrator' means the Administrator of the Federal Grain Inspection Service or delegates of the Administrator;

''(aa) the term 'Service' means the Federal Grain Inspection Service; and''.

1993—Pub. L. 103–156, §12(a), which directed amendment of ''Section 3'', without specifying the name of the Act being amended, was executed to this section, which is section 3 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §12(a)(1), substituted ''delegates of the Secretary'' for ''his delegates''.

Subsec. (z). Pub. L. 103–156, §12(a)(2), substituted ''delegates of the Administrator'' for ''his delegates''.

1991—Subsecs. (i) to (k), (u) to (x), (z), (aa). Pub. L. 102–237 substituted ''the'' for ''The'' before ''term''.

1980—Subsec. (bb). Pub. L. 96–437 added subsec. (bb).

1977—Subsec. (g). Pub. L. 95–113, §1604(a)(1), substituted ''sorghum'' for ''grain sorghum''.

Subsec. (i). Pub. L. 95–113, §1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95–113, §1604(a)(2), substituted ''or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)'' for ''or subsection (b) of section 79a of this title for the conduct of supervision of weighing''.

Subsec. (x). Pub. L. 95–113, §1604(a)(3), substituted ''under standards provided for in this chapter'' for ''under standards provided in this chapter''.

Subsec. (y). Pub. L. 95–113, §1604(a)(4), substituted ''such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance'' for ''the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document''.

1976—Subsec. (i). Pub. L. 94–582, §3(a), substituted ''Administrator'' for ''Secretary'', and expanded definition of ''official inspection'' to include determination ''(by original inspection, and when requested, reinspection and appeal inspection)'' and determination and certification of the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of the grain.

Subsec. (j). Pub. L. 94–582, §3(b), in redefining ''official inspection personnel'', substituted provision declaring term to mean ''persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing'' for ''employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this chapter; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports''.

Subsec. (k). Pub. L. 94–582, §3(c), substituted ''Administrator'' for ''Secretary'' and ''official inspection or official weighing'' for ''an official inspection''.

Subsec. (*l*). Pub. L. 94–582, §3(d), substituted ''standards relating to kind, class, quality, and condition of grain,'' for ''standards''.

Subsec. (m). Pub. L. 94–582, §3(e), substituted definition of ''official agency'' meaning ''any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing'' for definition of ''official inspection agency'' meaning ''the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this chapter''.

Subsec. (n). Pub. L. 94–582, §3(f), substituted ''Administrator'' for ''Secretary''.

Subsec. (u). Pub. L. 94–582, §3(g), included within term defined and its definition the concept of ''weighing'' and substituted ''Administrator'' for ''Secretary''.

Subsecs. (v) to (aa). Pub. L. 94–582, §3(h), added subsecs. (v) to (aa).

1968—Pub. L. 90–487 substituted provisions defining terms used in the chapter for provisions that the standards fixed and established by the Secretary of Agriculture be known as the official grain standards of the United States.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 16 of Pub. L. 103–156 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [amending this section and sections 75a to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f–1, 87h, 87j, and 87k of this title and repealing provisions set out as a note under section 79 of this title] shall take effect on the date of the enactment of this Act [Nov. 24, 1993].

''(b) SPECIAL EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by sections 2, 3, and 13(a) [amending sections 79d and 87h of this title and repealing provisions set out as a note under section 79 of this title] shall take effect as of September 30, 1993.''

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 sections 10709, 11101.

§ 75a. Repealed. Pub. L. 103–354, title II, § 293(a)(2), Oct. 13, 1994, 108 Stat. 3237

Section, act Aug. 11, 1916, ch. 313, pt. B, §3A, as added Oct. 21, 1976, Pub. L. 94–582, §4, 90 Stat. 2868; amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §1604(b), 91 Stat. 1026; Nov. 24, 1993, Pub. L. 103–156, §15, 107 Stat. 1530, established Federal Grain Inspection Service in Department of Agriculture and provided for cost containment plan to make the Service more efficient.

§ 75b. Committee on Grain Quality and Grain Quality Coordinator

(a) Establishment of Committee and Coordinator

(1) Committee

The Secretary of Agriculture (hereafter referred to in this title[1] as the ''Secretary'')

[1] See References in Text note below.

shall establish, within the Department of Agriculture, a Committee on Grain Quality (hereafter referred to in this section as the ''Committee'').

(2) Coordinator

The Committee established under paragraph (1) shall be chaired by an individual, appointed by the Secretary, who shall serve as the Grain Quality Coordinator (hereafter referred to in this title[1] as the ''Coordinator'') and, in consultation with the Committee, carry out the duties described in subsection (b) of this section.

(b) Duties

The Coordinator shall be responsible for—

(1) assembling and evaluating, in a systematic manner, concerns and problems with the quality of United States grain, expressed by foreign and domestic buyers and end-users;

(2) developing and implementing a coordinated effort to inform and educate foreign buyers concerning the proper specifications of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this title[1] (and other provisions of law) as such provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal Government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating, through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Service, other agencies of the Department of Agriculture, Food and Drug Administration, Environmental Protection Agency, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality issues;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the international harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this title.[2]

(c) Termination

This section shall terminate on January 1, 2001.

(Pub. L. 101–624, title XX, § 2002, Nov. 28, 1990, 104 Stat. 3928.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a) and (b)(3), (5)(H), is title XX of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3928, known as the Grain Quality Incentives Act of 1990. For complete classification of title XX to the Code, see Short Title of 1990 Amendment note set out under section 71 of this title and Tables.

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and not as part of the United States Grain Standards Act which comprises this chapter.

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) Authority of Secretary

The Secretary is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in the judgment of the Secretary the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Secretary is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

(b) Notice and opportunity for comment; standards regarding cleanliness of grain

(1) Before establishing, amending, or revoking any standards under this chapter, the Secretary shall publish notice of the proposals and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

(2)(A)(i) If the Secretary determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the requirements for grade number 3 or better (as set forth in subparagraph (B)) would—

(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

[2] See References in Text note below.

(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

(III) result in the maintenance or increase of United States producer income; and

(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Secretary shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

(ii) The Secretary shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after November 28, 1990.

(B)(i) In establishing requirements for cleanliness characteristics, the Secretary shall—

(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

(II) promulgate regulations after providing for notice and an opportunity for public comment; and

(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Secretary for reviewing grain standards.

(C) If the Secretary determines to establish requirements for cleanliness characteristics under this section, the Secretary shall ensure that such requirements are fully implemented not later than 6 years after November 28, 1990.

(c) Grade determining factors related to physical soundness and purity; notice and opportunity for comment

(1) In establishing standards under subsection (a) of this section for each grain for which official grades are established, the Secretary shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Secretary shall establish factors and factor limits that will provide that grain meeting the requirements for grades number 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain.

(2) In establishing factors and factor limits under paragraph (1), the Secretary shall provide for notice and an opportunity for public comment prior to making changes in the grade-determining factors and factor limits that shall be applicable under this section to grain that is officially graded.

(d) Moisture content criterion

If the Government of any country requests that moisture content remain a criterion in the official grade designations of grain, such criterion shall be included in determining the official grade designation of grain shipped to such country.

(Aug. 11, 1916, ch. 313, pt. B, §4, 39 Stat. 483; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 762; Pub. L. 94–582, §5, Oct. 21, 1976, 90 Stat. 2869; Pub. L. 95–113, title XVI, §1604(c), Sept. 29, 1977, 91 Stat. 1027; Pub. L. 99–198, title XVI, §1671, Dec. 23, 1985, 99 Stat. 1632; Pub. L. 101–624, title XX, §§2005, 2006, Nov. 28, 1990, 104 Stat. 3930; Pub. L. 103–156, §12(b), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103–156, which directed amendment of ''Section 4(a)(1)'' by substituting ''the judgment of the Administrator'' for ''his judgment'', without specifying the name of the Act being amended, was executed to this section, which is section 4 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101–624, §2005, designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 101–624, §2006, added subsec. (c) and redesignated former subsec. (c) as (d).

1985—Subsec. (c). Pub. L. 99–198 added subsec. (c).

1977—Subsec. (a). Pub. L. 95–113 substituted ''sorghum'' for ''grain sorghum'', ''standards or procedures'' for ''standards'', ''weight certification and controls'' for ''weight certification procedures and controls'', and ''calibration and maintenance, for grain'' for ''calibration and maintenance for grain''.

1976—Subsec. (a). Pub. L. 94–582, §5(a), authorized weighing of grain, designated existing provisions as cl. (1), inserted cl. (2), and reenacted provision for amendment or revocation of standards.

Subsec. (b). Pub. L. 94–582, §5(b), substituted ''Administrator'' for ''Secretary'' in two places.

1968—Pub. L. 90–487 substituted provisions authorizing Secretary to establish, amend, and revoke standards for provisions making the use of official standards compulsory, setting out exceptions, and providing for the right of appeal.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Section 2003 of title XX of Pub. L. 101–624 provided that: ''The Administrator of the Federal Grain Inspection Service shall estimate the economic impact, including the benefits and costs and the distribution of

such benefits and costs, of any major changes necessary to carry out the amendments made under this title to sections 4 and 13 of the United States Grain Standards Act (7 U.S.C. 76 and 87b) prior to making such changes.''

REVISION OF GRAIN INSPECTION PROCEDURES TO REFLECT LEVELS OF INSECT INFESTATION

Pub. L. 99–641, title III, § 304, Nov. 10, 1986, 100 Stat. 3565, provided that: ''Not later than 6 months after the date of enactment of this Act [Nov. 10, 1986], the Administrator of the Federal Grain Inspection Service shall issue a final rule that revises grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to more accurately reflect levels of insect infestation.''

STUDY OF UNIFORM END-USE VALUE TESTS FOR GRAIN

Pub. L. 99–641, title III, § 307, Nov. 10, 1986, 100 Stat. 3566, as amended by Pub. L. 104–66, title I, § 1011(i), Dec. 21, 1995, 109 Stat. 710, provided that:

''(a) STUDY.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include the following:

''(1) A survey of domestic and foreign buyers of grain to identify the information about grain characteristics that would be most useful to such buyers. The survey shall take into account those factors that buyers specify in contracts, test for, measure, or would measure if tests were available, including—

''(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

''(B) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

''(C) the protein, oil, and free-fatty-acid content of soybeans.

''(2) A review of the development and availability of tests for the characteristics identified in the survey conducted under paragraph (1), including an evaluation of the costs of providing such tests.

''(b) END-USE TESTS.—

''(1) ONGOING REVIEW.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

''(2) REVISION OF PROCEDURES.—The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act (7 U.S.C. 75(i))) those tests that are identified under the study conducted under subsection (a) as useful, available, and economically feasible.''

NEW GRAIN CLASSIFICATIONS

Section 1672 of Pub. L. 99–198 provided that:

''(a) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications taking into account characteristics other than those visually evident.

''(b) The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, semiannually, with the first report due not later than December 31, 1985, on the status of cooperative efforts required under subsection (a), as such efforts relate to more accurately classifying types of wheat and other grains currently in use.''

INVESTIGATION AND STUDY REGARDING ADEQUACY OF GRAIN STANDARDS; CHANGES IN STANDARDS; REPORT TO CONGRESS BY OCTOBER 21, 1978

Section 24 of Pub. L. 94–582 provided for an investigation and study to be made by the Administrator of the Federal Grain Inspection Service regarding the adequacy of the grain standards established under this chapter in relation to the needs and concerns of domestic and foreign grain buyers, with the Administrator to seek the advice of or employ the services of representatives of the grain industry, land grant colleges and other members of the public, the study to address specifically, without being limited to determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material, and the Administrator, as a result of such study, to make necessary changes in the grain standards in accordance with section 75a of this title, and to submit a report to Congress setting forth the findings of the study and actions taken as a result thereof not later than two years after Oct. 21, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 78, 79, 79a of this title.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Secretary

(a) Official samples and certificates; waiver; excepted grains

Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or the agent of the shipper, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Secretary may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Secretary shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Secretary prior to shipment;

(2) except as the Secretary may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed

in accordance with such standards or procedure: *Provided*, That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and

(3) except as otherwise authorized by the Secretary, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

(b) Supervision by representatives of Secretary

All official inspection and official weighing, whether performed by authorized employees of the Secretary or any other person licensed under section 84 of this title, shall be supervised by representatives of the Secretary, in accordance with such regulations as the Secretary may provide.

(c) Testing for aflatoxin contamination of corn shipped in foreign commerce

The Secretary is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.

(Aug. 11, 1916, ch. 313, pt. B, §5, 39 Stat. 483; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94–582, §6, Oct. 21, 1976, 90 Stat. 2869; Pub. L. 95–113, title XVI, §1606(b), Sept. 29, 1977, 91 Stat. 1030; Pub. L. 96–437, §2, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 101–624, title XX, §2007, Nov. 28, 1990, 104 Stat. 3931; Pub. L. 103–156, §12(c), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(3), (7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''employees of the Secretary'' for ''Service employees'' in subsec. (b) and ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(c), which directed amendment of ''Section 5'', without specifying the name of the Act being amended, was executed to this section, which is section 5 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 103–156, §12(c)(1), substituted ''the agent of the shipper'' for ''his agent''.

Subsec. (b). Pub. L. 103–156, §12(c)(2), substituted ''regulations as the Administrator'' for ''regulations as he''.

1990—Subsec. (c). Pub. L. 101–624 added subsec. (c).

1980—Subsec. (a)(2). Pub. L. 96–437 inserted proviso that, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed.

1977—Subsec. (a). Pub. L. 95–113 substituted ''standards or procedures'' for ''standards'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–582 designated existing provisions as par. (1) of subsec. (a); struck out ''that is sold, offered for sale, or consigned for sale by grade'' after ''any lot of such grain''; inserted official weighing requirement; substituted ''officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)'' for ''officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States''; required the certificate to show the certified weight of the lot of grain provided by official inspection personnel; substituted provision for waiver by the Administrator of requirement for official inspection certificate in emergency or other circumstances which would not impair the objectives of this chapter for provision for waiver by the Secretary of any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments; inserted provision for waiver by Administrator of requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment; and added pars. (2) and (3) of subsec. (a).

Subsec. (b). Pub. L. 94–582 added subsec. (b).

1968—Pub. L. 90–487 substituted provisions requiring an official inspection for export grains but authorizing the waiver of such requirements when official inspection is impracticable for provisions prohibiting misrepresentation respecting grade shipped or delivered for shipment, allowing reexamination, requiring hearing in the event of a false or misleading description, and allowing publication of findings.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87b of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official

grade designation, with or without additional information as to specified factors: *Provided*, That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

(Aug. 11, 1916, ch. 313, pt. B, §6, 39 Stat. 484; Pub. L. 85–509, July 11, 1958, 72 Stat. 352; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94–582, §7, Oct. 21, 1976, 90 Stat. 2870; Pub. L. 95–113, title XVI, §1606(c), Sept. 29, 1977, 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113 substituted ''criteria'' for ''factor information''.

1976—Subsec. (a). Pub. L. 94–582 substituted ''standards relating to kind, class, quality, or condition of grain'' for ''standards''.

1968—Pub. L. 90–487 substituted provisions requiring the use of official grade designations and prohibiting the use of false or misleading description of grain shipped out of the United States, for provisions allowing the appeal to the Secretary from official grading, authorizing the payment of additional fees for employees required in making appeal inspections, and making the findings prima facie evidence of the grain's true grade.

1958—Pub. L. 85–509 authorized payment of employees assigned to perform appeal inspection for all overtime, night, or holiday work, and permitted acceptance of reimbursement for any sums paid for such work.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–487 provided that: ''This Act [amending this section and sections 71, 74, 75, 76, 77, 79, 84, 85, 86, and 87 of this title and enacting sections 87a to 87h of this title] shall become effective one hundred and eighty days after enactment hereof [Aug. 15, 1968], except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof, and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act [subsec. (a) of this section and section 87b(a)(5) of this title] shall then become effective with respect to such grain.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 79. Official inspection

(a) Grain required to be officially inspected

The Secretary is authorized to cause official inspection under the standards provided for in section 76 of this title to be made of all grain required to be officially inspected as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Inspections made pursuant to request of interested persons

The Secretary is further authorized, upon request of any interested person, and under such regulations as the Secretary may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in the judgment of the Secretary providing such service will effectuate any of the objectives stated in section 74 of this title.

(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples

The regulations prescribed by the Secretary under this chapter shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Secretary may provide by regulation that samples obtained by or for employees of the Secretary for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.].

(d) Official certificates as evidence

Official certificates setting out the results of official inspection issued and not canceled under this chapter shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(e) Official inspection at export port locations; delegation of authority to State agencies

(1) Except as otherwise provided in paragraph (2) of this subsection, the Secretary shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this chapter, to be performed by official inspection personnel employed by the Secretary or other persons under contract with the Secretary as provided in section 84 of this title.

(2) If the Secretary determines, pursuant to paragraph (3) of this subsection, that a State agency is qualified to perform official inspection, meets the criteria in subsection (f)(1)(A) of this section, and (A) was performing official inspection at an export port location under this chapter on July 1, 1976, or (B)(i) performed official inspection at an export port location at any time prior to July 1, 1976, (ii) was designated under subsection (f) of this section on December 22, 1982, to perform official inspections at locations other than export port locations, and (iii) operates in a State from which total annual exports of grain do not exceed, as determined by the Secretary, 5 per centum of the total amount

of grain exported from the United States annually, the Secretary may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as the Secretary may prescribe, and any such official inspection shall continue to be the direct responsibility of the Secretary. Any such delegation may be revoked by the Secretary, at the discretion of the Secretary, at any time upon notice to the State agency without opportunity for a hearing.

(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Secretary shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Secretary shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

(4) The Secretary may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Secretary determines will best meet the objectives of this chapter.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

(1) With respect to official inspections other than at export port locations, the Secretary is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Secretary determines official inspection is needed, if—

(A) the agency or person shows to the satisfaction of the Secretary that such agency or person—

(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

(iii) will meet training requirements and personnel standards established by the Secretary under section 84(g) of this title;

(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this chapter and the regulations and instructions thereunder;

(v) will not charge official inspection fees that are discriminatory or unreasonable;

(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation of the State or local governmental agency;

(vii) and any related entities do not have a conflict of interest prohibited by section 87 of this title;

(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Secretary may require by regulation;

(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

(x) will comply with all provisions of this chapter and the regulations and instructions thereunder; and

(xi) meets other criteria established in regulations issued under this chapter relating to official functions under this chapter; and

(B) the Secretary determines that the applicant is better able than any other applicant to provide official inspection service.

(2) Not more than one official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 74 of this title, except that the Secretary may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title.

(3) Except as authorized by the Secretary, no official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Secretary at the time such sample is drawn.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Secretary, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Secretary but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

(2) A designation of an official agency may be amended at any time upon application by the official agency if the Secretary determines that the amendment will be consistent with the provisions and objectives of this chapter; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Secretary. A fee as prescribed by regulations of the Secretary shall be paid by the official agency to the Secretary for each such amendment, to cover the costs incurred by the Secretary in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

(3) The Secretary may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Secretary determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this chapter for the performance of official functions, or otherwise has not complied with any provision of this chapter or any regulation prescribed or instruction issued to such agency under this chapter, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Secretary may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Secretary has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

(h) Official inspections at locations other than export port locations when designated official agencies are not available

If the Secretary determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Secretary determines such inspection is needed to effectuate the objectives stated in section 74 of this title, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Secretary, and other persons licensed by the Secretary to perform official inspection functions, as provided in section 84 of this title, until such time as the service can be provided on a regular basis by an official agency.

(i) Official inspections in Canadian ports

The Secretary is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(j) Fees; establishment, amount, payment, etc.

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Secretary incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Secretary incident to its[1] performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the estimated costs incurred by the Secretary relating to supervision of official agency personnel and supervision by the Secretary of the Secretary's field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

(3) Any sums collected or received by the Secretary under this chapter and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Secretary and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt

[1] So in original. Probably should be ''the Secretary's''.

instruments. The interest earned on such sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(4) The duties imposed by paragraph (2) on designated official agencies and State agencies described in such paragraph and the investment authority provided by paragraph (3) shall expire on September 30, 2000. After that date, the fees established by the Secretary pursuant to paragraph (1) shall not cover administrative and supervisory costs related to the official inspection of grain.

(Aug. 11, 1916, ch. 313, pt. B, §7, 39 Stat. 484; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94–582, §8(a), Oct. 21, 1976, 90 Stat. 2870; Pub. L. 95–113, title XVI, §§1602(a), 1604(d), 1606(d), Sept. 29, 1977, 91 Stat. 1025, 1027, 1030; Pub. L. 97–35, title I, §155(1), Aug. 13, 1981, 95 Stat. 371; Pub. L. 97–98, title IX, §1113(a), Dec. 22, 1981, 95 Stat. 1268; Pub. L. 98–469, §2(1), Oct. 11, 1984, 98 Stat. 1831; Pub. L. 100–518, §2(1), Oct. 24, 1988, 102 Stat. 2584; Pub. L. 103–156, §§4(a), 5(a), 12(d), 14(a), Nov. 24, 1993, 107 Stat. 1525, 1526, 1528, 1529; Pub. L. 103–354, title II, §293(a)(4), (7), (8), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

CODIFICATION

Section as originally enacted was composed of part of section 7 of part B of act Aug. 11, 1916. Other provisions of section 7 were classified to former sections 80 to 83 of this title.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''supervision by the Secretary of the Secretary's field office personnel'' for ''supervision of Service personnel of its field office personnel'' in first sentence of subsec. (j)(2) and substituted ''Secretary'' for ''Administrator'' and ''Service'' wherever appearing.

1993—Pub. L. 103–156, §12(d), which directed amendment of ''Section 7'', without specifying the name of the Act being amended, was executed to this section, which is section 7 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §12(d)(1), substituted ''regulations as the Administrator'' for ''regulations as he''.

Subsec. (b). Pub. L. 103–156, §12(d)(2), substituted ''regulations as the Administrator'' for ''regulations as he'' and ''the judgment of the Administrator'' for ''his judgment''.

Subsec. (e)(2). Pub. L. 103–156, §12(d)(3), substituted ''oversight as the Administrator'' for ''oversight as he'' and ''the discretion of the Administrator'' for ''his discretion''.

Subsec. (f)(1)(A)(vi). Pub. L. 103–156, §4(a)(1), substituted ''of the State'' for ''or other agricultural programs operated by the State''.

Subsec. (f)(2). Pub. L. 103–156, §5(a), inserted before period at end '', except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title''.

Subsec. (i). Pub. L. 103–156, §4(a)(2), inserted before period at end ''or as otherwise provided by agreement with the Canadian Government''.

Subsec. (j)(4). Pub. L. 103–156, §14(a), added par. (4).

1988—Subsec. (j). Pub. L. 100–518 reenacted subsec. (j) without change.

1984—Subsec. (j)(3). Pub. L. 98–469 temporarily added par. (3). See Effective and Termination Dates of 1984 Amendment note below.

1981—Subsec. (e)(2). Pub. L. 97–98 inserted provision authorizing the Administrator to delegate authority to perform grain inspection functions at export port locations to any State agency that performed official inspection at an export port location at any time prior to July 1, 1976, was designated under subsec. (f) of this section on Dec. 22, 1981, to perform inspections at locations other than export port locations, and operates in a State from which the total annual exports of grain do not exceed 5 per centum of the total amount of grain exported from the United States.

Subsec. (j). Pub. L. 97–35 temporarily designated existing provisions as par. (1), made changes in nomenclature and provided for inclusion, rather than exclusion, of administrative and supervisory costs, and added par. (2). See Effective and Termination Dates of 1981 Amendments note below.

1977—Subsec. (b). Pub. L. 95–113, §1606(d), struck out reference to a determination of the quantity of sacks of grain.

Subsec. (e). Pub. L. 95–113, §1604(d)(1), designated as par. (4) provisions, formerly forming a part of par. (2), authorizing the Administrator to provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States be inspected in the manner provided in this subsection or subsec. (f) of this section, as the Administrator determines best meets the objectives of this chapter.

Subsec. (f)(2). Pub. L. 95–113, §1604(d)(2), substituted ''official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter'' for ''official agency for carrying out the provisions of this chapter'', struck out '', but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968'' after ''section 74 of this title'', and redesignated other existing provisions as pars. (3) and (4).

Subsec. (f)(3). Pub. L. 95–113, §1604(d)(2)(B), (C), redesignated a portion of existing par. (2) as (3) and substituted ''Except as authorized by the Administrator, no'' for ''No''.

Subsec. (f)(4). Pub. L. 95–113, §1604(d)(2)(D), redesignated a portion of existing par. (2) as (4).

Subsec. (g)(1). Pub. L. 95–113, §1604(d)(3), substituted ''prescribed in subsection (f)'' for ''prescribed in subsections (e) and (f)''.

Subsec. (i). Pub. L. 95–113, §1604(d)(4), inserted provision that all or specified functions of the inspections be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (j). Pub. L. 95–113, §1602(a), revised provisions relating to fees so as to remove requirement that field supervision of inspection be supported by fees.

1976—Subsec. (a). Pub. L. 94–582, §8(a)(1), substituted ''Administrator'' for ''Secretary''.

Subsec. (b). Pub. L. 94–582, §8(a)(1), (2), substituted ''Administrator'' for ''Secretary'' in two places and struck out from first sentence ''or with respect to United States grain in Canadian ports'' after ''within the United States''.

Subsec. (c). Pub. L. 94–582, §8(a)(1), (3), substituted ''Administrator'' for ''Secretary'' in two places; and substituted ''Service'' for ''Department of Agriculture'' and ''cancellation and surrender'' for ''cancellation'' and required regulation provision for use of standard forms for official certificates, respectively.

Subsec. (d). Pub. L. 94–582, §8(a)(4), substituted ''Official certificates setting out the results of official inspection'' for ''Certificates''.

Subsec. (e). Pub. L. 94–582, §8(a)(5), added subsec. (e) and struck out former subsec. (e) which authorized charging and collection of reasonable fees to cover cost of official inspection and to cover costs of Department of Agriculture incident to performance of appeal and Canadian port inspection services for which fees are collected, including supervisory and administrative costs, and for deposit of fees and proceeds from sale of samples obtained for purposes of official inspection which become property of the United States into a fund to be available without fiscal year limitation for expenses of the Department of Agriculture incident to providing official inspection services. Fee provisions are now covered in subsec. (j)(2) of this section.

Subsec. (f). Pub. L. 94–582, §8(a)(5), added par. (1) and second and third sentences of par. (2), and designated existing provisions as par. (2), substituting ''one official agency for carrying out the provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title'' for ''one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area''.

Subsecs. (g) to (j). Pub. L. 94–582, §8(a)(5), added subsecs. (g) to (j).

1968—Pub. L. 90–487 substituted provisions covering the authority and funding of official inspections for provisions covering the licensing of inspectors and the utilization by the Secretary of Agriculture of State inspectors.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100–518 which provided that the amendment made by Pub. L. 100–518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103–156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98–469 provided that the amendment made by Pub. L. 98–469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 1113(b) of Pub. L. 97–98 provided that: ''The provisions of this section [amending this section] shall become effective one hundred and eighty days after enactment of this Act [Dec. 22, 1981].''

Section 155 of Pub. L. 97–35, as amended by Pub. L. 98–469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97–35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1979, AND NOV. 20, 1979, RESPECTIVELY

Section 8(b) of Pub. L. 94–582, as amended by Pub. L. 95–113, title XVI, §§1605(a), 1607(a), Sept. 29, 1977, 91 Stat. 1029, 1031, provided that:

''(1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system at points in the United States other than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

''(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflicts of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act [this chapter], the grain weighing provisions of the United States Warehouse Act [section 241 et seq. of this title], and related provisions of title 18 of the United States Code: *Provided*, That the Director shall not submit such summary with respect to any criminal investigation which is pending at the time the report is due.

''(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies (which may include the application of statistical tolerances for expected variations), based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

''(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Comptroller General not later than thirty months after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].

''(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General

shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act [this chapter] to such Committees not later than three years after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 79a, 79b, 84, 87b, 87e, 87f–1, 87h of this title.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Secretary shall cause official weighing under standards or procedures provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations

The Secretary is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 76 of this title to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this chapter, in such manner as the Secretary deems appropriate and under such regulations as the Secretary may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Secretary, the Secretary shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary.

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Secretary, the Secretary is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 79 of this title, except that where the term ''official inspection'' is used in such section it shall be deemed to refer to ''official weighing'' or ''supervision of weighing'' under this section. If such agency or person is not available to perform such weighing services, or the Secretary determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Secretary, and (B) at any other location, the Secretary is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary or designate any State or local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term ''official inspection'' is used in such section it shall be deemed to refer to ''official weighing'' or ''supervision of weighing'' under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Secretary is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Secretary is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as the Secretary may prescribe.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this chapter at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Secretary that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Secretary; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Secretary to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in

accordance with the regulations of the Secretary and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Secretary; (4) will provide all assistance needed by the Secretary for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing or supervision of weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(h) Weighing prohibited when not in accordance with prescribed procedures

No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

(i) Unauthorized weighing prohibited

No State or local governmental agency or person other than an authorized employee of the Secretary shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Secretary as provided in this section or as otherwise provided in section 79(i) of this title and subsection (d) of this section. Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 74 of this title, except that the Secretary may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 74 of this title.

(j) Authority under United States Warehouse Act not limited

The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

(k) Access to elevators, warehouses, or their storage or handling facilities

The representatives of the Secretary shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

***(l)* Fees; establishment, amount, payment, etc.**

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs to the Secretary incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to performance of its[1] functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 79(j) of this title.

(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the costs incurred by the Secretary relating to supervision of the agency personnel and supervision by the Secretary of the Secretary's field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 79(g)(3), 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in section 79(j) of this title. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3) The authority provided to the Secretary by paragraph (1) and the duties imposed by paragraph (2) on agencies and other persons described in such paragraph shall expire on September 30, 2000. After that date, the Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to its[1] performance of official weighing and supervision of weighing serv-

[1] So in original. Probably should be ''the Secretary's''.

ices in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. The fees authorized by this paragraph shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §7A, as added Pub. L. 94–582, §9, Oct. 21, 1976, 90 Stat. 2875; amended Pub. L. 95–113, title XVI, §§1602(b), 1604(e), 1606(e), Sept. 29, 1977, 91 Stat. 1025, 1027, 1030; Pub. L. 97–35, title I, §155(2), Aug. 13, 1981, 95 Stat. 371; Pub. L. 100–518, §2(2), Oct. 24, 1988, 102 Stat. 2585; Pub. L. 103–156, §§4(b), 5(b), 12(e), 14(b), Nov. 24, 1993, 107 Stat. 1526, 1528, 1530; Pub. L. 103–354, title II, §293(a)(4), (7), (8), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subsec. (j), is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of this title. For complete classification of this Act to the Code, see section 241 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''supervision by the Secretary of the Secretary's field office personnel'' for ''supervision by Service personnel of its field office personnel'' in first sentence of subsec. (*l*)(2) and substituted ''Secretary'' for ''Administrator'' and ''Service'' wherever appearing in subsecs. (a) to (f) and (i) to (*l*).

1993—Subsec. (c)(2). Pub. L. 103–156, §4(b)(1), in second sentence, substituted '' 'official weighing' or 'supervision of weighing' '' for '' 'supervision of weighing' ''.

Subsec. (d). Pub. L. 103–156, §4(b)(2), inserted before period at end of second sentence ''or as otherwise provided by agreement with the Canadian Government''.

Subsec. (e). Pub. L. 103–156, §12(e), which directed amendment of ''Section 7A(e)'' by substituting ''regulations as the Administrator'' for ''regulations as he'', without specifying the name of the Act being amended, was executed to this section, which is section 7A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 103–156, §§4(b)(3), 5(b), inserted before period at end of first sentence ''or as otherwise provided in section 79(i) of this title and subsection (d) of this section'' and inserted before period at end of second sentence '', except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 74 of this title''.

Subsec. (*l*)(3). Pub. L. 103–156, §14(b), added par. (3).

1988—Subsec. (*l*). Pub. L. 100–518 amended subsec. (*l*) generally, substituting ''cover the costs of the Service'' for ''cover the costs of the service'' in par. (1).

1981—Subsec. (*l*). Pub. L. 97–35 temporarily designated existing provisions as par. (1), made changes in nomenclature, provided for inclusion, rather than exclusion, of administrative and supervisory costs, and struck out provisions respecting availability of deposited funds, and added par. (2). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113, §1606(e), substituted ''standards or procedures'' for ''standards''.

Subsec. (b). Pub. L. 95–113, §§1604(e)(1), 1606(e), substituted ''The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures'' for ''The Administrator is authorized to cause supervision of weighing under standards'' and ''other than at export elevators at export port locations'' for ''other than at export port locations''.

Subsec. (c)(2). Pub. L. 95–113, §1604(e)(2), made technical amendments to conform par. (2) to increased authority granted in subsec. (b) to cause official weighing as well as supervision of weighing at interior inspection points and corrected a typographical error in which ''number'' had been erroneously used for ''under'' in text as originally enacted by Pub. L. 94–582.

Subsec. (d). Pub. L. 95–113, §1604(e)(3), inserted requirement that all or specified functions of Canadian weighing be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (e). Pub. L. 95–113, §§1604(e)(4), 1606(e), substituted ''under standards or procedures provided'' for ''under standards provided'' and struck out provisions which had required that the weighing service not be provided for periods of less than a year, that the fees therefor be set separately from the fees provided for in subsec. (*l*), and that they be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing the service.

Subsec. (f)(2). Pub. L. 95–113, §1604(e)(5)(A), substituted ''permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator'' for ''employ only competent persons with a reputation for honesty and integrity''.

Subsec. (f)(3). Pub. L. 95–113, §1604(e)(5)(B), substituted ''when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales'' for ''when weighing is to be done by employees of the facility, will require employees to operate the scales''.

Subsec. (g). Pub. L. 95–113, §1604(e)(6), substituted ''official weighing or supervision of weighing'' for ''official weighing''.

Subsec. (i). Pub. L. 95–113, §1604(e)(7), (8), substituted ''No State or local governmental agency'' for ''No State'' and inserted provision that not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

Subsec. (*l*). Pub. L. 95–113, §1602(b), revised provisions relating to fees so as to remove requirement that field supervision of weighing be supported by fees.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100–518 which provided that the amendment made by Pub. L. 100–518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103–156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97–35, as amended by Pub. L. 98–469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97–35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 84, 87, 87b, 87e, 87h of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually; fees

The Secretary shall provide for the testing of all equipment used in the sampling, grading, in-

spection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, but at least annually and under such regulations as the Secretary may prescribe, as the Secretary deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Secretary incident to the performance of such testing by employees of the Secretary. Such fees shall be deposited into the fund created by section 79(j) of this title.

(b) Personnel to conduct testing

The Secretary is authorized to cause such testing provided for in subsection (a) of this section to be performed (1) by personnel employed by the Secretary, or (2) by States, political subdivisions thereof, or persons under the supervision of the Secretary, under such regulations as the Secretary may prescribe.

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use for the purposes of this chapter any such equipment not approved by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, §7B, as added Pub. L. 94–582, §9, Oct. 21, 1976, 90 Stat. 2877; amended Pub. L. 95–113, title XVI, §1604(f), Sept. 29, 1977, 91 Stat. 1028; Pub. L. 103–156, §12(f), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' and ''Service'' wherever appearing.

1993—Subsec. (a). Pub. L. 103–156, which directed amendment of ''Section 7B(a)'' by substituting ''as the Administrator deems necessary'' for ''as he deems necessary'', without specifying the name of the Act being amended, was executed to this section, which is section 7B of the United States Grain Standards Act, to reflect the probable intent of Congress.

1977—Subsec. (a). Pub. L. 95–113, §1604(f)(1), (2), substituted ''and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators'' for ''and weighing of grain located at all grain elevators'' and inserted provisions that regulations provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of testing by employees of the Service and that the fees be deposited into the fund created by section 79(j) of this title.

Subsec. (c). Pub. L. 95–113, §1604(f)(3), substituted ''shall use for the purposes of this chapter'' for ''shall use''.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87e, 87h of this title.

§ 79c. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §7C, as added Aug. 13, 1981, Pub. L. 97–35, title I, §155(3), 95 Stat. 372; amended Oct. 11, 1984, Pub. L. 98–469, §2(2), 98 Stat. 1831, which limited the total administrative and supervisory costs which could be incurred under this chapter for fiscal years 1982 through 1988, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97–35, as amended. See section 79d of this title.

§ 79d. Limitation on administrative and supervisory costs

The total administrative and supervisory costs which may be incurred under this chapter for services performed (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 2000 shall not exceed 40 per centum of the total costs for such activities carried out by the Secretary for such year.

(Aug. 11, 1916, ch. 313, pt. B, §7D, as added Pub. L. 100–518, §2(3), Oct. 24, 1988, 102 Stat. 2585; amended Pub. L. 103–156, §2, Nov. 24, 1993, 107 Stat. 1525; Pub. L. 103–354, title II, §293(a)(8), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Service''.

1993—Pub. L. 103–156 substituted ''services performed'' for ''inspection and weighing'' and ''2000'' for ''1993''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103–156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100–518 which provided that section was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103–156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

§§ 80 to 83. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 80, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, provided for revocation and suspension of licenses issued by the Secretary of Agriculture. See section 85 of this title.

Section 81, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, prohibited the existence of an interest, financial or otherwise, direct or indirect, on the part of inspectors in grain elevators or warehouses or in the merchandising of grain. See section 87 of this title.

Section 82, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, required maintenance of records and reports by inspectors. See section 87a of this title.

Section 83, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, called for a semiannual report by the Secretary of Agriculture on the delivery of grain in the nation.

§ 84. Licensing of inspectors

(a) Authorization

The Secretary is authorized (1) to issue a license to any individual upon presentation to the

Secretary of satisfactory evidence that such individual is competent, and is employed (or is supervised under a contractual arrangement) by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Secretary to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Secretary under this chapter.

(b) Duration of licenses; suspension; reinstatement

All classes of licenses issued under this chapter shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or to operate under the terms of a contract for the conduct of any functions under this chapter: *Provided further*, That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

(c) Examination of applicants; reexaminations

The Secretary may require such examinations and reexaminations as the Secretary may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Secretary, to perform any official inspection or weighing function under this chapter.

(d) Inspectors performing under contract not deemed Federal employees

Persons employed or supervised under a contractual arrangement by an official agency (including persons employed or supervised under a contractual arrangement by a State agency under a delegation of authority pursuant to this chapter) and persons performing official inspection functions under contract with the Secretary shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this chapter or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18.

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Secretary may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided*, That the Secretary determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Secretary may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Secretary deems necessary without regard to section 5333 of title 5.

(f) Periodic rotation of personnel

The Secretary shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Secretary as the Secretary deems necessary to preserve the integrity of the official inspection and weighing system provided by this chapter.

(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel

The Secretary shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Secretary, all State agencies under delegation of authority pursuant to this chapter, and all official agencies and all persons licensed or authorized to perform functions under this chapter: *Provided*, That persons licensed or authorized on October 21, 1976, to perform any official function under this chapter, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards is-

sued pursuant thereto if the Secretary determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Secretary deems necessary.

(Aug. 11, 1916, ch. 313, pt. B, § 8, 39 Stat. 485; Pub. L. 90–487, § 1, Aug. 15, 1968, 82 Stat. 764; Pub. L. 94–582, § 10, Oct. 21, 1976, 90 Stat. 2877; Pub. L. 95–113, title XVI, §§ 1604(g), 1606(f), Sept. 29, 1977, 91 Stat. 1028, 1030; Pub. L. 103–156, §§ 6, 12(g), Nov. 24, 1993, 107 Stat. 1526, 1528; Pub. L. 103–354, title II, § 293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' and ''Service'' wherever appearing.

1993—Pub. L. 103–156, § 12(g), which directed amendment of ''Section 8'', without specifying the name of the Act being amended, was executed to this section, which is section 8 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §§ 6(1), 12(g)(1), in cl. (1), substituted ''presentation to the Administrator'' for ''presentation to him'' and inserted ''(or is supervised under a contractual arrangement)'' after ''and is employed'', and in second sentence, substituted ''Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person'' for ''No person''.

Subsec. (b). Pub. L. 103–156, § 6(2), substituted ''under the terms of a contract for the conduct of any functions'' for ''independently under the terms of a contract for the conduct of any functions involved in official inspection''.

Subsec. (c). Pub. L. 103–156, § 12(g)(2), substituted ''the Administrator'' for ''he''.

Subsec. (d). Pub. L. 103–156, § 6(3), inserted ''or supervised under a contractual arrangement'' after ''Persons employed'' and after ''including persons employed''.

Subsec. (f). Pub. L. 103–156, § 12(g)(2), substituted ''the Administrator'' for ''he''.

1977—Subsec. (a)(1). Pub. L. 95–113, § 1604(g)(1)(A), substituted ''weighing, other than appeal weighing, of grain'' for ''weighing of grain''.

Subsec. (a)(2)(B). Pub. L. 95–113, § 1604(g)(1)(B), substituted ''weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports'' for ''weighing of grain''.

Subsec. (a)(3). Pub. L. 95–113, § 1604(g)(1)(C), substituted ''any person or governmental agency specified sampling, laboratory testing, and similar technical functions'' for ''any person to perform specified sampling and laboratory testing''.

Subsec. (e). Pub. L. 95–113, § 1604(g)(2), inserted provisions authorizing the Administrator to compensate the personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

Subsec. (f). Pub. L. 95–113, § 1606(f), substituted ''official inspection and weighing system'' for ''official inspection system''.

1976—Subsec. (a). Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'' in two places; designated existing provisions as item (1) and substituted ''official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States'' for ''official inspection agency to perform all or specified functions involved in official inspection''; substituted provisions designated as item (2) for ''to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports''; inserted items (3) and (4); struck out authorization to license any competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture; and conditioned performance of any official weighing function on the holding of a license or authorization.

Subsec. (b). Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'', ''official agency'' for ''official inspection agency'' in two places, and ''subsection (c)'' for ''paragraph (c)'', and inserted provision respecting employment of licensee by a State agency under a delegation of authority pursuant to this chapter in two places.

Subsec. (c). Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'' and ''Service'' for ''Department of Agriculture'' and included performance of weighing function.

Subsec. (d). Pub. L. 94–582 substituted ''official agency (including persons employed by a State agency under a delegation of authority pursuant to this chapter)'' for ''official inspection agency'' and ''contract with the Service'' for ''contracts with the Department of Agriculture'' and inserted provision respecting status as persons acting for or on behalf of the United States in application of sections 118, 201, and 1114 of Title 18.

Subsecs. (e) to (g). Pub. L. 94–582 added subsecs. (e) to (g).

1968—Pub. L. 90–487 substituted provisions for the licensing and examination and reexamination of inspectors for provisions authorizing the Secretary of Agriculture to promulgate rules and regulations.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 79, 87b of this title.

§ 85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension

The Secretary may refuse to renew, or may suspend or revoke, any license issued under this chapter whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected or weighed or supervised the weighing of grain for purposes of this chapter, by any standard or criteria other than as provided for in this chapter, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected or weighed or supervised the weighing of grain improperly

under this chapter, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used the license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this chapter or of the regulations prescribed or instructions issued to the licensee by the Secretary under this chapter. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this chapter. The Secretary may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 87b of this title or convicted of any offense proscribed by title 18, with respect to performance of functions under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §9, 39 Stat. 485; Aug. 1, 1956, ch. 812, 70 Stat. 780; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 765; Pub. L. 94–582, §11, Oct. 21, 1976, 90 Stat. 2879; Pub. L. 103–156, §12(h), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, which directed amendment of ''Section 9'' by substituting ''or has used the license'' for ''or has used his license'' and ''instructions issued to the licensee'' for ''instructions issued to him'', without specifying the name of the Act being amended, was executed to this section, which is section 9 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1976—Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'' wherever appearing and ''inspected or weighed or supervised the weighing of'' for ''inspected'' in two places and authorized summary revocation of licenses based on conviction of prescribed offenses.

1968—Pub. L. 90–487 substituted provisions authorizing the suspension, revocation, and refusal of renewal of licenses by the Secretary, for provisions setting out the penalties for violations of this chapter.

1956—Act Aug. 1, 1956, provided penalties for persons who knowingly sample grain improperly and for persons who knowingly or willfully cause or attempt to cause the issuance of a false grade certificate by deceptive loading, handling, or sampling of grain, or any other means.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87e of this title.

§ 86. Refusal of inspection and weighing services; civil penalties

(a) Grounds for refusal of services

The Secretary may (for such period, or indefinitely, as the Secretary deems necessary to effectuate the purposes of this chapter) refuse to provide official inspection or the services related to weighing otherwise available under this chapter with respect to any grain offered for such services, or owned, wholly or in part, by any person if the Secretary determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 87b of this title, or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

(b) Persons responsibly connected with a business

For purposes of subsection (a) of this section, a person shall be deemed to be responsibly connected with a business if the person was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Civil penalties

In addition to, or in lieu of, penalties provided under section 87c of this title, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Secretary may assess against any person who has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed $75,000 for each such violation as the Secretary determines is appropriate to effectuate the objectives stated in section 74 of this title.

(d) Opportunity for hearing; temporary refusal without hearing pending final determination

Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5: *Provided*, That the Secretary may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Secretary has reason to believe there is cause for refusal of inspection or services related to weighing and considered such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and

ancillary procedures related thereto shall be conducted in an expedited manner.

(e) Collection and disposition of civil penalties

Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Secretary may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 87f of this title for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.

(Aug. 11, 1916, ch. 313, pt. B, §10, 39 Stat. 485; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 765; Pub. L. 94–582, §12, Oct. 21, 1976, 90 Stat. 2879; Pub. L. 103–156, §12(i), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (c) to (e). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(i), which directed amendment of ''Section 10'', without specifying the name of the Act being amended, was executed to this section, which is section 10 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §12(i)(1), substituted ''the Administrator'' for ''he'' in two places.

Subsec. (b). Pub. L. 103–156, §12(i)(2), substituted ''the person'' for ''he''.

1976—Subsec. (a). Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'', ''grain offered for such services'' for ''grain offered for inspection'', ''has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused'' for ''has been convicted of any violation of section 87b of this title, or that official inspection has been refused'', and ''integrity of the service'' for ''integrity of the official inspection service'', and authorized refusal of provision of services relating to weighing.

Subsec. (c). Pub. L. 94–582 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94–582 redesignated provisions of former subsec. (c) as (d), inserted ''or services related to weighing'' before ''is refused'', inserted ''or a civil penalty is assessed against any person under this section'' after ''to any person'', provided for the hearing under sections 554, 556, and 557 of title 5, and inserted provisions relating to temporary refusal without hearing pending final determination.

Subsec. (e). Pub. L. 94–582 added subsec. (e).

1968—Pub. L. 90–487 substituted provisions authorizing the Secretary to refuse official inspection and affording an opportunity for a hearing in such a case, for provisions setting the penalty for interference with the execution of official duties.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87c of this title.

§ 87. Conflicts of interest

(a) Prohibition with respect to persons licensed or authorized by Secretary to perform official functions

No person licensed or authorized by the Secretary to perform any official function under this chapter, or employed by the Secretary in otherwise carrying out any of the provisions of this chapter, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however*, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as the Secretary determines are consistent with the purposes of this chapter.

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

(1) No official agency or a State agency delegated authority under this chapter, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which the producer does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the vot-

ing stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Secretary under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term ''use of official inspection service'' shall be deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Secretary shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Secretary may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, the Secretary may also designate any other person, if the Secretary determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Secretary makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Secretary shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(Aug. 11, 1916, ch. 313, pt. B, §11, 39 Stat. 485; Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 766; Pub. L. 94–582, §13, Oct. 21, 1976, 90 Stat. 2880; Pub. L. 95–113, title XVI, §§1604(h), 1606(g), Sept. 29, 1977, 91 Stat. 1028, 1030; Pub. L. 103–156, §12(j), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103–437, §4(a)(1), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(5). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1993—Pub. L. 103–156, §12(j), which directed amendment of ''Section 11'', without specifying the name of the Act being amended, was executed to this section, which is section 11 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §12(j)(1), substituted ''the Administrator'' for ''he'' before ''determines''.

Subsec. (b)(1). Pub. L. 103–156, §12(j)(2)(A), substituted ''the producer'' for ''he''.

Subsec. (b)(5). Pub. L. 103–156, §12(j)(2)(B), substituted ''the Administrator'' for ''he'' in two places.

1977—Subsec. (b)(3). Pub. L. 95–113, §1604(h)(1), substituted ''to perform official weighing or supervision of weighing'' for ''to perform supervision of weighing''.

Subsec. (b)(4). Pub. L. 95–113, §1606(g), substituted ''official weighing or supervision of weighing'' for ''official weighing''.

Subsec. (b)(5). Pub. L. 95–113, §1604(h)(2), substituted ''to perform official inspection or perform official weighing or supervision of weighing except that'' for ''to perform official inspection or perform supervision of weighing except that'' and ''member, director, officer'' for ''member, officer''.

Subsec. (c). Pub. L. 95–113, §1604(h)(3), inserted ''or State agency delegated authority under this chapter'' after ''official agency''.

1976—Subsec. (a). Pub. L. 94–582, §13(a)–(c), substituted ''Administrator'' for ''Secretary'' wherever appearing and ''perform any official function'' for ''perform any official inspection function'', and designated first paragraph provisions, as amended, as subsec. (a), respectively.

Subsecs. (b), (c). Pub. L. 94–582, §13(c), added subsecs. (b) and (c).

1968—Pub. L. 90–487 substituted provisions prohibiting a conflict of interest on the part of inspectors who are interested financially in a grain elevator or in grain merchandising, for provisions covering the separability of provisions of this chapter.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–487, see section 2 of Pub. L. 90–487, set out as a note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 87b of this title.

§ 87a. Records

(a) Samples of grain

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every

person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to the five-year period whenever in the judgment of the Secretary the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Secretary shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as the Secretary deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Secretary may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representative of the Secretary, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(Aug. 11, 1916, ch. 313, pt. B, §12, as added Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 766; amended Pub. L. 94–582, §14, Oct. 21, 1976, 90 Stat. 2882; Pub. L. 95–113, title XVI, §§1601, 1604(i), Sept. 29, 1977, 91 Stat. 1024, 1029; Pub. L. 103–156, §12(k), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103–354, title II, §293(a)(5)–(7), Oct. 13, 1994, 108 Stat. 3237.)

PRIOR PROVISIONS

A prior section 12 of act Aug. 11, 1916, ch. 313, pt. B, 39 Stat. 485, which appropriated a sum of $250,000 for expenses of carrying into effect this chapter, was not classified to the Code.

AMENDMENTS

1994—Pub. L. 103–354 struck out ''or Administrator'' after ''representative of the Secretary'' in subsec. (c), struck out ''or the Administrator'' after ''representative of the Secretary'' in subsec. (d), and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(k), which directed amendment of ''Section 12'', without specifying the name of the Act being amended, was executed to this section, which is section 12 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 103–156, §12(k)(1), substituted ''the judgment of the Administrator'' for ''his judgment''.

Subsec. (c). Pub. L. 103–156, §12(k)(2), substituted ''the Administrator'' for ''he''.

1977—Subsecs. (a), (b). Pub. L. 95–113, §1604(i)(1), inserted '', every State agency delegated authority under this chapter,'' after ''official agency''.

Subsec. (c). Pub. L. 95–113, §1604(i)(1), (2), inserted '', every State delegated authority under this chapter,'' after ''official agency'' and corrected a typographical error in Pub. L. 94–582 under which ''delegate authority of this chapter'' had been erroneously used instead of ''delegated authority under this chapter''.

Subsec. (d). Pub. L. 95–113, §1601, substituted ''shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter'' for ''shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain,''.

1976—Subsec. (a). Pub. L. 94–582 substituted ''official agency'' for ''official inspection agency'' and ''Administrator'' for ''Secretary'' and inserted reference to licensed performance of official weighing or supervision of weighing function.

Subsec. (b). Pub. L. 94–582 substituted ''Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter'' for ''Every official inspection agency'' and ''Administrator'' for ''Secretary'' in two places, increased from two to five years the period of time for keeping the records, and inserted provision for keeping the records after the weighing.

Subsec. (c). Pub. L. 94–582 substituted ''Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter'' for ''Every official inspection agency'', provided for access to and the copying of records by any authorized representative of the Administrator or the Comptroller General, and required Administrator audits of official agencies and State agencies delegate authority.

Subsec. (d). Pub. L. 94–582 added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

MAINTENANCE OF RECORDS NOT INVOLVING OFFICIAL INSPECTION OR OFFICIAL WEIGHING

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1055, provided in part: ''That hereafter, none of the funds available to the Federal Grain Inspection Service may be

used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94–582 [see Short Title of 1976 Amendment note set out under section 71 of this title] other than those necessary to fulfill the purposes of such Act.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–341, title I, Aug. 14, 1992, 106 Stat. 883.
Pub. L. 102–142, title I, Oct. 28, 1991, 105 Stat. 887.
Pub. L. 101–506, title I, Nov. 5, 1990, 104 Stat. 1324.
Pub. L. 101–161, title I, Nov. 21, 1989, 103 Stat. 960.
Pub. L. 100–460, title I, Oct. 1, 1988, 102 Stat. 2238.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 87b. Prohibited acts

(a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Secretary or the representative of the Secretary, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture with respect to the performance of the duties of the officer, employee, or other person under this chapter;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture in, or on account of, the performance of the duties of the officer, employee, or other person under this chapter;

(9) falsely represent that the person is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this chapter;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate section 77, 78, 79, 79a, 79b, 84, 87, 87a, 87e, or 87f–1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Secretary.

(b) No person licensed or authorized to perform any function under this chapter shall—

(1) commit any offense prohibited by subsection (a) of this section;

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this chapter;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this chapter if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—

(A) no dockage or foreign material, as defined by the Secretary, once removed from grain shall be recombined with any grain; and

(B) no dockage or foreign material of any origin may be added to any grain.

(2) Nothing in paragraph (1) shall be construed to prohibit—

(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(B) the marketing, domestically or for export, of dockage or foreign material removed from grain if such dockage or foreign material is marketed—

(i) separately and uncombined with any such whole grain;

(ii) in pelletized form; or

(iii) as a part of a processed ration for livestock, poultry, or fish;

(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(D) the recombination of broken corn or broken kernels, as defined by the Secretary, with grain of the type from which the broken corn or broken kernels were derived;

(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection if—

(i) the recombination occurs during the loading of the cargo;

(ii) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo; and

(iii) the separation and recombination are conducted in accordance with regulations issued by the Secretary; or

(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in a quantity necessary to facilitate identification of ownership or origin of a particular lot of grain.

(3)(A) The Secretary may, by regulation, exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor if such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public.

(B) Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale. Neither products nor byproducts derived therefrom (except vegetable oils as defined by the Secretary and used as a dust suppressant) shall be blended with or added to grain in commercial channels.

(e)(1) The Secretary may prohibit the contamination of sound and pure grain as a result of the introduction of—

(A) nongrain substances;

(B) grain unfit for ordinary commercial purposes; or

(C) grain that exceeds action limits established by the Food and Drug Administration or grain having residues that exceed the tolerance levels established by the Environmental Protection Agency.

(2) No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

(3) Prior to taking action under this subsection, the Secretary shall promulgate regulations after providing for notice and an opportunity for public comment, that identify and define actions and conditions that are subject to prohibition.

(4) In no case shall the Secretary prohibit the blending of an entire grade of grain.

(5) In implementing paragraph (1)(C), the Secretary shall report any prohibitions to other appropriate public health agencies.

(Aug. 11, 1916, ch. 313, pt. B, §13, as added Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 766; amended Pub. L. 94–582, §15, Oct. 21, 1976, 90 Stat. 2883; Pub. L. 95–113, title XVI, §§1604(j), 1606(h), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 99–641, title III, §303(a), Nov. 10, 1986, 100 Stat. 3564; Pub. L. 101–624, title XX, §2008, Nov. 28, 1990, 104 Stat. 3931; Pub. L. 103–156, §§7, 12(*l*), Nov. 24, 1993, 107 Stat. 1526, 1529; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a)(2), (13), (d)(2)(D), (E)(iii), (e)(1), (3) to (5). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(*l*), which directed amendment of ''Section 13'', without specifying the name of the Act being amended, was executed to this section, which is section 13 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103–156, §12(*l*)(1), substituted ''the representative of the Administrator'' for ''his representative''.

Subsec. (a)(7), (8). Pub. L. 103–156, §12(*l*)(2), substituted ''the duties of the officer, employee, or other person'' for ''his duties''.

Subsec. (a)(9). Pub. L. 103–156, §12(*l*)(3), substituted ''the person'' for ''he''.

Subsec. (a)(11). Pub. L. 103–156, §7, amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''violate any provision of section 77; 78; 79(f)(2), (3), or (4); 79a; 79b(c); 84; 87; 87a; or 87f–1 of this title;''.

1990—Subsec. (e). Pub. L. 101–624 added subsec. (e).

1986—Subsec. (d). Pub. L. 99–641 added subsec. (d).

1977—Subsec. (a)(6). Pub. L. 95–113, §§1604(j)(1), 1606(h), substituted ''or condition'' for ''condition, or quantity'' and inserted '', or that any weighing service under this chapter has been performed with respect to grain'' after ''official inspection under this chapter''.

Subsec. (a)(11). Pub. L. 95–113, §1604(j)(2), inserted references to sections 79(f)(3) and (4) and 87f–1 of this title.

Subsec. (a)(12). Pub. L. 95–113, §1604(j)(3), substituted ''weighing equipment'' for ''testing equipment''.

Subsec. (a)(13). Pub. L. 95–113, §1604(j)(4), substituted ''financial interest in grain'' for ''financial interest in the grain'' and ''loading of the grain'' for ''loading of grain''.

1976—Subsec. (a)(1). Pub. L. 94–582, §15(a)(1), substituted ''official mark'' for ''official inspection mark''.

Subsec. (a)(2). Pub. L. 94–582, §15(a)(2), substituted ''official mark'' for ''official inspection mark'' in three places, ''official certificate'' for ''official inspection certificate'' and ''Administrator'' for ''Secretary''.

Subsec. (a)(3). Pub. L. 94–582, §15(a)(2), prohibited deceptive weighing of grain or submitting grain for official weighing or supervision of weighing knowing it has been deceptively weighed without disclosure before official weighing or supervision of weighing.

Subsec. (a)(5). Pub. L. 94–582, §15(a)(3), substituted ''official mark'' for ''official inspection mark'' and inserted ''or officially weighed, respectively,'' after ''such container''.

Subsecs. (a)(7), (8). Pub. L. 94–582, §15(a)(4), inserted ''or personnel of agencies delegated authority or of

agencies or other persons designated under this chapter'' after ''personnel''.

Subsec. (a)(9). Pub. L. 94–582, §15(a)(5), inserted ''or official weighing or supervision of weighing'' after ''official inspection''.

Subsec. (a)(10). Pub. L. 94–582, §15(a)(5), (6), inserted ''or official weighing or supervision of weighing'' after ''official inspection'' and struck out ''or'' at end.

Subsec. (a)(11). Pub. L. 94–582, §15(a)(5), inserted after ''sections 77, 78,'' references to ''79(f)(2), 79a, 79b(c)''.

Subsecs. (a)(12), (13). Pub. L. 94–582, §15(a)(6), added pars. (12) and (13).

Subsec. (b)(2). Pub. L. 94–582, §15(b), substituted ''inspection or weighing function'' for ''inspection function''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99–641 provided that: ''The amendments made by this section [amending this section] shall become effective on May 1, 1987.''

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Administrator of Federal Grain Inspection Service to estimate economic impact, including benefits and costs and distribution of such benefits and costs, of any major changes necessary to carry out amendments to this section by title XX of Pub. L. 101–624 prior to making such changes, see section 2003 of Pub. L. 101–624, set out as a note under section 76 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 87c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 86, 87c of this title.

§ 87c. Criminal penalties

(a) Any person who commits any offense prohibited by section 87b of this title (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case the person shall be subject to the general penal statutes in title 18 relating to crimes and offenses against the United States) shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine.

(b) Nothing in this chapter shall be construed as requiring the Secretary to report minor violations of this chapter for criminal prosecution whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this chapter for prosecution when the Secretary believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and the Secretary institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this chapter shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of Title 18.

(Aug. 11, 1916, ch. 313, pt. B, §14, as added Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 767; amended Pub. L. 94–582, §17, Oct. 21, 1976, 90 Stat. 2884; Pub. L. 103–156, §§8, 12(m), Nov. 24, 1993, 107 Stat. 1527, 1529; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(m), which directed amendment of ''Section 14'', without specifying the name of the Act being amended, was executed to this section, which is section 14 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–156, §§8, 12(m)(1), substituted ''the person'' for ''he'', and struck out ''shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person'' before ''shall be guilty of a felony''.

Subsec. (b). Pub. L. 103–156, §12(m)(2), substituted ''the Administrator'' for ''he'' in three places.

1976—Subsec. (a). Pub. L. 94–582 inserted ''(except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in Title 18 relating to crimes and offenses against the United States)'', increased the punishment for misdemeanors from six months to twelve months and the fine from $3,000 to $10,000, and denominated subsequent offenses as felonies, substituting ''but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine'' for ''but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than $5,000, or both such imprisonment and fine''.

Subsec. (b). Pub. L. 94–582 substituted ''Administrator'' for ''Secretary'' and inserted provision that nothing in this chapter shall be construed as requiring the Administrator to report any violation of this chapter for prosecution when he believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

Subsec. (c). Pub. L. 94–582 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86 of this title.

§ 87d. Responsibility for acts of others

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of the employment or office of the official, agent, or other person shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

(Aug. 11, 1916, ch. 313, pt. B, § 15, as added Pub. L. 90–487, § 1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 103–156, § 12(n), Nov. 24, 1993, 107 Stat. 1529.)

AMENDMENTS

1993—Pub. L. 103–156, which directed amendment of ''Section 15'' by substituting ''the employment or office of the official, agent, or other person'' for ''his employment or office'', without specifying the name of the Act being amended, was executed to this section, which is section 15 of the United States Grain Standards Act, to reflect the probable intent of Congress.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87e. General authorities

(a) Authority of Secretary

The Secretary is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Secretary deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Secretary be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Secretary. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Secretary is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Secretary shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints.

(c) Monitoring of United States grain upon its entry into foreign nations

The Secretary is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

(d) Authority of Office of Investigation of Department of Agriculture

The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this chapter.

(e) Research program to develop methods of improving accuracy and uniformity in grading grain

The Secretary is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Secretary shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(g) Testing of certain weighing equipment

(1) Subject to paragraph (2), the Secretary may provide for the testing of weighing equip-

ment used for purposes other than weighing grain. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(h) Testing of grain inspection instruments

(1) Subject to paragraph (2), the Secretary may provide for the testing of grain inspection instruments used for commercial inspection. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(i) Additional for fee services

(1) In accordance with such regulations as the Secretary may provide, the Secretary may perform such other services as the Secretary considers to be appropriate.

(2) In addition to the fees authorized by sections 79, 79a, 79b, and 87f–1 of this title, and this section, the Secretary shall collect reasonable fees to cover the estimated costs of services performed under paragraph (1) other than standardization and foreign monitoring activities.

(3) To the extent practicable, the fees collected under paragraph (2), together with any proceeds from the sale of any samples, shall cover the costs, including administrative and supervisory costs, of services performed under paragraph (1).

(j) Deposit of fees

Fees collected under subsections (g), (h), and (i) of this section shall be deposited into the fund created under section 79(j) of this title.

(k) Official courtesies

The Secretary may extend appropriate courtesies to official representatives of foreign countries in order to establish and maintain relationships to carry out the policy stated in section 74 of this title. No gift offered or accepted pursuant to this subsection shall exceed $20 in value.

(Aug. 11, 1916, ch. 313, pt. B, §16, as added Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 94–582, §18, Oct. 21, 1976, 90 Stat. 2884; Pub. L. 95–113, title XVI, §§1604(k), 1606(i), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 102–237, title X, §1007(2), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103–156, §9, Nov. 24, 1993, 107 Stat. 1527; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c), (e) to (i), (k). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Subsec. (b). Pub. L. 103–156, §9(1), struck out at end ''The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.''

Subsecs. (g) to (k). Pub. L. 103–156, §9(2), added subsecs. (g) to (k).

1991—Subsec. (a). Pub. L. 102–237 substituted ''Administrator'' for ''Administrtor'' at end of second sentence.

1977—Subsec. (a). Pub. L. 95–113, §1604(k)(1), rearranged existing provisions and inserted references to the installation of handling and weighing equipment and to warehouses and other grain storage or handling facilities.

Subsec. (b). Pub. L. 95–113, §1606(i), substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

Subsec. (f). Pub. L. 95–113, §1604(k)(2), struck out ''additional'' before ''inspection and weighing requirements''.

1976—Subsec. (a). Pub. L. 94–582 substituted authorizations of ''Administrator'' for authorizations of ''Secretary'', ''official agency'' for ''official inspection agency'', and ''other person'' for ''any person'' respecting reporting requirement, required reports from State agencies delegated authority under this chapter and from licensees, inserted items (1) to (3) relating to conditions for official inspection, authorized issuance of instructions, and struck out reference to section 86 of this title, including proceedings for refusal of official inspection service not required by section 77 of this title, as not being subject to administrative procedure provisions.

Subsecs. (b) to (f). Pub. L. 94–582 added subsecs. (b) to (f).

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

TEMPORARY EXERCISE BY SECRETARY OF AGRICULTURE OF POWERS, DUTIES, AND AUTHORIZATIONS OF ADMINISTRATOR PENDING APPOINTMENT OF ADMINISTRATOR

Powers, duties, and authorizations of the Administrator of the Federal Grain Inspection Service to be exercised by the Secretary of Agriculture pending the appointment of the Administrator, see section 25 of Pub. L. 94–582, set out as a note under section 75a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87h of this title.

§ 87e–1. Purchase or lease of inspection equipment

Notwithstanding the provisions of section 5 of title 41 and section 490 of title 40, the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on October 21, 1976) to perform official inspection functions under this chapter, at fair market

value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

(Pub. L. 94–582, § 23, Oct. 21, 1976, 90 Stat. 2888.)

CODIFICATION

Section was not enacted as part of the United States Grain Standards Act which comprises this chapter.

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

§ 87f. Enforcement provisions

(a) Subpena power

For the purposes of this chapter, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation by the Secretary, and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Disobedience of subpena

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Secretary may invoke the aid of any court designated in subsection (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Court order requiring attendance and testimony of witnesses

Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Fees and mileage costs of witnesses

Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Violation of subpena as misdemeanor

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in the power of the person to do so, in obedience to the subpena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to imprisonment for not more than 1 year or a fine of not more than $10,000 or both the imprisonment and fine.

(f) Repealed. Pub. L. 91–452, title II, § 203, Oct. 15, 1970, 84 Stat. 928

(g) Repealed. Pub. L. 94–582, § 19(d), Oct. 21, 1976, 90 Stat. 2886

(h) District court jurisdiction

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, § 17, as added Pub. L. 90–487, § 1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 91–452, title II, § 203, Oct. 15, 1970, 84 Stat. 928; Pub. L. 94–582, § 19, Oct. 21, 1976, 90 Stat. 2885; Pub. L. 103–156, §§ 10, 12(*o*), Nov. 24, 1993, 107 Stat. 1528, 1529; Pub. L. 103–354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (e). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Subsec. (e). Pub. L. 103–156, § 12(*o*), which directed amendment of ''Section 17(e)'' by substituting ''the power of the person'' for ''his power'', without specifying the name of the Act being amended, was executed to this section, which is section 17 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Pub. L. 103–156, § 10, substituted ''imprisonment for not more than 1 year or a fine of not more than $10,000 or both the imprisonment and fine'' for ''the penalties set forth in subsection (a) of section 87c of this title''.

1976—Subsec. (a). Pub. L. 94–582, § 19(a), (b), substituted ''Administrator'' for ''Secretary'' in two places and inserted ''by the Administrator'' after ''under investigation'', respectively.

Subsecs. (b) to (d). Pub. L. 94–582, § 19(a), substituted ''Administrator'' for ''Secretary'' in subsecs. (b) to (d).

Subsec. (e). Pub. L. 94–582, § 19(a), (c), substituted ''Administrator'' for ''Secretary'' and inserted ''subsection (a) of'' before ''section 87c of this title''.

Subsec. (g). Pub. L. 94–582, § 19(d), struck out subsec. (g) which made unlawful disclosure of information by an officer or employee of the Department of Agriculture a misdemeanor, subject to the penalties set forth in section 87c of this title.

1970—Subsec. (f). Pub. L. 91–452 struck out subsec. (f) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–452, and amendment not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 86 of this title.

§ 87f–1. Registration requirements

(a) General requirement

The Secretary shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(2) any producer of grain who only incidentally or occasionally sells or transports grain which the producer has purchased;

(3) any person who transports grain for hire and does not own a financial interest in such grain; or

(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

(b) Required information

(1) All persons required to register under this chapter shall submit the following information to the Secretary:

(A) the name and principal address of the business,

(B) the names of all directors of such business,

(C) the names of the principal officers of such business,

(D) the names of all persons in a control relationship with respect to such business,

(E) a list of locations where the business conducts substantial operations, and

(F) such other information as the Secretary deems necessary to carry out the purposes of this chapter.

Persons required to register under this section shall also submit to the Secretary the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

(2) For the purposes of this section, a person shall be deemed to be in a ''control relationship'' with respect to a business required to register under subsection (a) of this section and with respect to applicable interstate businesses if—

(A) such person has an ownership interest of 10 per centum or more in such business, or

(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

(c) Certificate of registration

The Secretary shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b) of this section, the person holding such certificate shall, within thirty days of the discovery of such change, notify the Secretary of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless the person has registered with the Secretary as required by this chapter and has an unsuspended and unrevoked certificate of registration.

(d) Suspension or registration of certificate of registration

The Secretary may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5, the Secretary shall determine that such person has violated any provision of this chapter or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18.

(e) Fees

The Secretary shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Secretary in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 79(j) of this title.

(Aug. 11, 1916, ch. 313, pt. B, §17A, as added Pub. L. 94–582, §22, Oct. 21, 1976, 90 Stat. 2886; amended Pub. L. 95–113, title XVI, §1604(*l*), Sept. 29, 1977, 91 Stat. 1029; Pub. L. 103–156, §12(p), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103–354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (b)(1), (c) to (e). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–156, §12(p), which directed amendment of ''Section 17A'', without specifying the name of the Act being amended, was executed to this section, which is section 17A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103–156, §12(p)(1), substituted ''the producer'' for ''he''.

Subsec. (c). Pub. L. 103–156, §12(p)(2), substituted ''the person'' for ''he'' in last sentence.

1977—Subsec. (b)(1). Pub. L. 95–113 substituted ''All persons required to register'' for ''All persons registered'' in provisions preceding subpar. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87e, 87h of this title.

§ 87f–2. Reporting requirements

(a) General requirements; annual report to Congressional committees

On December 1 of each year, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the effectiveness of the official inspection and weighing system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

(b) Notification of Congressional committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Secretary that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 612c–3[1] of this title, within thirty days after receipt by the Secretary or the Secretary[2] of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

(c) Submission to Congressional committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, § 17B, as added Pub. L. 94–582, § 22, Oct. 21, 1976, 90 Stat. 2888; amended Pub. L. 95–113, title XVI, §§ 1604(m), 1606(i), (j), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 102–237, title X, § 1007(3), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103–354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

Section 612c–3 of this title, referred to in subsec. (b), was repealed by Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1991—Subsec. (a). Pub. L. 102–237 substituted ''On December 1 of each year, the'' for ''The'' and ''Committee on Agriculture'' for ''committee on Agriculture'' before ''of the House'' and struck out ''one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees'' before ''regarding''.

1977—Subsec. (a). Pub. L. 95–113, § 1606(i), (j), substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry'' and ''inspection and weighing'' for ''inspection''.

Subsec. (b). Pub. L. 95–113, §§ 1604(m), 1606(i), substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry'' in provisions preceding cl. (1) and, in cl. (2) substituted ''notwithstanding the provisions of section 612c–3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation'' for ''within thirty days after receipt by the Administrator or the Secretary of the cancellation''.

Subsec. (c). Pub. L. 95–113, § 1606(i), substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE

For effective date of section, see Effective Date of 1976 Amendment note set out under section 74 of this title.

§ 87g. Relation to State and local laws; separability

(a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon the performance of any official inspection or weighing function under this chapter by official inspection personnel. Otherwise nothing in this chapter shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this chapter.

(b) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 11, 1916, ch. 313, pt. B, § 18, as added Pub. L. 90–487, § 1, Aug. 15, 1968, 82 Stat. 769; amended Pub. L. 94–582, § 20, Oct. 21, 1976, 90 Stat. 2886.)

[1] See References in Text note below.

[2] So in original. The words ''or the Secretary'' probably should not appear.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–582 substituted in first sentence ''official inspection or weighing function'' for ''official inspection function''.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87h. Appropriations

There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this chapter, and any other expenses necessary to carry out the provisions of this chapter for each of the fiscal years 1988 through 2000, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 79, 79a, 79b, 87e, and 87f–1 of this title.

(Aug. 11, 1916, ch. 313, pt. B, §19, as added Pub. L. 90–487, §1, Aug. 15, 1968, 82 Stat. 769; amended Pub. L. 94–582, §21, Oct. 21, 1976, 90 Stat. 2886; Pub. L. 95–113, title XVI, §§1602(c), 1604(n), Sept. 29, 1977, 91 Stat. 1025, 1029; Pub. L. 97–35, title I, §155(4), Aug. 13, 1981, 95 Stat. 372; Pub. L. 98–469, §2(3), Oct. 11, 1984, 98 Stat. 1832; Pub. L. 100–518, §2(4), Oct. 24, 1988, 102 Stat. 2586; Pub. L. 103–156, §3, Nov. 24, 1993, 107 Stat. 1525.)

AMENDMENTS

1993—Pub. L. 103–156 substituted ''1988 through 2000'' for ''during the period beginning October 1, 1988, and ending September 30, 1993'' and inserted references to sections 79b and 87e of this title.

1988—Pub. L. 100–518 amended section generally, substituting ''1988'' for ''1981'' and ''1993'' for ''1984''.

1984—Pub. L. 98–469 temporarily substituted ''September 30, 1988'' for ''September 30, 1984''. See Effective and Termination Dates of 1984 Amendment note below.

1981—Pub. L. 97–35 temporarily amended section, substantially revising enumerated activities for which appropriations are authorized and limiting such authorization for each of the fiscal years during the period beginning Oct. 1, 1981, and ending Sept. 30, 1984. See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95–113 substituted ''Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain'' for ''those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain'' and renumbered this section as section 19 of the United States Grain Standards Act, thereby correcting an error in the 1976 amendment of this section by Pub. L. 94–582 under which this section had inadvertently been renumbered from section 19 of the United States Grain Standards Act to section 21 thereof.

1976—Pub. L. 94–582 enumerated specific items for which appropriations are authorized and provided for financing obtained from fees and sales of samples as provided in sections 79a and 87f–1 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103–156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100–518 which provided that amendment made by Pub. L. 100–518 was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103–156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98–469 provided that the amendment made by Pub. L. 98–469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97–35, as amended by Pub. L. 98–469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97–35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–582, see section 27 of Pub. L. 94–582, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90–487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87i. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §20, as added Aug. 13, 1981, Pub. L. 97–35, title I, §155(5), 95 Stat. 372, which established an advisory committee, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97–35, as amended. See section 87j of this title.

§ 87j. Advisory committee

(a) Establishment; number and terms of members

Not later than ninety days after October 24, 1988, the Secretary shall establish an advisory committee to provide advice to the Secretary with respect to implementation of this chapter consistent with the declarations of policy in section 74 of this title. The advisory committee shall consist of fifteen members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 74 of this title. Members of the advisory committee shall be appointed to three-year terms, except that of the initial fifteen members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

(b) Federal Advisory Committee Act as governing

The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act [5 U.S.C. App.].

(c) Clerical assistance and staff personnel

The Secretary shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Compensation and travel expenses

Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5.

(e) Expiration of Secretary's authority

The authority provided to the Secretary for the establishment and maintenance of an advisory committee under this section shall expire on September 30, 2000.

(Aug. 11, 1916, ch. 313, pt. B, § 21, as added Pub. L. 100–518, § 2(5), Oct. 24, 1988, 102 Stat. 2586; amended Pub. L. 103–156, §§ 13(b)(1), 14(c), Nov. 24, 1993, 107 Stat. 1529, 1530; Pub. L. 103–354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

The enactment of this section, referred to in subsec. (a), means Oct. 24, 1988, the date of enactment of Pub. L. 100–518.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsecs. (a), (c). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1993—Subsec. (a). Pub. L. 103–156, § 13(b)(1), struck out ''(1)'' before ''Not later than'' and struck out par. (2) which read as follows: ''To ensure a smooth transition, the advisory committee established under section 87i of this title (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 87i of this title to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 87i of this title.''

Subsec. (e). Pub. L. 103–156, § 14(c), added subsec. (e).

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100–518 which provided that section was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103–156, §§ 13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

§ 87k. Standardizing commercial inspections

(a) Testing equipment

To promote greater uniformity in commercial grain inspection results, the Secretary may work in conjunction with the National Institute for Standards and Technology, the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations to—

(1) identify inspection instruments requiring standardization under subsection (b) of this section;

(2) establish performance criteria for commercial grain inspection instruments;

(3) develop a national program to approve grain inspection instruments for commercial inspection; and

(4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

(b) General inspection procedures

To ensure that producers are treated uniformly in delivering grain, the Secretary shall develop practical and cost-effective procedures for conducting commercial inspections of grain with respect to the application of quality factors, that result in premiums and discounts. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

(c) Inspection services and information

To encourage the use of equipment and procedures developed in accordance with subsections (a) and (b) of this section, the Secretary shall provide for official inspection services by the Secretary, States, and official inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeals under this chapter.

(d) Standardized aflatoxin equipment and procedures

The Secretary shall—

(1) establish uniform standards for testing equipment; and

(2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States.

(Aug. 11, 1916, ch. 313, pt. B, § 22, as added Pub. L. 101–624, title XX, § 2009, Nov. 28, 1990, 104 Stat. 3931; amended Pub. L. 103–156, §§ 11, 13(b)(2), Nov. 24, 1993, 107 Stat. 1528, 1529; Pub. L. 103–354, title II, § 293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'' and was translated as reading ''this part'', meaning part B of act Aug. 11, 1916, known as the United States Grain Standards Act, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing and ''Secretary'' for ''Service'' in subsec. (c).

1993—Subsec. (a). Pub. L. 103–156, § 11, substituted '', the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations'' for ''and the National Conference on Weights and Measures'' in introductory provisions.

Subsec. (c). Pub. L. 103–156, § 13(b)(2), substituted ''subsections (a) and (b)'' for ''subsection (a) and (b)''.

CHAPTER 4—NAVAL STORES

Sec.
91. Short title.
92. Definitions.
93. Establishment of official naval stores standards.
94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof.
95. Prohibition of acts deemed injurious to commerce in naval stores.
96. Punishment for violation of prohibition.
97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.
98. Fees and charges for naval stores inspection and related services; establishment; collection, etc.; authorization of appropriations; administrative expenses.
99. Separability.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Mar. 12, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Secretary and Department of Health, Education, and Welfare was redesignated the Secretary and Department of Health and Human Services by section 3508 of Title 20, Education.

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Naval Stores Act, this chapter, were transferred to the Federal Security Agency by 1940 Reorg. Plan No. IV, §12, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 608c of this title.

§ 91. Short title

For convenience of reference, this chapter may be designated and cited as ''The Naval Stores Act.''

(Mar. 3, 1923, ch. 217, §1, 42 Stat. 1435.)

EFFECTIVE DATE

Section 10 of act Mar. 3, 1923, provided: ''That this Act [enacting this chapter] shall become effective at the expiration of ninety days next after the date of its approval [Mar. 23, 1923].''

CROSS REFERENCES

Orders regulating handling of naval stores, see section 608c of this title.

§ 92. Definitions

When used in this chapter—

(a) ''Naval stores'' means spirits of turpentine and rosin.

(b) ''Spirits of turpentine'' includes gum spirits of turpentine and wood turpentine.

(c) ''Gum spirits of turpentine'' means spirits of turpentine made from gum (oleoresin) from a living tree.

(d) ''Wood turpentine'' includes steam distilled wood turpentine and destructively distilled wood turpentine.

(e) ''Steam distilled wood turpentine'' means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.

(f) ''Destructively distilled wood turpentine'' means wood turpentine obtained in the destructive distillation of the wood.

(g) ''Rosin'' includes gum rosin and wood rosin.

(h) ''Gum rosin'' means rosin remaining after the distillation of gum spirits of turpentine.

(i) ''Wood rosin'' means rosin remaining after the distillation of steam distilled wood turpentine.

(j) ''Package'' means any container of naval stores, and includes barrel, tank, tank car, or other receptacle.

(k) ''Person'' includes partnerships, associations, and corporations, as well as individuals.

(*l*) The term ''commerce'' means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(Mar. 3, 1923, ch. 217, §2, 42 Stat. 1435.)

CROSS REFERENCES

Standards for naval stores until otherwise prescribed as provided in this chapter, kinds of spirits of turpentine defined in subdivisions (c), (e), and (f) of this section as, see section 93 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 93 of this title; title 12 section 1141j.

§ 93. Establishment of official naval stores standards

For the purposes of this chapter the kinds of spirits of turpentine defined in subdivisions (c), (e), and (f) of section 92 of this title and the rosin types heretofore prepared and recommended under existing laws, by or under authority of the Secretary of Agriculture, are made the standards for naval stores until otherwise prescribed as hereinafter provided. The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided, after at least three months' notice of the proposed standard shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same. No such standard shall become effective until after three months from the date of the promulgation thereof. Any standard made by this chapter or established and promulgated by the Secretary of Agriculture in accordance therewith may be modified by said Secretary whenever, for reasons and causes deemed by him sufficient, the interests of the trade shall so require, after at least six months' notice of the proposed modifications shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same; and no such modification so made shall become effective until after six months from the date when made.

The various grades of rosin, from highest to lowest, shall be designated, unless and until changed, as hereinbefore provided, by the following letters, respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, and B, together with the designation ''gum rosin'' or ''wood rosin'', as the case may be.

The standards herein made and authorized to be made shall be known as the ''Official Naval Stores Standards of the United States,'' and may be referred to by the abbreviated expression ''United States Standards'', and shall be the standards by which all naval stores in commerce shall be graded and described.

(Mar. 3, 1923, ch. 217, § 3, 42 Stat. 1435.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98 of this title.

§ 94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof

The Secretary of Agriculture shall provide, if practicable, any interested persons with duplicates of the official naval stores standards of the United States upon request accompanied by tender of satisfactory security for the return thereof, under such regulations as he may prescribe. The Secretary of Agriculture shall examine, if practicable, upon request of any interested person, any naval stores and shall analyze, classify, or grade the same under such regulations as he may prescribe. He shall furnish a certificate showing the analysis, classification, or grade of such naval stores, which certificate shall be prima facie evidence of the analysis, classification, or grade of such naval stores and of the contents of any package from which the same may have been taken, as well as of the correctness of such analysis, classification, or grade and shall be admissible as such in any court.

(Mar. 3, 1923, ch. 217, § 4, 42 Stat. 1436; Pub. L. 97–35, title I, § 159(a)(1), Aug. 13, 1981, 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97–35 struck out ''on tender of the cost thereof as required by him,'' after ''grade the same''.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 159(b) of Pub. L. 97–35 provided that: ''The provisions of this section [amending this section and section 98 of this title] shall become effective October 1, 1981''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 98 of this title.

§ 95. Prohibition of acts deemed injurious to commerce in naval stores

The following acts are hereby declared injurious to commerce in naval stores and are hereby prohibited and made unlawful:

(a) The sale in commerce of any naval stores, or of anything offered as such, except under or by reference to United States standards.

(b) The sale of any naval stores under or by reference to United States standards which is other than what it is represented to be.

(c) The use in commerce of the word ''turpentine'' or the word ''rosin,'' singly or with any other word or words, or of any compound, derivative, or imitation of either such word, or of any misleading word, or of any word, combination of words, letter, or combination of letters, provided herein or by the Secretary of Agriculture to be used to designate naval stores of any kind or grade, in selling, offering for sale, advertising, or shipping anything other than naval stores of the United States standards.

(d) The use in commerce of any false, misleading, or deceitful means or practice in the sale of naval stores or of anything offered as such.

(Mar. 3, 1923, ch. 217, § 5, 42 Stat. 1436.)

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 96 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 96 of this title.

§ 96. Punishment for violation of prohibition

Any person willfully violating any provision of section 95 of this title shall, on conviction, be punished for each offense by a fine not exceeding $5,000 or by imprisonment for not exceeding one year, or both.

(Mar. 3, 1923, ch. 217, § 6, 42 Stat. 1436.)

§ 97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.

The Secretary of Agriculture is hereby authorized to purchase from time to time in open market samples of spirits of turpentine and of anything offered for sale as such for the purpose of analysis, classification, or grading and of detecting any violation of this chapter. He shall report to the Department of Justice for appropriate action any violation of this chapter coming to his knowledge. He is also authorized to publish from time to time results of any analysis, classification, or grading of spirits of turpentine and of anything offered for sale as such made by him under any provision of this chapter.

(Mar. 3, 1923, ch. 217, § 7, 42 Stat. 1436.)

§ 98. Fees and charges for naval stores inspection and related services; establishment, collection, etc.; authorization of appropriations; administrative expenses

(a) The Secretary of Agriculture shall fix and cause to be collected fees and charges for the establishment of standards under section 93 of this title and for examinations, analyses, classifications, and other services under section 94 of this title which shall cover, as nearly as practicable, the costs of providing such services and standards as the Secretary shall deem necessary, including administrative and supervisory costs. Such fees and charges, when collected, shall be credited to the current appropriation account that incurs such costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services and standards under this chapter. Fees and charges shall be assessed and collected from processors and warehousers of naval stores,

and inspection and related services shall be suspended or denied to any such processor or warehouser upon failure to timely pay the fees and charges assessed.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the enforcement and administration of this chapter.

(Mar. 3, 1923, ch. 217, § 8, 42 Stat. 1436; Pub. L. 97–35, title I, § 159(a)(2), Aug. 13, 1981, 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97–35 added subsec. (a). Former unlettered provisions were designated subsec. (b) and, as so designated, struck out authorization of the Secretary to employ personnel and make administrative expenditures.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 159(b) of Pub. L. 97–35, set out as a note under section 94 of this title.

§ 99. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1923, ch. 217, § 9, 42 Stat. 1437.)

CHAPTER 5—IMPORTATION OF ADULTERATED SEEDS

§§ 111 to 116. Repealed. Aug. 9, 1939, ch. 615, § 419, 53 Stat. 1290

Sections, act Aug. 24, 1912, ch. 382, §§ 1–6, 37 Stat. 506, related to regulation of foreign commerce by prohibiting admission into United States of adulterated grain and seeds. See section 1551 et seq. of this title.

Section 111 amended by acts Aug. 11, 1916, ch. 313, 39 Stat. 453; Apr. 26, 1926, ch. 186, § 1, 44 Stat. 325.

Section 113 amended by act Aug. 11, 1916, ch. 313, 39 Stat. 453.

Sections 115 and 116 amended by act Apr. 26, 1926, ch. 186, § 2, 44 Stat. 325.

EFFECTIVE DATE OF REPEAL; EXCEPTIONS

Repeal effective on the one hundred and eightieth day after Aug. 9, 1939, except that notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under authority of former sections 111 to 116 of this title, which were in effect Aug. 9, 1939, remained in full force and effect as if promulgated under sections 1551 to 1610 of this title.

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

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SUBCHAPTER I—INSECTICIDES

§§ 121 to 134. Repealed. June 25, 1947, ch. 125, § 16, 61 Stat. 172

Sections, act Apr. 26, 1910, ch. 191, 36 Stat. 335, formerly known as ''The Insecticides Act'', are covered by subchapter II of this chapter.

EFFECTIVE DATE OF REPEAL; SAVINGS PROVISION

Section 16 of act June 25, 1947, repealed this subchapter effective one year after June 25, 1947, and fur-

ther provided that this subchapter should be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any violations, liabilities incurred, or appeals taken prior to such date of repeal or to sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary.

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 150dd, 450i, 511r, 5506, 6502, 6519, 7653 of this title; title 15 sections 1261, 1277, 1459, 2052, 2602; title 16 section 460*lll*; title 21 sections 321, 346a, 1401; title 42 sections 300g–1, 6905, 7412, 9603, 9604, 9607.

§§ 135 to 135k. Omitted

CODIFICATION

Sections 135 to 135k, acts June 25, 1947, ch. 125, §§2–13, 61 Stat. 163–172; Aug. 7, 1959, Pub. L. 86–139, §2, 73 Stat. 286; May 12, 1964, Pub. L. 88–305, §§1–6, 78 Stat. 190–193; Oct. 15, 1970, Pub. L. 91–452, title II, §204, 84 Stat. 928; Dec. 30, 1970, Pub. L. 91–601, §6(b), formerly §7(b), 84 Stat. 1673, renumbered, Aug. 13, 1981, Pub. L. 97–35, title XII, §1205(c), 95 Stat. 716, which related to economic poison control, were superseded by the amendments made to act June 25, 1947, by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 975. See section 4 of Pub. L. 92–516, set out as a note under section 136 of this title. The provisions of act June 25, 1947, as amended by Pub. L. 92–516, are set out in section 136 et seq. of this title.

Section 135 provided definitions for the purposes of this subchapter.

Section 135a related to prohibited acts.

Section 135b related to registration of economic poisons.

Section 135c related to access, inspection, and use in criminal prosecutions of books and records.

Section 135d related to rules and regulations, examination of economic poisons or devices, notification to violators, certification to United States attorney, duty of attorney, and publication of judgments.

Section 135e related to exemptions from penalties.

Section 135f provided for penalties.

Section 135g related to seizure, disposal, and award of costs against claimant.

Section 135h related to refusal of admission of imports.

Section 135i related to delegation of duties.

Section 135j related to authorization of appropriations and expenditure of funds.

Section 135k related to cooperation between departments and agencies.

§ 136. Definitions

For purposes of this subchapter—

(a) Active ingredient

The term ''active ingredient'' means—

(1) in the case of a pesticide other than a plant regulator, defoliant, desiccant, or nitrogen stabilizer, an ingredient which will prevent, destroy, repel, or mitigate any pest;

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue; and

(5) in the case of a nitrogen stabilizer, an ingredient which will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through action affecting soil bacteria.

(b) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(c) Adulterated

The term ''adulterated'' applies to any pesticide if—

(1) its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold;

(2) any substance has been substituted wholly or in part for the pesticide; or

(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

(d) Animal

The term ''animal'' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(e) Certified applicator, etc.

(1) Certified applicator

The term ''certified applicator'' means any individual who is certified under section 136i of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this subchapter.

(2) Private applicator

The term ''private applicator'' means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the applicator or the applicator's employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(3) Commercial applicator

The term ''commercial applicator'' means an applicator (whether or not the applicator is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

(4) Under the direct supervision of a certified applicator

Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified appli-

cator is not physically present at the time and place the pesticide is applied.

(f) Defoliant

The term ''defoliant'' means any substance of mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(g) Desiccant

The term ''desiccant'' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(h) Device

The term ''device'' means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(i) District court

The term ''district court'' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

(j) Environment

The term ''environment'' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(k) Fungus

The term ''fungus'' means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(*l*) Imminent hazard

The term ''imminent hazard'' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered or threatened by the Secretary pursuant to the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(m) Inert ingredient

The term ''inert ingredient'' means an ingredient which is not active.

(n) Ingredient statement

The term ''ingredient statement'' means a statement which contains—

(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and

(2) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

(*o*) Insect

The term ''insect'' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of anthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(p) Label and labeling

(1) Label

The term ''label'' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(2) Labeling

The term ''labeling'' means all labels and all other written, printed, or graphic matter—

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(q) Misbranded

(1) A pesticide is misbranded if—

(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 136w(c)(3) of this title;

(C) it is an imitation of, or is offered for sale under the name of, another pesticide;

(D) its label does not bear the registration number assigned under section 136e of this title to each establishment in which it was produced;

(E) any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 136a(d) of this title, are adequate to protect health and the environment;

(G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 136a(d) of

this title, is adequate to protect health and the environment; or

(H) in the case of a pesticide not registered in accordance with section 136a of this title and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: ''Not Registered for Use in the United States of America''.

(2) A pesticide is misbranded if—

(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions or purchase, except that a pesticide is not misbranded under this subparagraph if—

(i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) the labeling does not contain a statement of the use classification under which the product is registered;

(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

(i) the name and address of the producer, registrant, or person for whom produced;

(ii) the name, brand, or trademark under which the pesticide is sold;

(iii) the net weight or measure of the content, except that the Administrator may permit reasonable variations; and

(iv) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the pesticide under this subchapter, and the use classification; and

(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this subchapter—

(i) the skull and crossbones;

(ii) the word ''poison'' prominently in red on a background of distinctly contrasting color; and

(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(r) Nematode

The term ''nematode'' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(s) Person

The term ''person'' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(t) Pest

The term ''pest'' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 136w(c)(1) of this title.

(u) Pesticide

The term ''pesticide'' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer, except that the term ''pesticide'' shall not include any article that is a ''new animal drug'' within the meaning of section 321(w)[1] of title 21, that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 321(x)[1] of title 21 bearing or containing a new animal drug. The term ''pesticide'' does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 321 of title 21. For purposes of the preceding sentence, the term ''critical device'' includes any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term ''semi-critical device'' includes any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

(v) Plant regulator

The term ''plant regulator'' means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term ''plant regulator'' shall not be required to include any of such those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation

[1] See References in Text note below.

of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(w) Producer and produce

The term ''producer'' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide. The term ''produce'' means to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide. The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of ''producer'' for the purposes of this subchapter.

(x) Protect health and the environment

The terms ''protect health and the environment'' and ''protection of health and the environment'' mean protection against any unreasonable adverse effects on the environment.

(y) Registrant

The term ''registrant'' means a person who has registered any pesticide pursuant to the provisions of this subchapter.

(z) Registration

The term ''registration'' includes reregistration.

(aa) State

The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(bb) Unreasonable adverse effects on the environment

The term ''unreasonable adverse effects on the environment'' means (1) any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 346a of title 21. The Administrator shall consider the risks and benefits of public health pesticides separate from the risks and benefits of other pesticides. In weighing any regulatory action concerning a public health pesticide under this subchapter, the Administrator shall weigh any risks of the pesticide against the health risks such as the diseases transmitted by the vector to be controlled by the pesticide.

(cc) Weed

The term ''weed'' means any plant which grows where not wanted.

(dd) Establishment

The term ''establishment'' means any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.

(ee) To use any registered pesticide in a manner inconsistent with its labeling

The term ''to use any registered pesticide in a manner inconsistent with its labeling'' means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling, (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling, (5) any use of a pesticide in conformance with section 136c, 136p, or 136v of this title, or (6) any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this subchapter. After March 31, 1979, the term shall not include the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage unless before or after that date the Administrator issues a regulation or advisory opinion consistent with the study provided for in section 27(b) of the Federal Pesticide Act of 1978, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.

(ff) Outstanding data requirement

(1) In general

The term ''outstanding data requirement'' means a requirement for any study, information, or data that is necessary to make a determination under section 136a(c)(5) of this title and which study, information, or data—

(A) has not been submitted to the Administrator; or

(B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 136a(c)(5) of this title and the regulations and guidelines issued under such section.

(2) Factors

In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.

(gg) To distribute or sell

The term ''to distribute or sell'' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or appli-

cation of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.

(hh) Nitrogen stabilizer

The term ''nitrogen stabilizer'' means any substance or mixture of substances intended for preventing or hindering the process of nitrification, denitrification, ammonia volatilization, or urease production through action upon soil bacteria. Such term shall not include—

(1) dicyandiamide;

(2) ammonium thiosulfate; or

(3) any substance or mixture of substances.—[2]

(A) that was not registered pursuant to section 136a of this title prior to January 1, 1992; and

(B) that was in commercial agronomic use prior to January 1, 1992, with respect to which after January 1, 1992, the distributor or seller of the substance or mixture has made no specific claim of prevention or hindering of the process of nitrification, denitrification, ammonia volatilization[3] urease production regardless of the actual use or purpose for, or future use or purpose for, the substance or mixture.

Statements made in materials required to be submitted to any State legislative or regulatory authority, or required by such authority to be included in the labeling or other literature accompanying any such substance or mixture shall not be deemed a specific claim within the meaning of this subsection.

(jj)[4] Maintenance applicator

The term ''maintenance applicator'' means any individual who, in the principal course of such individual's employment, uses, or supervises the use of, a pesticide not classified for restricted use (other than a ready to use consumer products pesticide); for the purpose of providing structural pest control or lawn pest control including janitors, general maintenance personnel, sanitation personnel, and grounds maintenance personnel. The term ''maintenance applicator'' does not include private applicators as defined in subsection (e)(2) of this section; individuals who use antimicrobial pesticides, sanitizers or disinfectants; individuals employed by Federal, State, and local governments or any political subdivisions thereof, or individuals who use pesticides not classified for restricted use in or around their homes, boats, sod farms, nurseries, greenhouses, or other noncommercial property.

(kk) Service technician

The term ''service technician'' means any individual who uses or supervises the use of pesticides (other than a ready to use consumer products pesticide) for the purpose of providing structural pest control or lawn pest control on the property of another for a fee. The term ''service technician'' does not include individuals who use antimicrobial pesticides, sanitizers or disinfectants; or who otherwise apply ready to use consumer products pesticides.

(*ll*) Minor use

The term ''minor use'' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health where—

(1) the total United States acreage for the crop is less than 300,000 acres, as determined by the Secretary of Agriculture; or

(2) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, the use does not provide sufficient economic incentive to support the initial registration or continuing registration of a pesticide for such use and—

(A) there are insufficient efficacious alternative registered pesticides available for the use;

(B) the alternatives to the pesticide use pose greater risks to the environment or human health;

(C) the minor use pesticide plays or will play a significant part in managing pest resistance; or

(D) the minor use pesticide plays or will play a significant part in an integrated pest management program.

The status as a minor use under this subsection shall continue as long as the Administrator has not determined that, based on existing data, such use may cause an unreasonable adverse effect on the environment and the use otherwise qualifies for such status.

(mm) Antimicrobial pesticide

(1) In general

The term ''antimicrobial pesticide'' means a pesticide that—

(A) is intended to—

(i) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or

(ii) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime; and

(B) in the intended use is exempt from, or otherwise not subject to, a tolerance under section 346a of title 21 or a food additive regulation under section 348 of title 21.

(2) Excluded products

The term ''antimicrobial pesticide'' does not include—

(A) a wood preservative or antifouling paint product for which a claim of pesticidal activity other than or in addition to an activity described in paragraph (1) is made;

(B) an agricultural fungicide product; or

(C) an aquatic herbicide product.

(3) Included products

The term ''antimicrobial pesticide'' does include any other chemical sterilant product (other than liquid chemical sterilant products exempt under subsection (u) of this section), any other disinfectant product, any other industrial microbiocide product, and any other

[2] So in original. Period probably should not appear.

[3] So in original. Probably should be followed by '', or''.

[4] So in original. No subsec. (ii) was enacted.

preservative product that is not excluded by paragraph (2).

(nn) Public health pesticide

The term ''public health pesticide'' means any minor use pesticide product registered for use and used predominantly in public health programs for vector control or for other recognized health protection uses, including the prevention or mitigation of viruses, bacteria, or other microorganisms (other than viruses, bacteria, or other microorganisms on or in living man or other living animal) that pose a threat to public health.

(*oo*) Vector

The term ''vector'' means any organism capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including mosquitoes, flies, fleas, cockroaches, or other insects and ticks, mites, or rats.

(June 25, 1947, ch. 125, § 2, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 975; amended Pub. L. 93–205, § 13(f), Dec. 28, 1973, 87 Stat. 903; Pub. L. 94–140, § 9, Nov. 28, 1975, 89 Stat. 754; Pub. L. 95–396, § 1, Sept. 30, 1978, 92 Stat. 819; Pub. L. 100–532, title I, § 101, title VI, § 601(a), title VIII, § 801(a), Oct. 25, 1988, 102 Stat. 2655, 2677, 2679; Pub. L. 102–237, title X, § 1006(a)(1), (2), (b)(3)(A), (B), Dec. 13, 1991, 105 Stat. 1894, 1895; Pub. L. 104–170, title I, §§ 105(a), 120, title II, §§ 210(a), 221, 230, title III, § 304, Aug. 3, 1996, 110 Stat. 1490, 1492, 1493, 1502, 1508, 1512.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (*l*), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

Section 321 of title 21, referred to in subsec. (u), was subsequently amended, and subsecs. (w) and (x) of section 321 no longer define the terms ''new animal drug'' and ''animal feed'', respectively. However, such terms are defined elsewhere in that section.

Section 27(b) of Federal Pesticide Act of 1978, referred to in subsec. (ee), is section 27(b) of Pub. L. 95–396, Sept. 30, 1978, 92 Stat. 841, which is set out as a note under section 136w–4 of this title.

PRIOR PROVISIONS

A prior section 2 of act June 25, 1947, was classified to section 135 of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–170, § 105(a)(1)(A), substituted ''defoliant, desiccant, or nitrogen stabilizer'' for ''defoliant, or desiccant''.

Subsec. (a)(5). Pub. L. 104–170, § 105(a)(1)(B)–(D), added par. (5).

Subsec. (u). Pub. L. 104–170, §§ 105(a)(2), 221(1), struck out ''and'' before ''(2)'', inserted ''and (3) any nitrogen stabilizer,'' after ''desiccant,'', and inserted at end ''The term 'pesticide' does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 321 of title 21. For purposes of the preceding sentence, the term 'critical device' includes any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term 'semi-critical device' includes any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.''

Subsec. (bb). Pub. L. 104–170, § 304, which directed amendment of section 2(bb) by inserting ''(1)'' after ''means'' and adding cl. (2), without specifying the Act being amended, was executed to this subsection, which is section 2(bb) of the Federal Insecticide, Fungicide, and Rodenticide Act, to reflect the probable intent of Congress.

Pub. L. 104–170, § 230(a), inserted at end ''The Administrator shall consider the risks and benefits of public health pesticides separate from the risks and benefits of other pesticides. In weighing any regulatory action concerning a public health pesticide under this subchapter, the Administrator shall weigh any risks of the pesticide against the health risks such as the diseases transmitted by the vector to be controlled by the pesticide.''

Subsec. (hh). Pub. L. 104–170, § 105(a)(3), added subsec. (hh).

Subsecs. (jj), (kk). Pub. L. 104–170, § 120, added subsecs. (jj) and (kk).

Subsec. (*ll*). Pub. L. 104–170, § 210(a), added subsec. (*ll*).

Subsec. (mm). Pub. L. 104–170, § 221(2), added subsec. (mm).

Subsecs. (nn), (*oo*). Pub. L. 104–170, § 230(b), added subsecs. (nn) and (*oo*).

1991—Subsec. (e)(1). Pub. L. 102–237, § 1006(a)(1), substituted ''section 136i'' for ''section 136b'' and ''uses dilutions'' for ''use dilutions'' and made technical amendment to reference to subsection (ee) of this section involving corresponding provision of original act.

Subsec. (e)(2). Pub. L. 102–237, § 1006(b)(3)(A), substituted ''the applicator or the applicator's'' for ''him or his''.

Subsec. (e)(3). Pub. L. 102–237, § 1006(b)(3)(B), substituted ''the applicator'' for ''he''.

Subsec. (q)(2)(A)(i). Pub. L. 102–237, § 1006(a)(2), substituted ''size or form'' for ''size of form''.

1988—Subsec. (c). Pub. L. 100–532, § 801(a)(1), substituted ''if—'' for ''if:''.

Subsec. (p)(2)(B). Pub. L. 100–532, § 801(a)(2), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (q)(2)(A). Pub. L. 100–532, § 801(a)(3), substituted ''if—'' for ''if:''.

Subsec. (q)(2)(C)(iii). Pub. L. 100–532, § 801(a)(4), substituted '', except that'' for '': *Provided*, That''.

Subsec. (u). Pub. L. 100–532, § 801(a)(5), substituted '', except that'' for '': *Provided*, That'', struck out ''(1)(a)'' after ''include any article'' and ''or (b)'' after ''section 321(w) of title 21,'', and substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', ''or that is'' for ''or (2) that is'', and ''a new animal drug'' for ''an article covered by clause (1) of this proviso''.

Subsec. (ee). Pub. L. 100–532, §§ 601(a)(1), 801(a)(6), substituted '', except that'' for '': *Provided*, That'', inserted ''unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency'' and ''unless the labeling specifically states that the product may be applied only by the methods specified on the labeling'', substituted ''labeling, (4) mixing'' for ''labeling, or (4) mixing'', '', (5)'' for '': *Provided further*, That the term also shall not include'', ''or (6) any use'' for ''or any use'', and ''. After'' for '': *And provided further*, That after''.

Subsec. (ff). Pub. L. 100–532, § 101, added subsec. (ff).

Subsec. (gg). Pub. L. 100–532, § 601(a)(2), added subsec. (gg).

1978—Subsec. (e)(1). Pub. L. 95–396, § 1(1), inserted provision deeming an applicator not a seller or distributor of pesticides when providing a service of controlling pests.

Subsec. (e)(3). Pub. L. 95–396, § 1(2), substituted ''an applicator'' for ''a certified applicator''.

Subsec. (q)(1)(H). Pub. L. 95–396, § 1(3), added subpar. (H).

Subsec. (w). Pub. L. 95–396, §1(4), (5), amended definition of ''producer'' and ''produce'' to include reference to active ingredient used in producing a pesticide and inserted provision that an individual did not become a producer when there was dilution of a pesticide for personal use according to directions on registered labels.

Subsec. (dd). Pub. L. 95–396, §1(6), inserted ''or active ingredient used in producing a pesticide''.

Subsec. (ee). Pub. L. 95–396, §1(7), added subsec. (ee).

1975—Subsec. (u). Pub. L. 94–140 inserted proviso which excluded from term ''pesticide'' any article designated as ''new animal drug'' and any article denominated as animal feed.

1973—Subsec. (*l*). Pub. L. 93–205 substituted ''or threatened by the Secretary pursuant to the Endangered Species Act of 1973'' for ''by the Secretary of the Interior under Public Law 91–135''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 901 of Pub. L. 100–532 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Short Title of 1988 Amendment note below] shall take effect on the expiration of 60 days after the date of enactment of this Act [Oct. 25, 1988].''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of Title 16, Conservation.

EFFECTIVE DATE

Section 4 of Pub. L. 92–516, as amended by Pub. L. 94–140, §4, Nov. 28, 1975, 89 Stat. 752; Pub. L. 95–396, §28, Sept. 30, 1978, 92 Stat. 842, provided that:

''(a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter], as amended by this Act and as otherwise provided by this section, the amendments made by this Act [see Short Title note set out below] shall take effect at the close of the date of the enactment of this Act [Oct. 21, 1972], provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

''(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter] and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superseded by the amendments made by this Act and regulations thereunder.

''(c)(1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

''(2) Any requirements that a pesticide be registered for use only by a certified applicator shall not be effective until five years from the date of enactment of this Act.

''(3) A period of five years from date of enactment shall be provided for certification of applicators.

''(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of applicators.

''(B) Each State desiring to certify applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

''(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

''(4) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

''(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after the Administrator has published effective regulations in the Federal Register and taken such other action as may be necessary to permit compliance with the provisions under which the penalty is to be imposed.

''(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted.''

SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104–170 provided that: ''This Act [enacting sections 136i–2, 136r–1, and 136w–5 to 136w–7 of this title, amending this section, sections 136a, 136a–1, 136d, 136q, 136s, 136w, 136w–3, 136x, and 136y of this title, and sections 321, 331, 333, 342, and 346a of Title 21, Food and Drugs, and enacting provisions set out as notes under section 136i–2 of this title and sections 301 and 346a of Title 21] may be cited as the 'Food Quality Protection Act of 1996'.''

[Another Food Quality Protection Act of 1996 was enacted by Pub. L. 104–170, title IV, 110 Stat. 1513, see section 401(a) of Pub. L. 104–170, set out as a note under section 301 of Title 21, Food and Drugs.]

SHORT TITLE OF 1988 AMENDMENT

Section 1(a) of Pub. L. 100–532 provided that: ''This Act [enacting section 136a–1 of this title, amending this section and sections 136a to 136d, 136f to 136q, 136s, 136v to 136w–2, and 136y of this title, and enacting provisions set out as notes under this section and sections 136m and 136y of this title] may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988'.''

SHORT TITLE OF 1978 AMENDMENT

Section 29 of Pub. L. 95–396 provided that: ''This Act [enacting sections 136w–1 to 136w–4 of this title, amending this section and sections 136a to 136f, 136h, 136j, 136*l*, 136*o*, 136q, 136r, 136u to 136w, 136x, and 136y of this title, enacting provisions set out as notes under sections 136a, 136*o*, and 136w–4 of this title, and amending provisions set out as a note under this section] may be cited as the 'Federal Pesticide Act of 1978'.''

SHORT TITLE

Section 1 of Pub. L. 92–516 provided: ''That this Act [amending this subchapter generally, enacting notes set out under this section, and amending sections 1261 and 1471 of Title 15, Commerce and Trade, and sections 321 and 346a of Title 21, Foods and Drugs] may be cited as the 'Federal Environmental Pesticide Control Act of 1972'.''

Section 1(a) of act June 25, 1947, as added by Pub. L. 92–516, §2, provided that: ''This Act [enacting this subchapter] may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with ap-

plicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136*o*, 136w, 136w–1, 138 of this title.

§ 136a. Registration of pesticides

(a) Requirement of registration

Except as provided by this subchapter, no person in any State may distribute or sell to any person any pesticide that is not registered under this subchapter. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this subchapter and that is not the subject of an experimental use permit under section 136c of this title or an emergency exemption under section 136p of this title.

(b) Exemptions

A pesticide which is not registered with the Administrator may be transferred if—

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) Procedure for registration

(1) Statement required

Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

(B) the name of the pesticide;

(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

(D) the complete formula of the pesticide;

(E) a request that the pesticide be classified for general use or for restricted use, or for both; and

(F) except as otherwise provided in paragraph (2)(D), if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

(i) With respect to pesticides containing active ingredients that are initially registered under this subchapter after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide, except that such permission shall not be required in the case of defensive data.

(ii) The period of exclusive data use provided under clause (i) shall be extended 1 additional year for each 3 minor uses registered after August 3, 1996, and within 7 years of the commencement of the exclusive use period, up to a total of 3 additional years for all minor uses registered by the Administrator if the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, that—

(I) there are insufficient efficacious alternative registered pesticides available for the use;

(II) the alternatives to the minor use pesticide pose greater risks to the environment or human health;

(III) the minor use pesticide plays or will play a significant part in managing pest resistance; or

(IV) the minor use pesticide plays or will play a significant part in an integrated pest management program.

The registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered for purposes of this clause 1 minor use for each representative crop for which data are provided in the crop grouping. Any additional exclusive use period under this clause shall be modified as appropriate or terminated if the registrant voluntarily cancels the product or deletes from the registration the minor uses which formed the basis for the extension of the additional exclusive use period or if the Administrator determines that the registrant is not actually marketing the product for such minor uses.

(iii) Except as otherwise provided in clause (i), with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the ''applicant'') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data

submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this subchapter, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation.

(iv) After expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under clauses (i), (ii), and (iii), the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.

(v) The period of exclusive use provided under clause (ii) shall not take effect until 1 year after August 3, 1996, except where an applicant or registrant is applying for the registration of a pesticide containing an active ingredient not previously registered.

(vi) With respect to data submitted after August 3, 1996, by an applicant or registrant to support an amendment adding a new use to an existing registration that does not retain any period of exclusive use, if such data relates solely to a minor use of a pesticide, such data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application for a minor use by another person during the period of 10 years following the date of submission of such data. The applicant or registrant at the time the new minor use is requested shall notify the Administrator that to the best of their knowledge the exclusive use period for the pesticide has expired and that the data pertaining solely to the minor use of a pesticide is eligible for the provisions of this paragraph. If the minor use registration which is supported by data submitted pursuant to this subsection is voluntarily canceled or if such data are subsequently used to support a nonminor use, the data shall no longer be subject to the exclusive use provisions of this clause but shall instead be considered by the Administrator in accordance with the provisions of clause (i), as appropriate.

(G) If the applicant is requesting that the registration or amendment to the registration of a pesticide be expedited, an explanation of the basis for the request must be submitted, in accordance with paragraph (10) of this subsection.

(2) Data in support of registration

(A) In general

The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter the Administrator requires any additional kind of information under subparagraph (B) of this paragraph, the Administrator shall permit sufficient time for applicants to obtain such additional information. The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, the pub-

lic health and agricultural need for such minor use, and the level and degree of potential beneficial or adverse effects on man and the environment. The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this subchapter, any field residue data from a geographic area where the pesticide will not be registered for such use. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data. Except as provided by section 136h of this title, within 30 days after the Administrator registers a pesticide under this subchapter the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the Administrator's decision.

(B) Additional data

(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing, data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iv) Notwithstanding any other provision of this subchapter, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 136d(d) of this title. The only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this subchapter, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(v) Any data submitted under this subparagraph shall be subject to the provisions of

paragraph (1)(D). Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.

(vi) Upon the request of a registrant the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under section 136a–1 of this title for the other uses of the pesticide established as of August 3, 1996, if—

(I) the data to support other uses of the pesticide on a food are being provided;

(II) the registrant, in submitting a request for such an extension, provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

(III) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under section 136a–1 of this title; and

(IV) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this clause, the Administrator may take action to modify or revoke the extension under this clause if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide, in writing to the registrant, a notice revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date established by the Administrator for the submission of the data.

(vii) If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this clause in regard to such unsupported minor use until the final deadline established as of August 3, 1996, for the submission of data under section 136a–1 of this title for the supported uses identified pursuant to this clause unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On the basis of such determination, the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 136d(f)(1) of this title. If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of this subparagraph regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 136d(f)(2) of this title. Notwithstanding the provisions of this clause, the Administrator may deny, modify, or revoke the temporary extension under this subparagraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.

(viii)(I) If data required to support registration of a pesticide under subparagraph (A) is requested by a Federal or State regulatory authority, the Administrator shall, to the extent practicable, coordinate data requirements, test protocols, timetables, and standards of review and reduce burdens and redundancy caused to the registrant by multiple requirements on the registrant.

(II) The Administrator may enter into a cooperative agreement with a State to carry out subclause (I).

(III) Not later than 1 year after August 3, 1996, the Administrator shall develop a process to identify and assist in alleviating future disparities between Federal and State data requirements.

(C) Simplified procedures

Within nine months after September 30, 1978, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

(D) Exemption

No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into the pesticide that is the subject of the application shall be required to—

(i) submit or cite data pertaining to such purchased product; or

(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.

(E) Minor use waiver

In handling the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of such data will not prevent the Administrator from determining—

(i) the incremental risk presented by the minor use of the pesticide; and

(ii) that such risk, if any, would not be an unreasonable adverse effect on the environment.

(3) Application

(A) In general

The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of the Administrator's determination that it does not comply with the provisions of the subchapter in accordance with paragraph (6).

(B) Identical or substantially similar

(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

(I) within 45 days after receiving the application, notify the registrant whether or not the application is complete and, if the application is found to be incomplete, reject the application;

(II) within 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.

(C) Minor use registration

(i) The Administrator shall, as expeditiously as possible, review and act on any complete application—

(I) that proposes the initial registration of a new pesticide active ingredient if the active ingredient is proposed to be registered solely for minor uses, or proposes a registration amendment solely for minor uses to an existing registration; or

(II) for a registration or a registration amendment that proposes significant minor uses.

(ii) For the purposes of clause (i)—

(I) the term ''as expeditiously as possible'' means that the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data, submitted with a complete application, within 12 months after the submission of the complete application, and the failure of the Administrator to complete such a review and evaluation under clause (i) shall not be subject to judicial review; and

(II) the term ''significant minor uses'' means 3 or more minor uses proposed for every nonminor use, a minor use that would, in the judgment of the Administrator, serve as a replacement for any use which has been canceled in the 5 years preceding the receipt of the application, or a minor use that in the opinion of the Administrator would avoid the reissuance of an emergency exemption under section 136p of this title for that minor use.

(D) Adequate time for submission of minor use data

If a registrant makes a request for a minor use waiver, regarding data required by the Administrator, pursuant to paragraph (2)(E), and if the Administrator denies in whole or in part such data waiver request, the registrant shall have a full-time period for providing such data. For purposes of this subparagraph, the term ''full-time period'' means the time period originally established by the Administrator for submission of such data, beginning with the date of receipt by the registrant of the Administrator's notice of denial.

(4) Notice of application

The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

(5) Approval of registration

The Administrator shall register a pesticide if the Administrator determines that, when considered with any restrictions imposed under subsection (d) of this section—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this subchapter;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other. In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 136v(c) of this title, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

(6) Denial of registration

If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, the Administrator shall notify the applicant for registration of the Administrator's determination and of the Administrator's reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator may refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, the Administrator shall notify the applicant of the Administrator's decision and of the Administrator's reasons (including the factual basis) therefor. The Administrator shall promptly publish in the Federal Register notice of such denial of registration and the reasons therefor. Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 136d of this title.

(7) Registration under special circumstances

Notwithstanding the provisions of paragraph (5)—

(A) The Administrator may conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5). If the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure enumerated in regulations issued under this subchapter, and during the pendency of any risk-benefit evaluation initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop, or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5). If the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk cri-

teria enumerated in regulations issued under this subchapter, and on such other conditions as the Administrator may prescribe. A conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

(8) Interim administrative review

Notwithstanding any other provision of this subchapter, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this subchapter, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms ''validated test'' and ''other significant evidence'' as used herein shall be published by the Administrator in the Federal Register.

(9) Labeling

(A) Additional statements

Subject to subparagraphs (B) and (C), it shall not be a violation of this subchapter for a registrant to modify the labeling of an antimicrobial pesticide product to include relevant information on product efficacy, product composition, container composition or design, or other characteristics that do not relate to any pesticidal claim or pesticidal activity.

(B) Requirements

Proposed labeling information under subparagraph (A) shall not be false or misleading, shall not conflict with or detract from any statement required by law or the Administrator as a condition of registration, and shall be substantiated on the request of the Administrator.

(C) Notification and disapproval

(i) Notification

A registration may be modified under subparagraph (A) if—

(I) the registrant notifies the Administrator in writing not later than 60 days prior to distribution or sale of a product bearing the modified labeling; and

(II) the Administrator does not disapprove of the modification under clause (ii).

(ii) Disapproval

Not later than 30 days after receipt of a notification under clause (i), the Administrator may disapprove the modification by sending the registrant notification in writing stating that the proposed language is not acceptable and stating the reasons why the Administrator finds the proposed modification unacceptable.

(iii) Restriction on sale

A registrant may not sell or distribute a product bearing a disapproved modification.

(iv) Objection

A registrant may file an objection in writing to a disapproval under clause (ii) not later than 30 days after receipt of notification of the disapproval.

(v) Final action

A decision by the Administrator following receipt and consideration of an objection filed under clause (iv) shall be considered a final agency action.

(D) Use dilution

The label or labeling required under this subchapter for an antimicrobial pesticide that is or may be diluted for use may have a different statement of caution or protective measures for use of the recommended diluted solution of the pesticide than for use of a concentrate of the pesticide if the Administrator determines that—

(i) adequate data have been submitted to support the statement proposed for the diluted solution uses; and

(ii) the label or labeling provides adequate protection for exposure to the diluted solution of the pesticide.

(10) Expedited registration of pesticides

(A) Not later than 1 year after August 3, 1996, the Administrator shall, utilizing public comment, develop procedures and guidelines, and expedite the review of an application for registration of a pesticide or an amendment to a registration that satisfies such guidelines.

(B) Any application for registration or an amendment, including biological and conventional pesticides, will be considered for expedited review under this paragraph. An application for registration or an amendment shall qualify for expedited review if use of the pesticide proposed by the application may reasonably be expected to accomplish 1 or more of the following:

(i) Reduce the risks of pesticides to human health.

(ii) Reduce the risks of pesticides to nontarget organisms.

(iii) Reduce the potential for contamination of groundwater, surface water, or other valued environmental resources.

(iv) Broaden the adoption of integrated pest management strategies, or make such strategies more available or more effective.

(C) The Administrator, not later than 30 days after receipt of an application for expedited review, shall notify the applicant whether the application is complete. If it is found to be incomplete, the Administrator may either reject the request for expedited review or ask the applicant for additional information to satisfy the guidelines developed under subparagraph (A).

(d) Classification of pesticides

(1) Classification for general use, restricted use, or both

(A) As a part of the registration of a pesticide the Administrator shall classify it as

being for general use or for restricted use. If the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, the Administrator shall classify it for both general use and restricted use. Pesticide uses may be classified by regulation on the initial classification, and registered pesticides may be classified prior to reregistration. If some of the uses of the pesticide are classified for general use, and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses. The Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment, the Administrator will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies, for general use.

(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, the Administrator shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use:

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form.

(2) Change in classification

If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, the Administrator shall notify the registrant of such pesticide of such determination at least forty-five days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence of the registrant, may seek relief from such determination under section 136d(b) of this title.

(3) Change in classification from restricted use to general use

The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 136n of this title.

(e) Products with same formulation and claims

Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added to the registration by supplemental statements.

(f) Miscellaneous

(1) Effect of change of labeling or formulation

If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this subchapter.

(2) Registration not a defense

In no event shall registration of an article be construed as a defense for the commission of any offense under this subchapter. As long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the subchapter.

(3) Authority to consult other Federal agencies

In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(4) Mixtures of nitrogen stabilizers and fertilizer products

Any mixture or other combination of—

(A) 1 or more nitrogen stabilizers registered under this subchapter; and

(B) 1 or more fertilizer products,

shall not be subject to the provisions of this section or sections 136a–1, 136c, 136e, 136m, and 136*o*(a)(2) of this title if the mixture or other combination is accompanied by the labeling required under this subchapter for the nitrogen stabilizer contained in the mixture or other combination, the mixture or combination is mixed or combined in accordance with such labeling, and the mixture or combination does not contain any active ingredient other than the nitrogen stabilizer.

(g) Registration review

(1) General rule

(A) Periodic review

The registrations of pesticides are to be periodically reviewed. The Administrator shall by regulation establish a procedure for accomplishing the periodic review of registrations. The goal of these regulations shall be a review of a pesticide's registration every 15 years. No registration shall be canceled as a result of the registration review process unless the Administrator follows the procedures and substantive requirements of section 136d of this title.

(B) Limitation

Nothing in this subsection shall prohibit the Administrator from undertaking any other review of a pesticide pursuant to this subchapter.

(2) Data

(A) Submission required

The Administrator shall use the authority in subsection (c)(2)(B) of this section to require the submission of data when such data are necessary for a registration review.

(B) Data submission, compensation, and exemption

For purposes of this subsection, the provisions of subsections (c)(1), (c)(2)(B), and (c)(2)(D) of this section shall be utilized for and be applicable to any data required for registration review.

(h) Registration requirements for antimicrobial pesticides

(1) Evaluation of process

To the maximum extent practicable consistent with the degrees of risk presented by an antimicrobial pesticide and the type of review appropriate to evaluate the risks, the Administrator shall identify and evaluate reforms to the antimicrobial registration process that would reduce review periods existing as of August 3, 1996, for antimicrobial pesticide product registration applications and applications for amended registration of antimicrobial pesticide products, including—

(A) new antimicrobial active ingredients;

(B) new antimicrobial end-use products;

(C) substantially similar or identical antimicrobial pesticides; and

(D) amendments to antimicrobial pesticide registrations.

(2) Review time period reduction goal

Each reform identified under paragraph (1) shall be designed to achieve the goal of reducing the review period following submission of a complete application, consistent with the degree of risk, to a period of not more than—

(A) 540 days for a new antimicrobial active ingredient pesticide registration;

(B) 270 days for a new antimicrobial use of a registered active ingredient;

(C) 120 days for any other new antimicrobial product;

(D) 90 days for a substantially similar or identical antimicrobial product;

(E) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and

(F) 90 to 180 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this paragraph.

(3) Implementation

(A) Proposed rulemaking

(i) Issuance

Not later than 270 days after August 3, 1996, the Administrator shall publish in the Federal Register proposed regulations to accelerate and improve the review of antimicrobial pesticide products designed to implement, to the extent practicable, the goals set forth in paragraph (2).

(ii) Requirements

Proposed regulations issued under clause (i) shall—

(I) define the various classes of antimicrobial use patterns, including household, industrial, and institutional disinfectants and sanitizing pesticides, preservatives, water treatment, and pulp and paper mill additives, and other such products intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms, or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime;

(II) differentiate the types of review undertaken for antimicrobial pesticides;

(III) conform the degree and type of review to the risks and benefits presented by antimicrobial pesticides and the function of review under this subchapter, considering the use patterns of the product, toxicity, expected exposure, and product type;

(IV) ensure that the registration process is sufficient to maintain antimicrobial pesticide efficacy and that antimicrobial pesticide products continue to meet product performance standards and effectiveness levels for each type of label claim made; and

(V) implement effective and reliable deadlines for process management.

(iii) Comments

In developing the proposed regulations, the Administrator shall solicit the views from registrants and other affected parties

to maximize the effectiveness of the rule development process.

(B) Final regulations

(i) Issuance

The Administrator shall issue final regulations not later than 240 days after the close of the comment period for the proposed regulations.

(ii) Failure to meet goal

If a goal described in paragraph (2) is not met by the final regulations, the Administrator shall identify the goal, explain why the goal was not attained, describe the element of the regulations included instead, and identify future steps to attain the goal.

(iii) Requirements

In issuing final regulations, the Administrator shall—

(I) consider the establishment of a certification process for regulatory actions involving risks that can be responsibly managed, consistent with the degree of risk, in the most cost-efficient manner;

(II) consider the establishment of a certification process by approved laboratories as an adjunct to the review process;

(III) use all appropriate and cost-effective review mechanisms, including—

(aa) expanded use of notification and non-notification procedures;

(bb) revised procedures for application review; and

(cc) allocation of appropriate resources to ensure streamlined management of antimicrobial pesticide registrations; and

(IV) clarify criteria for determination of the completeness of an application.

(C) Expedited review

This subsection does not affect the requirements or extend the deadlines or review periods contained in subsection (c)(3) of this section.

(D) Alternative review periods

If the final regulations to carry out this paragraph are not effective 630 days after August 3, 1996, until the final regulations become effective, the review period, beginning on the date of receipt by the Agency of a complete application, shall be—

(i) 2 years for a new antimicrobial active ingredient pesticide registration;

(ii) 1 year for a new antimicrobial use of a registered active ingredient;

(iii) 180 days for any other new antimicrobial product;

(iv) 90 days for a substantially similar or identical antimicrobial product;

(v) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and

(vi) 240 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this subparagraph.

(E) Wood preservatives

An application for the registration, or for an amendment to the registration, of a wood preservative product for which a claim of pesticidal activity listed in section 136(mm) of this title is made (regardless of any other pesticidal claim that is made with respect to the product) shall be reviewed by the Administrator within the same period as that established under this paragraph for an antimicrobial pesticide product application, consistent with the degree of risk posed by the use of the wood preservative product, if the application requires the applicant to satisfy the same data requirements as are required to support an application for a wood preservative product that is an antimicrobial pesticide.

(F) Notification

(i) In general

Subject to clause (iii), the Administrator shall notify an applicant whether an application has been granted or denied not later than the final day of the appropriate review period under this paragraph, unless the applicant and the Administrator agree to a later date.

(ii) Final decision

If the Administrator fails to notify an applicant within the period of time required under clause (i), the failure shall be considered an agency action unlawfully withheld or unreasonably delayed for purposes of judicial review under chapter 7 of title 5.

(iii) Exemption

This subparagraph does not apply to an application for an antimicrobial pesticide that is filed under subsection (c)(3)(B) of this section prior to 90 days after August 3, 1996.

(4) Annual report

(A) Submission

Beginning on August 3, 1996, and ending on the date that the goals under paragraph (2) are achieved, the Administrator shall, not later than March 1 of each year, prepare and submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(B) Requirements

A report submitted under subparagraph (A) shall include a description of—

(i) measures taken to reduce the backlog of pending registration applications;

(ii) progress toward achieving reforms under this subsection; and

(iii) recommendations to improve the activities of the Agency pertaining to antimicrobial registrations.

(June 25, 1947, ch. 125, §3, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 979; amended Pub. L. 94–140, §12, Nov. 28, 1975, 89 Stat. 755; Pub. L. 95–396, §§2(a), 3–8, Sept. 30, 1978, 92 Stat. 820, 824–827; Pub. L. 100–532, title I, §§102(b), 103, title

VI, §601(b)(1), title VIII, §801(b), Oct. 25, 1988, 102 Stat. 2667, 2677, 2680; Pub. L. 101–624, title XIV, §1492, Nov. 28, 1990, 104 Stat. 3628; Pub. L. 102–237, title X, §1006(a)(3), (b)(1), (2), (c), Dec. 13, 1991, 105 Stat. 1894–1896; Pub. L. 104–170, title I, §§105(b), 106(b), title II, §§210(b), (c)(1), (d), (e), (f)(2), 222–224, 231, 250, Aug. 3, 1996, 110 Stat. 1491, 1494–1497, 1499, 1503, 1504, 1508, 1510.)

PRIOR PROVISIONS

A prior section 3 of act June 25, 1947, was classified to section 135a of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1996—Subsec. (c)(1)(F)(ii) to (vi). Pub. L. 104–170, §210(b), added cls. (ii), (v), and (vi), redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively, and in cl. (iv) substituted ''(i), (ii), and (iii)'' for ''(i) and (ii)''.

Subsec. (c)(1)(G). Pub. L. 104–170, §250(1), added subpar. (G).

Subsec. (c)(2)(A). Pub. L. 104–170, §§210(d)(1), 231, inserted heading, inserted ''the public health and agricultural need for such minor use,'' after ''pattern of use,'', and substituted ''potential beneficial or adverse effects on man and the environment'' for ''potential exposure of man and the environment to the pesticide''.

Subsec. (c)(2)(B). Pub. L. 104–170, §210(d)(2), inserted heading.

Subsec. (c)(2)(B)(vi). Pub. L. 104–170, §210(c)(1), added cl. (vi).

Subsec. (c)(2)(B)(vii). Pub. L. 104–170, §210(f)(2), added cl. (vii).

Subsec. (c)(2)(B)(viii). Pub. L. 104–170, §222, added cl. (viii).

Subsec. (c)(2)(C). Pub. L. 104–170, §210(d)(3), inserted heading.

Subsec. (c)(2)(E). Pub. L. 104–170, §210(d)(4), added subpar. (E).

Subsec. (c)(3)(A), (B). Pub. L. 104–170, §210(e)(1), (2), inserted headings.

Subsec. (c)(3)(C), (D). Pub. L. 104–170, §210(e)(3), added subpars. (C) and (D).

Subsec. (c)(9). Pub. L. 104–170, §223, added par. (9).

Subsec. (c)(10). Pub. L. 104–170, §250(2), added par. (10).

Subsec. (f)(4). Pub. L. 104–170, §105(b), added par. (4).

Subsec. (g). Pub. L. 104–170, §106(b), added subsec. (g).

Subsec. (h). Pub. L. 104–170, §224, added subsec. (h).

1991—Subsec. (c)(1)(D). Pub. L. 102–237, §1006(a)(3)(B), (C), added subpar. (D) and redesignated former subpar. (D) as (F).

Subsec. (c)(1)(E). Pub. L. 102–237, §1006(a)(3)(A), (C), added subpar. (E) and struck out former subpar. (E) which read as follows: ''the complete formula of the pesticide; and''.

Subsec. (c)(1)(F). Pub. L. 102–237, §1006(a)(3)(A), (B), (D), redesignated former subpar. (D) as (F), in cl. (i) substituted ''With'' for ''with'' and a period for semicolon at end, in cl. (ii) substituted ''Except'' for ''except'' and a period for semicolon at end, in cl. (iii) substituted ''After'' for ''after'' and a period for semicolon at end, and struck out former subpar. (F) which read as follows: ''a request that the pesticide be classified for general use, for restricted use, or for both.''

Subsec. (c)(2)(A). Pub. L. 102–237, §1006(b)(1), (2), substituted ''the Administrator'' for ''he'' before ''requires'', ''shall permit'', ''shall make'', and ''deems'', and substituted ''the Administrator's'' for ''his''.

Subsec. (c)(2)(D). Pub. L. 102–237, §1006(c), clarified amendment made by Pub. L. 100–532, §102(b)(2)(A). See 1988 Amendment note below.

Subsec. (c)(3)(A). Pub. L. 102–237, §1006(b)(2), substituted ''the Administrator's'' for ''his''.

Subsec. (c)(5). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''determines''.

Subsec. (c)(6). Pub. L. 102–237, §1006(b)(1), (2), substituted ''the Administrator'' for ''he'' before ''shall notify'' in two places and ''the Administrator's'' for ''his'' in four places.

Subsec. (d)(1). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''shall classify it for both'' in subpar. (A), before ''will classify'' in subpar. (B), and before ''shall classify'' in subpar. (C).

Subsec. (d)(2). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''shall notify''.

1990—Subsec. (c)(2)(A). Pub. L. 101–624 inserted after third sentence ''The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this subchapter, any field residue data from a geographic area where the pesticide will not be registered for such use.''

1988—Subsec. (a). Pub. L. 100–532, §601(b)(1), substituted ''Requirement of registration'' for ''Requirement'' in heading and amended text generally. Prior to amendment, text read as follows: ''Except as otherwise provided by this subchapter, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.''

Subsec. (c)(1)(D). Pub. L. 100–532, §801(b)(1)–(4), in introductory provisions, substituted ''paragraph (2)(D)'' for ''subsection (c)(2)(D) of this section'', in cl. (i), substituted ''(i) with'' for ''(i) With'' and '', except that'' for '': *Provided*, That'', in cl. (ii), substituted ''clause (i)'' for ''subparagraph (D)(i) of this paragraph'', and in cl. (iii), substituted ''clauses (i) and (ii)'' for ''subparagraphs (D)(i) and (D)(ii) of this paragraph''.

Subsec. (c)(2)(A). Pub. L. 100–532, §801(b)(5)(A), (B), substituted ''(2) Data in support of registration.—

''(A) The''

for ''(2)(A) Data in support of registration.—The'', and directed that subpar. (A) be aligned with left margin of subsec. (d)(1)(A) of this section.

Subsec. (c)(2)(B). Pub. L. 100–532, §§102(b)(1), 801(b)(5)(C)–(F), substituted ''(B)(i) If'' for ''(B) Additional data to support existing registration.—(i) If'', directed that cls. (ii) to (v) be aligned with left margin of subpar. (A), in cls. (ii) and (iii), inserted ''The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.'', in cl. (iv), substituted ''title. The only'' for ''title: *Provided*, that the only'', and in cl. (v), substituted ''paragraph (1)(D)'' for ''subsection (c)(1)(D) of this section''.

Subsec. (c)(2)(C). Pub. L. 100–532, §801(b)(5)(G), (H), struck out ''Simplified procedures'' after ''(C)'' and directed that text be aligned with left margin of subpar. (A).

Subsec. (c)(2)(D). Pub. L. 100–532, §102(b)(2)(A), and Pub. L. 102–237, §1006(c), substituted ''the pesticide that is the subject of the application'' for ''an end-use product''.

Subsec. (c)(2)(D)(i). Pub. L. 100–532, §102(b)(2)(B), struck out ''the safety of'' after ''data pertaining to''.

Subsec. (c)(3). Pub. L. 100–532, §103, substituted ''(A) The Administrator'' for ''The Administrator'' and added subpar. (B).

Subsec. (c)(7). Pub. L. 100–532, §801(b)(6), in introductory provisions, substituted ''paragraph (5)'' for ''subsection (c)(5) of this section'', in subpars. (A) and (B), substituted ''paragraph (5). If'' for ''subsection (c)(5) of this section: *Provided*, That, if'', and in subpar. (C), substituted ''prescribe. A'' for ''prescribe: *Provided*, that a''.

Subsec. (d)(1)(A). Pub. L. 100–532, §801(b)(7), substituted ''restricted use. If'' for ''restricted use, provided that if'' and ''restricted uses. The Administrator'' for ''restricted uses: *Provided, however*, That the Administrator''.

Subsec. (f)(2). Pub. L. 100–532, §801(b)(8), substituted ''this subchapter. As'' for ''this subchapter: *Provided*, That as''.

Subsec. (g). Pub. L. 100–532, §801(b)(9), struck out subsec. (g) which read as follows: ''The Administrator shall accomplish the reregistration of all pesticides in the

most expeditious manner practicable: *Provided*, That, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.''

1978—Subsec. (c)(1)(D). Pub. L. 95–396, §2(a)(1), added subpar. (D), and struck out provisions which required the applicant for registration of a pesticide to file with the Administrator a statement containing ''if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 136h(b) of this title. This provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court.''.

Subsec. (c)(2). Pub. L. 95–396, §§2(a)(2)(A)–(D), 3, 4, designated existing provisions as subpar. (A), inserted in second sentence ''under subparagraph (B) of this paragraph'' after ''kind of information'', struck out from introductory text of third sentence ''subsection (c)(1)(D) of this section and'' after ''Except as provided by'', and inserted provisions relating to establishment of standards for data requirements for registration of pesticides with respect to minor uses and consideration of economic factors in development of standards and cost of development, and added subpars. (B) to (D).

Subsec. (c)(5). Pub. L. 95–396, §5, provided for waiver of data requirements pertaining to efficacy.

Subsec. (c)(7), (8). Pub. L. 95–396, §6, added pars. (7) and (8).

Subsec. (d)(1)(A). Pub. L. 95–396, §7(1), authorized classification of pesticide uses by regulation on the initial classification and registered pesticides prior to reregistration.

Subsec. (d)(2). Pub. L. 95–396, §7(2), substituted ''forty-five days'' for ''30 days''.

Subsec. (d)(3). Pub. L. 95–396, §7(3), added par. (3).

Subsec. (g). Pub. L. 95–396, §8, added subsec. (g).

1975—Subsec. (c)(1)(D). Pub. L. 94–140 inserted exception relating to test data submitted on or after January 1, 1970, in support of application, inserted provision that compensation for producing test data shall apply to all applications submitted on or after October 21, 1972, and provision relating to delay of registration pending determination of reasonable compensation, struck out requirement that payment determined by court not be less than amount determined by Administrator, and substituted ''If either party'' for ''If the owner of the test data''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(b) of Pub. L. 95–396 provided that: ''The amendment to section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act [subsec. (c)(1)(D) of this section] made by [subsec. (a)(1) of] this section shall apply with respect to all applications for registration approved after the date of enactment of this Act [Sept. 30, 1978].''

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

BIOLOGICAL PESTICIDE HANDLING STUDY

Section 1498 of Pub. L. 101–624 provided that:

''(a) STUDY.—Not later than September 30, 1992, the National Academy of Sciences shall conduct a study of the biological control programs and registration procedures utilized by the Food and Drug Administration, the Animal and Plant Health Inspection Service, and the Environmental Protection Agency.

''(b) DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the completion of the study under subsection (a), the agencies and offices described in such subsection shall develop and implement a common process for reviewing and approving biological control applications that are submitted to such agencies and offices that shall be based on the study conducted under such subsection and the recommendation of the National Academy of Sciences, and other public comment.''

EDUCATION, STUDY, AND REPORT

Pub. L. 100–478, title I, §1010, Oct. 7, 1988, 102 Stat. 2313, provided that:

''(a) EDUCATION.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act [Oct. 7, 1988], shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

''(b) STUDY.—The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural food and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of meth-

ods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

''(c) REPORT.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit a report within one year of the date of enactment of this Act [Oct. 7, 1988], presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a–1, 136c, 136d, 136h, 136i–1, 136j, 136k, 136*l*, 136m, 136*o*, 136q, 136v, 136w–4, 136w–7 of this title; title 21 section 346a; title 42 section 300j–13.

§ 136a–1. Reregistration of registered pesticides

(a) General rule

The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

(1) there are no outstanding data requirements; and

(2) the requirements of section 136a(c)(5) of this title have been satisfied.

(b) Reregistration phases

Reregistrations of pesticides under this section shall be carried out in the following phases:

(1) The first phase shall include the listing under subsection (c) of this section of the active ingredients of the pesticides that will be reregistered.

(2) The second phase shall include the submission to the Administrator under subsection (d) of this section of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.

(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (e) of this section.

(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (f) of this section of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

(5) The fifth phase shall include the review by the Administrator under subsection (g) of this section of data submitted for reregistration and appropriate regulatory action by the Administrator.

(c) Phase one

(1) Priority for reregistration

For purposes of the reregistration of the pesticides described in subsection (a) of this section, the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of this section) that—

(A) are in use on or in food or feed and may result in postharvest residues;

(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

(C) have been determined by the Administrator before the effective date of this section to have significant outstanding data requirements; or

(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

(2) Reregistration lists

For purposes of reregistration under this section, the Administrator shall by order—

(A) not later than 70 days after the effective date of this section, list pesticide active ingredients for which registration standards have been issued before such effective date;

(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

(3) Judicial review

The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

(4) Notice to registrants

On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (d) of this section whether the registrants intend to seek or not to seek reregistration of such pesticides.

(d) Phase two

(1) In general

The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any

information, commitment, or offer described in paragraph (3).

(2) Notice of intent to seek or not to seek reregistration

(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide.

(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

(3) Missing or inadequate data

Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

(A) in accordance with regulations issued by the Administrator under section 136a of this title, an identification of—

(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

(iii) data identified under clause (i) that have not been submitted to the Administrator; and

(B) either—

(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 136a(c)(2)(B) of this title with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (e)(1)(G) of this section that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

(4) Time periods

(A) A submission under paragraph (2) or (3) shall be made—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 3 months after the date of publication of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 3 months after the date of publication of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period. Upon application of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under this section for the other uses of the pesticide established as of August 3, 1996, if—

(i) the data to support other uses of the pesticide on a food are being provided;

(ii) the registrant, in submitting a request for such an extension provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

(iii) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under this section; and

(iv) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in ac-

cordance with clause (iv) of section 136a(c)(2)(B) of this title or other provisions of this section, as appropriate, regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this subparagraph, the Administrator may take action to modify or revoke the extension under this subparagraph if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide written notice to the registrant revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date then established by the Administrator for submission of the data.

(5) Cancellation and removal

(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

(B)(i) If—

(I) no registrant of a pesticide containing an active ingredient listed under subsection (c)(2) of this section notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

(II) no such registrant complies with paragraph (3)(A); or

(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A);

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (c)(2) of this section and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

(I) during the comment period a person acquires the rights of the registrant in that registration;

(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (i)(1) of this section has been paid.

(6) Suspensions and penalties

The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 136a(c)(2)(B)(iv) of this title if the Administrator determines that (A) progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period. If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this paragraph in regard to such unsupported minor use until the final deadline established as of August 3, 1996, for the submission of data under this section for the supported uses identified pursuant to this paragraph unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On such a determination the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 136d(f)(1) of this title. If the Administrator grants an extension under this paragraph, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with section 136a(c)(2)(B)(iv) of this title regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 136d(f)(2) of this title. Notwithstanding this subparagraph, the Administrator may deny, modify, or revoke the temporary extension under this paragraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.

(e) Phase three

(1) Information about studies

Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section who has submitted a notice under subsection (d)(2) of this section of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under paragraph (4), to the Administrator—

(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 136a of this title and the regulations issued under such section;

(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 136a of this title and the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 136a of this title, a reformat of acute and subchronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 136a of this title and the regulations issued under such section;

(E) an identification of data that are required to be submitted to the Administrator under section 136d(a)(2) of this title, indicating an adverse effect of the pesticide;

(F) an identification of any other information available that in the view of the registrant supports the registration;

(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

(H) either—

(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 136a(c)(2)(B) of this title with regard to such cost sharing; and

(I) evidence of compliance with section 136a(c)(1)(D)(ii)[1] of this title and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

A registrant who submits a certification under subparagraph (G) that is false shall be considered to have violated this subchapter and shall be subject to the penalties prescribed by section 136*l* of this title.

(2) Time periods

(A) The information required by paragraph (1) shall be submitted to the Administrator—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 12 months after the date of publication of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 12 months after the date of publication of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 12 months after the date of publication of the listing of such active ingredient.

(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period. Upon application of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under this section for the other uses of the pesticide established as of August 3, 1996, if—

(i) the data to support other uses of the pesticide on a food are being provided;

(ii) the registrant, in submitting a request for such an extension provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

(iii) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under this section; and

(iv) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the envi-

[1] See References in Text note below.

ronment. If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of section 136a(c)(2)(B) of this title or other provisions of this section, as appropriate, regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this subparagraph, the Administrator may take action to modify or revoke the extension under this subparagraph if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide written notice to the registrant revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date then established by the Administrator for submission of the data.

(3) Cancellation

(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide. If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this subparagraph in regard to such unsupported minor use until the final deadline established as of August 3, 1996, for the submission of data under this section for the supported uses identified pursuant to this subparagraph unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On the basis of such determination, the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 136d(f)(1) of this title. If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with section 136a(c)(2)(B)(iv) of this title regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 136d(f)(2) of this title. Notwithstanding this subparagraph, the Administrator may deny, modify, or revoke the temporary extension under this subparagraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.

(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail.

(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

(III) If a hearing is requested, a hearing shall be conducted under section 136d(d) of this title, except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

(4) Guidelines

(A) Not later than 1 year after the effective date of this section, the Administrator, by order, shall issue guidelines to be followed by registrants in—

(i) summarizing studies;
(ii) reformatting studies;
(iii) identifying adverse information; and
(iv) identifying studies that have been submitted previously that may not meet the requirements of section 136a of this title or regulations issued under such section,

under paragraph (1).

(B) Guidelines issued under subparagraph (A) shall not be subject to judicial review.

(5) Monitoring

The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under paragraph (1).

(f) Phase four

(1) Independent review and identification of outstanding data requirements

(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (d)(3) and (e)(1) of this section to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this subparagraph, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (e)(1) of this section.

(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is contained in a pesticide to be reregistered under this section. The Administrator, at the same time, shall issue a notice under section 136a(c)(2)(B) of this title for the submission of the additional data that are required to meet such requirements.

(2) Time periods

(A) The Administrator shall take the action required by paragraph (1)—

(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B) of this section, not later than 18 months after the date of the listing of such active ingredient;

(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C) of this section, not later than 24 months after the date of the listing of such active ingredient; and

(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D) of this section, not later than 33 months after the date of the listing of such active ingredient.

(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period. Upon application of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under this section for the other uses of the pesticide established as of August 3, 1996, if—

(i) the data to support other uses of the pesticide on a food are being provided;

(ii) the registrant, in submitting a request for such an extension provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

(iii) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under this section; and

(iv) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of section 136a(c)(2)(B) of this title or other provisions of this section, as appropriate, regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this subparagraph, the Administrator may take action to modify or revoke the extension under this subparagraph if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide written notice to the registrant revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date then established by the Administrator for submission of the data.

(3) Suspensions and penalties

The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 136a(c)(2)(B)(iv) of this title if the Administrator determines that (A) tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under paragraph (1)(B), or (B) progress is insufficient to ensure submission of the data referred to in clause (A) within the time period prescribed by paragraph (2)(B) or the required data have not been submitted to the Administrator within such time period. If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator,

at the written request of the registrant, shall not take any action pursuant to this paragraph in regard to such unsupported minor use until the final deadline established as of August 3, 1996, for the submission of data under this section for the supported uses identified pursuant to this paragraph unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On such a determination the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 136d(f)(1) of this title. If the Administrator grants an extension under this paragraph, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with section 136a(c)(2)(B)(iv) of this title regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 136d(f)(2) of this title. Notwithstanding this subparagraph, the Administrator may deny, modify, or revoke the temporary extension under this paragraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.

(g) Phase five

(1) Data review

The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (c)(2) of this section and of all other available data found by the Administrator to be relevant.

(2) Reregistration and other actions

(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsection (f) of this section, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

(B) Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 136a(c)(2)(B) of this title and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 136a(c)(5) of this title. If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

(E) As soon as the Administrator has sufficient information with respect to the dietary risk of a particular active ingredient, but in any event no later than the time the Administrator makes a determination under subparagraph (C) or (D) with respect to pesticides containing a particular active ingredient, the Administrator shall—

(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a);

(ii) determine whether such tolerance or exemption meets the requirements of that Act [21 U.S.C. 301 et seq.];

(iii) determine whether additional tolerances or exemptions should be issued;

(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph; and

(v) commence promptly such proceedings under this subchapter and section 408 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a] as are warranted by such determinations.

(h) Compensation of data submitter

If data that are submitted by a registrant under subsection (d), (e), (f), or (g) of this section are used to support the application of another person under section 136a of this title, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 136a(c)(1)(D)[2] of this title. In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

(i) Fees

(1) Initial fee for food or feed use pesticide active ingredients

The registrants of pesticides that contain an active ingredient that is listed under subpara-

[2] See References in Text note below.

graph (B), (C), or (D) of subsection (c)(2) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $50,000 on submission of information under paragraphs (2) and (3) of subsection (d) of this section for such ingredient.

(2) Final fee for food or feed use pesticide active ingredients

(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $100,000—

(i) on submission of information for such ingredient under subsection (e)(1) of this section if data are reformatted under subsection (e)(1)(C) of this section; or

(ii) on submission of data for such ingredient under subsection (e)(2)(B) of this section if data are not reformatted under subsection (e)(1)(C) of this section.

(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) of this section and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $150,000 at such time as the Administrator shall prescribe.

(3) Fees for other pesticide active ingredients

(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) of this section and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) of this section and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

(4) Reduction or waiver of fees for minor use and other pesticides

(A) An active ingredient that is contained only in pesticides that are registered solely for agricultural or nonagricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraph (3).

(B) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Human Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.

(C) An antimicrobial active ingredient, the production level of which does not exceed 1,000,000 pounds per year, shall be exempt from the fees prescribed by paragraph (3). For purposes of this subparagraph, the term ''antimicrobial active ingredient'' means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

(i) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surface or in water or air;

(ii) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

(iii) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

(iv) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

(v) fungicides or fungistats.

(D)(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenue; or

(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000.

(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

(I) has 150 or fewer employees; and

(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

(5) Maintenance fee

(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

(i) $650 for the first registration; and

(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

(C)(i) The amount of each fee prescribed under subparagraph (A) shall be adjusted by

the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

(ii) in each of the fiscal years 1998, 1999, and 2000, the Administrator is authorized to collect up to an additional $2,000,000 in a manner consistent with subsection (k)(5) of this section and the recommendations of the Inspector General of the Environmental Protection Agency. The total fees that may be collected under this clause shall not exceed $6,000,000.

(D) The maximum annual fee payable under this paragraph by—

(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

(ii) a registrant holding over 50 registrations shall be $95,000.

(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

(II) a registrant holding over 50 pesticide registrations shall be $66,500.

(ii) For purposes of clause (i), the term ''small business'' means a corporation, partnership, or unincorporated business that—

(I) has 150 or fewer employees; and

(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

(F) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Humans[3] Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.

(G) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

(H) The authority provided under this paragraph shall terminate on September 30, 2001.

(6) Other fees

During the period beginning on October 25, 1988, and ending on September 30, 2001, the Administrator may not levy any other fees for the registration of a pesticide under this subchapter except as provided in paragraphs (1) through (5).

(7) Apportionment

(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

(i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and

(ii) registrants who have no market share but who choose to reregister a pesticide containing such active ingredient shall pay the lesser of—

(I) 15 percent of the reregistration fee; or

(II) a proportionate amount of such fee based on the lowest percentage market share held by any registrant active in the marketplace.

In no event shall registrants who have no market share but who choose to reregister a pesticide containing such active ingredient collectively pay more than 25 percent of the total active ingredient reregistration fee.

(B) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection, to determine the registrant's eligibility for a reduction or waiver of a fee, or to determine the volume usage for public health pesticides.

(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection (other than paragraph (5)) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

(j) Exemption of certain registrants

The requirements of subsections (d), (e), (f), and (i) of this section (other than subsection (i)(5) of this section) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 136a(c)(2)(D) of this title, the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

(k) Reregistration and expedited processing fund

(1) Establishment

There shall be established in the Treasury of the United States a reregistration and expedited processing fund which shall be known as the Reregistration and Expedited Processing Fund.

(2) Source and use

(A) All moneys derived from fees collected by the Administrator under subsection (i) of this section shall be deposited in the fund and shall be available to the Administrator, without fiscal year limitation, specifically to offset the costs of reregistration and expedited processing of the applications specified in

[3] So in original. Probably should be ''Human''.

paragraph (3). Such moneys derived from fees may not be expended in any fiscal year to the extent such moneys derived from fees would exceed money appropriated for use by the Administrator and expended in such year for such costs of reregistration and expedited processing of such applications. The Administrator shall, prior to expending any such moneys derived from fees—

(i) effective October 1, 1997, adopt specific and cost accounting rules and procedures as approved by the General Accounting Office and the Inspector General of the Environmental Protection Agency to ensure that moneys derived from fees are allocated solely to the costs of reregistration and expedited processing of the applications specified in paragraph (3) in the same portion as appropriated funds;

(ii) prohibit the use of such moneys derived from fees to pay for any costs other than those necessary to achieve reregistration and expedited processing of the applications specified in paragraph (3); and

(iii) ensure that personnel and facility costs associated with the functions to be carried out under this paragraph do not exceed agency averages for comparable personnel and facility costs.

(B) The Administrator shall also—

(i) complete the review of unreviewed reregistration studies required to support the reregistration eligibility decisions scheduled for completion in accordance with subsection (*l*)(2) of this section; and

(ii) contract for such outside assistance as may be necessary for review of required studies, using a generally accepted competitive process for the selection of vendors of such assistance.

(3) Expedited processing of similar applications

(A) The Administrator shall use for each of the fiscal years 1997 through 2001, not more than 1/7 of the maintenance fees collected in such fiscal year to obtain sufficient personnel and resources to assure the expedited processing and review of any application that—

(i) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from any such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment;

(ii) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data; or

(iii) proposes the initial or amended registration of an end use pesticide that, if registered as proposed, would be used for a public health pesticide.

(B) Any amounts made available under subparagraph (A) shall be used to obtain sufficient personnel and resources to carry out the activities described in such subparagraph that are in addition to the personnel and resources available to carry out such activities on October 25, 1988.

(C) So long as the Administrator has not met the time frames specified in clause (ii) of section 136a(c)(3)(B) of this title with respect to any application subject to section 136a(c)(3)(B) of this title that was received prior to August 3, 1996, the Administrator shall use the full amount of the fees specified in subparagraph (A) for the purposes specified therein. Once all applications subject to section 136a(c)(3)(B) of this title that were received prior to August 3, 1996, have been acted upon, no limitation shall be imposed by the preceding sentence of this subparagraph so long as the Administrator meets the time frames specified in clause (ii) of section 136a(c)(3)(B) of this title on 90 percent of affected applications in a fiscal year. Should the Administrator not meet such time frames in a fiscal year, the limitations imposed by the first sentence of this subparagraph shall apply until all overdue applications subject to section 136a(c)(3)(B) of this title have been acted upon.

(4) Unused funds

Money in the fund not currently needed to carry out this section shall be—

(A) maintained on hand or on deposit;

(B) invested in obligations of the United States or guaranteed thereby; or

(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(5) Accounting and performance

The Administrator shall take all steps necessary to ensure that expenditures from fees authorized by subsection (i)(5)(C)(ii) of this section are used only to carry out the goals established under subsection (*l*) of this section. The Reregistration and Expedited Processing Fund shall be designated as an Environmental Protection Agency component for purposes of section 3515(c) of title 31. The annual audit required under section 3521 of such title of the financial statements of activities under this subchapter under section 3515(b) of such title shall include an audit of the fees collected under subsection (i)(5)(C) of this section and disbursed, of the amount appropriated to match such fees, and of the Administrator's attainment of performance measures and goals established under subsection (*l*) of this section. Such an audit shall also include a review of the reasonableness of the overhead allocation and adequacy of disclosures of direct and indirect costs associated with carrying out the reregistration and expedited processing of the applications specified in paragraph (3), and the basis for and accuracy of all costs paid with moneys derived from such fees. The Inspector General shall conduct the annual audit and report the findings and recommendations of such audit to the Administrator and to the Committees on Agriculture of the House of Representatives and the Senate. The cost of such audit shall be paid for out of the fees collected under subsection (i)(5)(C) of this section.

(*l*) Performance measures and goals

The Administrator shall establish and publish annually in the Federal Register performance measures and goals. Such measures and goals shall include—

(1) the number of products reregistered, canceled, or amended, the status of reregistration, the number and type of data requests under section 136a(c)(2)(B) of this title issued to support product reregistration by active ingredient, the progress in reducing the number of unreviewed, required reregistration studies, the aggregate status of tolerances reassessed, and the number of applications for registration submitted under subsection (k)(3) of this section that were approved or disapproved;

(2) the future schedule for reregistrations, including the projection for such schedules that will be issued under subsection (g)(2)(A) and (B) of this section in the current fiscal year and the succeeding fiscal year; and

(3) the projected year of completion of the reregistrations under this section.

(m) Judicial review

Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 136n(b) of this title.

(n) Authorization of funds to develop public health data

(1) "Secretary" defined

For the purposes of this section, ''Secretary'' means the Secretary of Health and Human Services, acting through the Public Health Service.

(2) Consultation

In the case of a pesticide registered for use in public health programs for vector control or for other uses the Administrator determines to be human health protection uses, the Administrator shall, upon timely request by the registrant or any other interested person, or on the Administrator's own initiative may, consult with the Secretary prior to taking final action to suspend registration under section 136a(c)(2)(B)(iv) of this title, or cancel a registration under section 136a–1, 136d(e), or 136d(f) of this title. In consultation with the Secretary, the Administrator shall prescribe the form and content of requests under this section.

(3) Benefits to support family

The Administrator, after consulting with the Secretary, shall make a determination whether the potential benefits of continued use of the pesticide for public health or health protection purposes are of such significance as to warrant a commitment by the Secretary to conduct or to arrange for the conduct of the studies required by the Administrator to support continued registration under section 136a of this title or reregistration under this section.

(4) Additional time

If the Administrator determines that such a commitment is warranted and in the public interest, the Administrator shall notify the Secretary and shall, to the extent necessary, amend a notice issued under section 136a(c)(2)(B) of this title to specify additional reasonable time periods for submission of the data.

(5) Arrangements

The Secretary shall make such arrangements for the conduct of required studies as the Secretary finds necessary and appropriate to permit submission of data in accordance with the time periods prescribed by the Administrator. Such arrangements may include Public Health Service intramural research activities, grants, contracts, or cooperative agreements with academic, public health, or other organizations qualified by experience and training to conduct such studies.

(6) Support

The Secretary may provide for support of the required studies using funds authorized to be appropriated under this section, the Public Health Service Act [42 U.S.C. 201 et seq.], or other appropriate authorities. After a determination is made under subsection (d) of this section, the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate of the sums required to conduct the necessary studies.

(7) Authorization of appropriations

There is authorized to be appropriated to carry out the purposes of this section $12,000,000 for fiscal year 1997, and such sums as may be necessary for succeeding fiscal years.

(June 25, 1947, ch. 125, § 4, formerly § 3A, as added and renumbered § 4, Pub. L. 100–532, title I, § 102(a), title VIII, § 801(q)(2)(A), Oct. 25, 1988, 102 Stat. 2655, 2683; amended Pub. L. 101–624, title XIV, § 1493, Nov. 28, 1990, 104 Stat. 3628; Pub. L. 102–237, title X, § 1006(a)(4), (e), (f), Dec. 13, 1991, 105 Stat. 1895–1897; Pub. L. 104–170, title I, § 103, title II, §§ 210(c)(2), (f)(1), 232, 237, title V, § 501, Aug. 3, 1996, 110 Stat. 1490, 1496, 1498, 1508, 1509, 1536.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsecs. (a), (c)(1), (2), and (e)(4)(A), is 60 days after Oct. 25, 1988. See Effective Date note below.

Section 136a(c)(1)(D) of this title, referred to in subsecs. (e)(1)(I) and (h), was redesignated section 136a(c)(1)(F) of this title by Pub. L. 102–237, title X, § 1006(a)(3)(B), Dec. 13, 1991, 105 Stat. 1894.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (g)(2)(E)(ii), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Public Health Service Act, referred to in subsec. (n)(6), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 4 of act June 25, 1947, which was classified to section 136b of this title was transferred to section 11(a)–(c) of act June 25, 1947, which is classified to section 136i(a)–(c) of this title.

Another prior section 4 of act June 25, 1947, was classified to section 135b of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1996—Pub. L. 104–170, § 501, which directed amendment of section 4 without specifying the name of the Act being amended, was executed to this section, which is section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, to reflect the probable intent of Congress.

Subsec. (d)(4)(B). Pub. L. 104–170, § 210(c)(2), inserted at end provisions authorizing extension of deadline for production of residue chemistry data in case of minor use and setting forth conditions to be met for such extension in cls. (i) to (iv).

Subsec. (d)(6). Pub. L. 104–170, § 210(f)(1)(A), inserted at end provisions delaying upon written request action with regard to unsupported minor uses, authorizing refusal of request where there are health or environmental concerns, authorizing publication of notice in Federal Register and monitoring of development of data, setting forth procedures where registrant is not meeting or has not met schedule for production of data, and authorizing denial, modification, or revocation of temporary extension where use may cause adverse effect on environment and requiring notice of such revocation to registrant.

Subsec. (e)(2)(B). Pub. L. 104–170, § 210(c)(2), inserted at end provisions authorizing extension of deadline for production of residue chemistry data in case of minor use and setting forth conditions to be met for such extension in cls. (i) to (iv).

Subsec. (e)(3)(A). Pub. L. 104–170, § 210(f)(1)(B), inserted at end provisions delaying upon written request action with regard to unsupported minor uses, authorizing refusal of request where there are health or environmental concerns, authorizing publication of notice in Federal Register and monitoring of development of data, setting forth procedures where registrant is not meeting or has not met schedule for production of data, and authorizing denial, modification, or revocation of temporary extension where use may cause adverse effect on environment and requiring notice of such revocation to registrant.

Subsec. (f)(2)(B). Pub. L. 104–170, § 210(c)(2), inserted at end provisions authorizing extension of deadline for production of residue chemistry data in case of minor use and setting forth conditions to be met for such extension in cls. (i) to (iv).

Subsec. (f)(3). Pub. L. 104–170, § 210(f)(1)(A), inserted at end provisions delaying upon written request action with regard to unsupported minor uses, authorizing refusal of request where there are health or environmental concerns, authorizing publication of notice in Federal Register and monitoring of development of data, setting forth procedures where registrant is not meeting or has not met schedule for production of data, and authorizing denial, modification, or revocation of temporary extension where use may cause adverse effect on environment and requiring notice of such revocation to registrant.

Subsec. (g)(2)(E). Pub. L. 104–170, § 103, added subpar. (E).

Subsec. (i)(4)(B) to (D). Pub. L. 104–170, § 232(1), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (i)(5)(C). Pub. L. 104–170, § 501(a)(2), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (i)(5)(F), (G). Pub. L. 104–170, § 232(2), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (i)(5)(H). Pub. L. 104–170, § 501(a)(1), substituted ''2001'' for ''1997''.

Pub. L. 104–170, § 232(2), redesignated subpar. (G) as (H).

Subsec. (i)(6). Pub. L. 104–170, § 501(a)(1), substituted ''2001'' for ''1997''.

Subsec. (i)(7)(B). Pub. L. 104–170, § 232(3), substituted '', to determine the registrant's eligibility'' for ''or to determine the registrant's eligibility'' and inserted before period at end '', or to determine the volume usage for public health pesticides''.

Subsec. (k)(1). Pub. L. 104–170, § 501(b), inserted ''which shall be known as the Reregistration and Expedited Processing Fund'' before period at end.

Subsec. (k)(2). Pub. L. 104–170, § 501(c), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''All fees collected by the Administrator under subsection (i) of this section shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out reregistration and expedited processing of similar applications.''

Subsec. (k)(3)(A). Pub. L. 104–170, § 501(d)(1), which directed the amendment of introductory provisions by substituting ''for each of the fiscal years 1997 through 2001, not more than 1/7 of the maintenance fees collected in such fiscal year'' for ''for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to 2 million each year'', was executed by making the substitution for text which contained the phrase ''$2 million'', to reflect the probable intent of Congress.

Subsec. (k)(3)(A)(iii). Pub. L. 104–170, § 232(4), added cl. (iii).

Subsec. (k)(3)(C). Pub. L. 104–170, § 501(d)(2), added subpar. (C).

Subsec. (k)(5). Pub. L. 104–170, § 501(e), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: ''The Administrator shall—

''(A) provide an annual accounting of the fees collected and disbursed from the fund; and

''(B) take all steps necessary to ensure that expenditures from such fund are used only to carry out this section.''

Subsec. (*l*). Pub. L. 104–170, § 501(f), added subsec. (*l*). Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 104–170, § 501(f), redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Pub. L. 104–170, § 237, added subsec. (m).

Subsec. (n). Pub. L. 104–170, § 501(f), redesignated subsec. (m) as (n).

1991—Subsec. (f)(3). Pub. L. 102–237, § 1006(a)(4), realigned margin.

Subsec. (i)(5). Pub. L. 102–237, § 1006(e), amended par. (5) generally, substituting, in subpar. (A), provisions relating to January 15 for provisions relating to March 1, in subpar. (A)(i), provisions relating to fee of $650 for first registration for provisions relating to fee of $425 for each registration for registrants holding not more than 50 registrations, and in subpar. (A)(ii), provisions relating to fee of $1,300 for each additional registration up to 200 registrations, with no fee thereafter, for provisions relating to fee of $425 for each registration up to 50, $100 for each registration over 50, with no fee after 200 registrations, redesignating provisions formerly set out in subpar. (A), following cl. (ii), as subpar. (B), and substituting provisions relating to fee under this par. for provisions relating to fee under this subpar., redesignating former subpar. (B) as (C), striking former subpar. (C), which set maximum annual fee for registrants under subpar. (A)(i) at $20,000, and for registrants under subpar. (A)(ii) at $35,000, adding subpars. (D) and (E), and redesignating former subpars. (D) and (E) as (F) and (G), respectively.

Subsec. (k)(3)(A). Pub. L. 102–237, § 1006(f), substituted ''for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year'' for ''each fiscal year not more than $2,000,000 of the amounts in the fund''.

1990—Subsec. (i)(5)(A). Pub. L. 101–624 inserted sentence at end relating to reduction or waiver of fee where pesticide is registered for minor agricultural use.

EFFECTIVE DATE

Section effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as an Effective Date of 1988 Amendment note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136d, 136j of this title; title 21 section 346a.

§ 136b. Transferred

CODIFICATION

Section, act June 25, 1947, ch. 125, § 4, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 983; amended Nov. 28, 1975, Pub. L. 94–140, §§ 5, 11, 89 Stat. 753, 754; Sept. 30, 1978, Pub. L. 95–396, § 9, 92 Stat. 827; Oct. 25, 1988, Pub. L. 100–532, title VIII, § 801(c), (q)(1)(A), (B), 102 Stat. 2681, 2683, which related to use of restricted use pesticides and certification of applicators, was transferred to subsecs. (a) to (c) of section 11 of act June 25, 1947, by section 801(q)(1)(A) of Pub. L. 100–532 and is classified to section 136i(a) to (c) of this title.

§ 136c. Experimental use permits

(a) Issuance

Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than one hundred and twenty days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of the Administrator's determination not to issue the permit and the reasons therefor. The applicant may correct the application or request a waiver of the conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if the Administrator determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 136a of this title. An application for an experimental use permit may be filed at any time.

(b) Temporary tolerance level

If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, the Administrator may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

(c) Use under permit

Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

(d) Studies

When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause unreasonable adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 136a of this title.

(e) Revocation

The Administrator may revoke any experimental use permit, at any time, if the Administrator finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(f) State issuance of permits

Notwithstanding the foregoing provisions of this section, the Administrator shall, under such terms and conditions as the Administrator may by regulations prescribe, authorize any State to issue an experimental use permit for a pesticide. All provisions of section 136i of this title relating to State plans shall apply with equal force to a State plan for the issuance of experimental use permits under this section.

(g) Exemption for agricultural research agencies

Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require. Such pesticide may be used only by such research agency or educational institution for purposes of experimentation.

(June 25, 1947, ch. 125, § 5, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 983; amended Pub. L. 94–140, § 10, Nov. 28, 1975, 89 Stat. 754; Pub. L. 95–396, § 10, Sept. 30, 1978, 92 Stat. 828; Pub. L. 100–532, title VIII, § 801(d), (q)(1)(D), Oct. 25, 1988, 102 Stat. 2681, 2683; Pub. L. 102–237, title X, § 1006(b)(1), Dec. 13, 1991, 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 5 of act June 25, 1947, was classified to section 135c of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsecs. (b), (e), (f). Pub. L. 102–237 substituted ''the Administrator'' for ''he'' before ''may'' in subsec. (b), before ''finds'' in subsec. (e), and before ''may'' in subsec. (f).

1988—Subsec. (f). Pub. L. 100–532, § 801(q)(1)(D), substituted ''136i'' for ''136b''.

Subsec. (g). Pub. L. 100–532, § 801(d), substituted ''require. Such pesticide'' for ''require: *Provided*, That such pesticide''.

1978—Subsec. (a). Pub. L. 95–396, § 10(1), provided for review of application, issuance or nonissuance of experimental use permit within prescribed period including reasons for denial, correction of application, and waiver of conditions and substituted provision for filing an application for experimental use permit at any time for prior provision for filing at the time of or before or after an application for registration is filed.

Subsec. (f). Pub. L. 95–396, § 10(2), substituted in first sentence ''shall'' for ''may'' where first appearing.

1975—Subsec. (g). Pub. L. 94–140 added subsec. (g).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a, 136j of this title.

§ 136d. Administrative review; suspension

(a) Existing stocks and information

(1) Existing stocks

The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is suspended or canceled under this section, or section 136a or 136a–1 of this title, to such extent, under such conditions, and for such uses as the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter.

(2) Information

If at any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, the registrant shall submit such information to the Administrator.

(b) Cancellation and change in classification

If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this subchapter or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of the Administrator's intent either—

(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the Administrator's action, or

(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

Such notice shall be sent to the registrant and made public. In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection and section 136w(d) of this title, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to this subsection and of submission to the Scientific Advisory Panel pursuant to section 136w(d) of this title and proceed in accordance with subsection (c) of this section. When a public health use is affected, the Secretary of Health and Human Services should provide available benefits and use information, or an analysis thereof, in accordance with the procedures followed and subject to the same conditions as the Secretary of Agriculture in the case of agricultural pesticides. The proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice. In the event a hearing is held pursuant to such a request or to the Administrator's determination under paragraph (2), a decision pertaining to registration or classification issued after completion of such hearing shall be final. In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such impact.

(c) Suspension

(1) Order

If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, the Administrator may, by order, suspend the registration of the pesticide immediately. Except as provided in paragraph (3), no order of suspension may be issued under this subsection unless the Administrator has issued, or at the same time issues, a notice of intention to cancel the registration or change the classification of the pesticide under subsection (b) of this section. Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of ''imminent hazard''. The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Administrator on the question of whether an imminent hazard exists.

(2) Expedite hearing

If no request for a hearing is submitted to the Administrator within five days of the registrant's receipt of the notification provided

for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Administrator agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of chapter 5 of title 5, except that the presiding officer need not be a certified administrative law judge. The presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have seven days to render a final order on the issue of suspension.

(3) Emergency order

Whenever the Administrator determines that an emergency exists that does not permit the Administrator to hold a hearing before suspending, the Administrator may issue a suspension order in advance of notification to the registrant. The Administrator may issue an emergency order under this paragraph before issuing a notice of intention to cancel the registration or change the classification of the pesticide under subsection (b) of this section and the Administrator shall proceed to issue the notice under subsection (b) of this section within 90 days of issuing an emergency order. If the Administrator does not issue a notice under subsection (b) of this section within 90 days of issuing an emergency order, the emergency order shall expire. In the case of an emergency order, paragraph (2) shall apply except that (A) the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension, and (B) no party other than the registrant and the Administrator shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules. Any person so filing briefs shall be considered a party to such proceeding for the purposes of section 136n(b) of this title.

(4) Judicial review

A final order on the question of suspension following a hearing shall be reviewable in accordance with section 136n of this title, notwithstanding the fact that any related cancellation proceedings have not been completed. Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending the Administrator's final decision with respect to cancellation or change in classification. This action may be maintained simultaneously with any administrative review proceedings under this section. The commencement of proceedings under this paragraph shall not operate as a stay of order, unless ordered by the court.

(d) Public hearings and scientific review

In the event a hearing is requested pursuant to subsection (b) of this section or determined upon by the Administrator pursuant to subsection (b) of this section, such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpena may be enforced by an appropriate United States district court in accordance with the principles stated herein. Upon the request of any party to a public hearing and when in the Hearing Examiner's judgment it is necessary or desirable, the Hearing Examiner shall at any time before the hearing record is closed refer to a Committee of the National Academy of Sciences the relevant questions of scientific fact involved in the public hearing. No member of any committee of the National Academy of Sciences established to carry out the functions of this section shall have a financial or other conflict of interest with respect to any matter considered by such committee. The Committee of the National Academy of Sciences shall report in writing to the Hearing Examiner within 60 days after such referral on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this subchapter. As soon as practicable after completion of the hearing (including the report of the Academy) but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before the Administrator and issue an order either revoking the Administrator's notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

(e) Conditional registration

(1) The Administrator shall issue a notice of intent to cancel a registration issued under sec-

tion 136a(c)(7) of this title if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed, determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed, or (B) at the end of the period provided for satisfaction of any condition imposed, that condition has not been met. The Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment.

(2) A cancellation proposed under this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. If a hearing is requested, a hearing shall be conducted under subsection (d) of this section. The only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. A decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.

(f) General provisions

(1) Voluntary cancellation

(A) A registrant may, at any time, request that a pesticide registration of the registrant be canceled or amended to terminate one or more pesticide uses.

(B) Before acting on a request under subparagraph (A), the Administrator shall publish in the Federal Register a notice of the receipt of the request and provide for a 30-day period in which the public may comment.

(C) In the case of a pesticide that is registered for a minor agricultural use, if the Administrator determines that the cancellation or termination of uses would adversely affect the availability of the pesticide for use, the Administrator—

(i) shall publish in the Federal Register a notice of the receipt of the request and make reasonable efforts to inform persons who so use the pesticide of the request; and

(ii) may not approve or reject the request until the termination of the 180-day period beginning on the date of publication of the notice in the Federal Register, except that the Administrator may waive the 180-day period upon the request of the registrant or if the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment.

(D) Subject to paragraph (3)(B), after complying with this paragraph, the Administrator may approve or deny the request.

(2) Publication of notice

A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this subchapter or a notice issued under subsection (c)(4) or (d)(5)(A) of section 136a–1 of this title shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

(3) Transfer of registration of pesticides registered for minor agricultural uses

In the case of a pesticide that is registered for a minor agricultural use:

(A) During the 180-day period referred to in paragraph (1)(C)(ii), the registrant of the pesticide may notify the Administrator of an agreement between the registrant and a person or persons (including persons who so use the pesticide) to transfer the registration of the pesticide, in lieu of canceling or amending the registration to terminate the use.

(B) An application for transfer of registration, in conformance with any regulations the Administrator may adopt with respect to the transfer of the pesticide registrations, must be submitted to the Administrator within 30 days of the date of notification provided pursuant to subparagraph (A). If such an application is submitted, the Administrator shall approve the transfer and shall not approve the request for voluntary cancellation or amendment to terminate use unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

(C) If the Administrator approves the transfer and the registrant transfers the registration of the pesticide, the Administrator shall not cancel or amend the registration to delete the use or rescind the transfer of the registration, during the 180-day period beginning on the date of the approval of the transfer unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

(D) The new registrant of the pesticide shall assume the outstanding data and other requirements for the pesticide that are pending at the time of the transfer.

(4) Utilization of data for voluntarily canceled pesticide

When an application is filed with the Administrator for the registration of a pesticide for

a minor use and another registrant subsequently voluntarily cancels its registration for an identical or substantially similar pesticide for an identical or substantially similar use, the Administrator shall process, review, and evaluate the pending application as if the voluntary cancellation had not yet taken place except that the Administrator shall not take such action if the Administrator determines that such minor use may cause an unreasonable adverse effect on the environment. In order to rely on this subsection, the applicant must certify that it agrees to satisfy any outstanding data requirements necessary to support the reregistration of the pesticide in accordance with the data submission schedule established by the Administrator.

(g) Notice for stored pesticides with canceled or suspended registrations

(1) In general

Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

(A) such possession,

(B) the quantity of such pesticide such person possesses, and

(C) the place at which such pesticide is stored.

(2) Copies

The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.

(h) Judicial review

Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 136n of this title.

(June 25, 1947, ch. 125, §6, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 984; amended Pub. L. 94–140, §1, Nov. 28, 1975, 89 Stat. 751; Pub. L. 95–251, §2(a)(2), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95–396, §§11, 12, Sept. 30, 1978, 92 Stat. 828; Pub. L. 98–620, title IV, §402(4)(A), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100–532, title II, §201, title IV, §404, title VIII, §801(e), (q)(2)(B), Oct. 25, 1988, 102 Stat. 2668, 2673, 2681, 2683; Pub. L. 101–624, title XIV, §1494, Nov. 28, 1990, 104 Stat. 3628; Pub. L. 102–237, title X, §1006(a)(5), (b)(1), (2), (3)(C)–(E), Dec. 13, 1991, 105 Stat. 1895, 1896; Pub. L. 104–170, title I, §§102, 106(a), title II, §§210(g), (h), 233, Aug. 3, 1996, 110 Stat. 1489, 1491, 1500, 1509.)

CODIFICATION

''Subchapter II of chapter 5 of title 5'', referred to in subsec. (c)(2), was in the original ''subchapter II of Title 5'', and was editorially changed to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6 of act June 25, 1947, was classified to section 135d of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–170, §106(a)(1), substituted ''Existing stocks and information'' for ''Cancellation after five years'' in heading.

Subsec. (a)(1). Pub. L. 104–170, §106(a)(2), amended heading and text generally. Prior to amendment, text read as follows: ''The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five year period thereafter) unless the registrant, or other interested person with the concurrence of the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect. The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this subsection or subsection (b) of this section to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment. The Administrator shall publish in the Federal Register, at least 30 days prior to the expiration of such five-year period, notice that the registration will be canceled if the registrant or other interested person with the concurrence of the registrant does not request that the registration be continued in effect.''

Subsec. (b). Pub. L. 104–170, §233, inserted ''When a public health use is affected, the Secretary of Health and Human Services should provide available benefits and use information, or an analysis thereof, in accordance with the procedures followed and subject to the same conditions as the Secretary of Agriculture in the case of agricultural pesticides.'' before ''The proposed action shall become final''.

Subsec. (c)(1). Pub. L. 104–170, §102(a), amended second sentence generally. Prior to amendment, second sentence read as follows: ''No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of the Administrator's intention to cancel the registration or change the classification of the pesticide.''

Subsec. (c)(3). Pub. L. 104–170, §102(b), inserted after first sentence ''The Administrator may issue an emergency order under this paragraph before issuing a notice of intention to cancel the registration or change the classification of the pesticide under subsection (b) of this section and the Administrator shall proceed to issue the notice under subsection (b) of this section within 90 days of issuing an emergency order. If the Administrator does not issue a notice under subsection (b) of this section within 90 days of issuing an emergency order, the emergency order shall expire.'' and substituted ''In the case of an emergency order'' for ''In that case''.

Subsec. (f)(1)(C)(ii). Pub. L. 104–170, §210(g)(1), substituted ''180-day'' for ''90-day'' in two places.

Subsec. (f)(3)(A). Pub. L. 104–170, §210(g)(2), substituted ''180-day'' for ''90-day''.

Subsec. (f)(4). Pub. L. 104–170, §210(h), added par. (4).

1991—Subsec. (a)(1). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''may specify'' and before ''determines''.

Subsec. (a)(2). Pub. L. 102–237, §1006(b)(3)(C), substituted ''the registrant'' for ''he'' before ''shall''.

Subsec. (b). Pub. L. 102–237, §1006(b)(1), (2), substituted ''the Administrator's'' for ''his'' in introductory provisions and par. (1), and ''the Administrator'' for ''he'' before ''shall publish'' in last sentence.

Subsec. (c)(1). Pub. L. 102–237, §1006(b)(1), (2), substituted ''the Administrator'' for ''he'' before ''may'' and ''the Administrator's'' for ''his'' before ''intention''.

Subsec. (c)(3). Pub. L. 102–237, §1006(b)(1), (3)(D), substituted ''the Administrator'' for ''he'' before ''may'' and ''the Administrator'' for ''him'' after ''permit''.

Subsec. (d). Pub. L. 102–237, §1006(b)(2), (3)(E), in penultimate sentence substituted ''the Administra-

tor's'' for ''his'' and ''the Administrator'' for ''him'' before ''and issue''.

Subsec. (f)(3)(B). Pub. L. 102–237, §1006(a)(5), substituted ''adverse effect'' for ''adverse affect''.

1990—Subsec. (f)(1). Pub. L. 101–624, §1494(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.''

Subsec. (f)(3). Pub. L. 101–624, §1494(2), added par. (3).

1988—Subsec. (a)(1). Pub. L. 100–532, §801(e)(1), substituted ''effect. The Administrator'' for ''effect: *Provided*, That the Administrator''.

Subsec. (c). Pub. L. 100–532, §801(e)(2)–(4), in par. (1) directed that undesignated paragraph beginning ''Except as provided'' be run into sentence ending ''of the pesticide.'' and substituted ''before the Administrator'' for ''before the Agency'', in par. (2) substituted ''submitted to the Administrator'' for ''submitted to the Agency'' and ''and the Administrator'' for ''and the Agency'', and in par. (3) substituted ''(A)'' for ''(i)'', ''and the Administrator'' for ''and the Agency'', and ''(B)'' for ''(ii)''.

Subsec. (e). Pub. L. 100–532, §801(e)(5), (6), in par. (1), substituted ''met. The Administrator'' for ''met: *Provided*, That the Administrator'', and in par. (2), substituted ''section. The only'' for ''section: *Provided*, That the only''.

Subsec. (f). Pub. L. 100–532, §201, added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (f)(2). Pub. L. 100–532, §801(q)(2)(B), made a technical amendment to the reference to section 136a–1 of this title to reflect the renumbering of the corresponding section of the original act.

Subsec. (g). Pub. L. 100–532, §404, added subsec. (g).

Subsec. (h). Pub. L. 100–532, §201, redesignated former subsec. (f) as (h).

1984—Subsec. (c)(4). Pub. L. 98–620 struck out provisions requiring petitions to review orders on the issue of suspension to be advanced on the docket of the court of appeals.

1978—Subsec. (b). Pub. L. 95–396, §11, required the Administrator, in taking any final action under subsec. (b), to consider restricting a pesticide's use or uses as an alternative to cancellation and to fully explain the reasons for the restrictions.

Subsec. (c)(2). Pub. L. 95–251 substituted ''administrative law judge'' for ''hearing examiner''.

Subsecs. (e), (f). Pub. L. 95–396, §12, added subsec. (e) and redesignated former subsec. (e) as (f).

1975—Subsec. (b). Pub. L. 94–140 established criteria which Administrator must use in determining the issuance of a suspension of registration notice and the time periods relating to such notice, set forth required procedures to be followed by Administrator prior to publication of such notice, required procedures when the Secretary elects to comment or fails to comment on suspension notice, waiver or modification of time periods in specified required procedures, required procedures for waiver of notice and consent by Secretary for suspension of registration, and established criteria for Secretary taking any final action.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136a–1, 136m, 136*o*, 136w of this title.

§ 136e. Registration of establishments

(a) Requirement

No person shall produce any pesticide subject to this subchapter or active ingredient used in producing a pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

(b) Registration

Whenever the Administrator receives an application under subsection (a) of this section, the Administrator shall register the establishment and assign it an establishment number.

(c) Information required

(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides—

(A) which the producer is currently producing;

(B) which the producer has produced during the past year; and

(C) which the producer has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 136k of this title, inform the Administrator of the name and address of any recipient of any pesticide produced in any registered establishment which the producer operates.

(d) Confidential records and information

Any information submitted to the Administrator pursuant to subsection (c) of this section other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment shall be considered confidential and shall be subject to the provisions of section 136h of this title.

(June 25, 1947, ch. 125, §7, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 987; amended Pub. L. 95–396, §13, Sept. 30, 1978, 92 Stat. 829; Pub. L. 102–237, title X, §1006(b)(1), (3)(F), (G), Dec. 13, 1991, 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 7 of act June 25, 1947, was classified to section 135e of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''shall''.

Subsec. (c)(1)(A) to (C). Pub. L. 102–237, §1006(b)(3)(F), substituted ''the producer'' for ''he''.

Subsec. (c)(2). Pub. L. 102–237, §1006(b)(3)(G), substituted ''the Administrator'' for ''him'' after ''inform'' and ''the producer'' for ''he''.

1978—Subsec. (a). Pub. L. 95–396, §13(1), made requirement of registration applicable to production of active ingredient used in producing a pesticide subject to this subchapter.

Subsec. (c)(1). Pub. L. 95–396, §13(2), required information pertaining to types and amounts of active ingredients used in producing pesticides where applicable.

Subsec. (d). Pub. L. 95–396, §13(3), considered names of pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment as not being confidential information.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a, 136j, 136*o*, 136w of this title.

§ 136f. Books and records

(a) Requirements

The Administrator may prescribe regulations requiring producers, registrants, and applicants for registration to maintain such records with respect to their operations and the pesticides and devices produced as the Administrator determines are necessary for the effective enforcement of this subchapter and to make the records available for inspection and copying in the same manner as provided in subsection (b) of this section. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

(b) Inspection

For the purposes of enforcing the provisions of this subchapter, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this subchapter, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data; and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed). Before undertaking an inspection under this subsection, the officer or employee must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness.

(June 25, 1947, ch. 125, §8, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 987; amended Pub. L. 95–396, §14, Sept. 30, 1978, 92 Stat. 829; Pub. L. 100–532, title III, §301, Oct. 25, 1988, 102 Stat. 2668; Pub. L. 102–237, title X, §1006(b)(1), Dec. 13, 1991, 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 8 of act June 25, 1947, was classified to section 135f of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''the Administrator'' for ''he'' before ''determines''.

1988—Subsec. (a). Pub. L. 100–532 inserted '', registrants, and applicants for registration'' after ''requiring producers'' and ''and to make the records available for inspection and copying in the same manner as provided in subsection (b) of this section'' before period at end of first sentence.

1978—Subsec. (b). Pub. L. 95–396 required, in connection with inspection of records and information, the presentation of credentials, written statement as to the reason for inspection, including statement of suspected violation, or an alternative but sufficient reason, and commencement and completion of inspection with reasonable promptness.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136g, 136j, 136*o*, 136w–1 of this title.

§ 136g. Inspection of establishments, etc.

(a) In general

(1) For purposes of enforcing the provisions of this subchapter, officers or employees of the Environmental Protection Agency or of any State duly designated by the Administrator are authorized to enter at reasonable times (A) any establishment or other place where pesticides or devices are held for distribution or sale for the purpose of inspecting and obtaining samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices, or (B) any place where there is being held any pesticide the registration of which has been suspended or canceled for the purpose of determining compliance with section 136q of this title.

(2) Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices

are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(b) Warrants

For purposes of enforcing the provisions of this subchapter and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this subchapter have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

(1) entry, inspection, and copying of records for purposes of this section or section 136f of this title;

(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any pesticide or device found in the establishment which is adulterated, misbranded, not registered (in the case of a pesticide) or otherwise in violation of this subchapter and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

(3) the seizure of any pesticide or device which is in violation of this subchapter.

(c) Enforcement

(1) Certification of facts to Attorney General

The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this subchapter. If it shall appear from any such examination that they fail to comply with the requirements of this subchapter, the Administrator shall cause notice to be given to the person against whom criminal or civil proceedings are contemplated. Any person so notified shall be given an opportunity to present the person's views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this subchapter have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 136*l*(b) of this title or a civil proceeding under section 136*l*(a) of this title, when the Administrator determines that such action will be sufficient to effectuate the purposes of this subchapter.

(2) Notice not required

The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

(3) Warning notices

Nothing in this subchapter shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this subchapter whenever the Administrator believes that the public interest will be adequately served by a suitable written notice of warning.

(June 25, 1947, ch. 125, §9, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 988; amended Pub. L. 100–532, title III, §302, Oct. 25, 1988, 102 Stat. 2669; Pub. L. 102–237, title X, §1006(b)(1), (3)(H), (I), Dec. 13, 1991, 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 9 of act June 25, 1947, was classified to section 135g of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237, §1006(b)(3)(H), substituted ''the officer or employee'' for ''he'' before ''shall'' in fourth sentence.

Subsec. (c)(1). Pub. L. 102–237, §1006(b)(3)(I), substituted ''the person's'' for ''his'' in third sentence.

Subsec. (c)(3). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''believes''.

1988—Subsec. (a). Pub. L. 100–532, §302(a), substituted ''(1) For purposes of'' for ''For purposes of'', inserted ''of the Environmental Protection Agency or of any State'', substituted ''at reasonable times (A)'' for ''at reasonable times,'', added cl. (B), and substituted ''(2) Before'' for ''Before''.

Subsec. (b)(1). Pub. L. 100–532, §302(b), amended par. (1) generally, substituting ''entry, inspection, and copying of records for purposes of this section or section 136f of this title'' for ''entry for the purpose of this section''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136w–1 of this title.

§ 136h. Protection of trade secrets and other information

(a) In general

In submitting data required by this subchapter, the applicant may (1) clearly mark any portions thereof which in the applicant's opinion are trade secrets or commercial or financial information and (2) submit such market material separately from other material required to be submitted under this subchapter.

(b) Disclosure

Notwithstanding any other provision of this subchapter and subject to the limitations in subsections (d) and (e) of this section, the Administrator shall not make public information which in the Administrator's judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

(c) Disputes

If the Administrator proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, the Administrator shall notify the applicant or registrant, in writing, by certified mail. The Administrator shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate district court for a declaratory judgment as to whether such information is subject to protection under subsection (b) of this section.

(d) Limitations

(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public. The use of such data for any registration purpose shall be governed by section 136a of this title. This paragraph does not authorize the disclosure of any information that—

(A) discloses manufacturing or quality control processes,

(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

(2) Information concerning production, distribution, sale, or inventories of a pesticide that is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice. Where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

(e) Disclosure to contractors

Information otherwise protected from disclosure to the public under subsection (b) of this section may be disclosed to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this subchapter and under such conditions as the Administrator may specify. The Administrator shall require as a condition to the disclosure of information under this subsection that the person receiving it take such security precautions respecting the information as the Administrator shall by regulation prescribe.

(f) Penalty for disclosure by Federal employees

(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who, knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or

otherwise obtained under this subchapter. Nothing in this subchapter shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section, or any employee of any such contractor, shall be considered to be an employee of the United States.

(g) Disclosure to foreign and multinational pesticide producers

(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant under this subchapter to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that such person does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees. Notwithstanding any other provision of this subsection, the Administrator may disclose information to any person in connection with a public proceeding under law or regulation, subject to restrictions on the availability of information contained elsewhere in this subchapter, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

(2) The Administrator shall maintain records of the names of persons to whom data are disclosed under this subsection and the persons or organizations they represent and shall inform the applicant or registrant of the names and affiliations of such persons.

(3) Section 1001 of title 18 shall apply to any affirmation made under paragraph (1) of this subsection.

(June 25, 1947, ch. 125, §10, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 989; amended Pub. L. 95–396, §15, Sept. 30, 1978, 92 Stat. 829; Pub. L. 98–620, title IV, §402(4)(B), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100–532, title VIII, §801(f), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102–237, title X, §1006(b)(1), (2), (3)(J), Dec. 13, 1991, 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 10 of act June 25, 1947, was classified to section 135h of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237, §1006(b)(3)(J), substituted ''the applicant's'' for ''his''.

Subsec. (b). Pub. L. 102–237, §1006(b)(2), substituted ''the Administrator's'' for ''his''.

Subsec. (c). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''shall notify''.

1988—Subsec. (d). Pub. L. 100–532 in par. (1), substituted ''public. The use'' for ''public: *Provided*, That the use'' and ''title. This paragraph'' for ''title: *Provided further*, That this paragraph'', and in par. (3), ''notice. Where'' for ''notice: *Provided*, That where''.

1984—Subsec. (d)(3). Pub. L. 98–620 struck out provisions requiring the court to give expedited consideration to actions involving injunctions or limitations of proposed disclosure.

1978—Subsec. (b). Pub. L. 95–396, §15(1), made disclosure of information by the Administrator subject to the limitations of subsecs. (d) and (e) of this section.

Subsecs. (d) to (g). Pub. L. 95–396, §15(2), added subsecs. (d) to (g).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136e of this title; title 21 section 346a.

§ 136i. Use of restricted use pesticides; applicators

(a) Certification procedure

(1) Federal certification

In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides. Such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applicators to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by regulation

prescribe. Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of the pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification. The certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by the applicator completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by the Administrator.

(2) State certification

If any State, at any time, desires to certify applicators of pesticides, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in the Administrator's judgment—

(A) designates a State agency as the agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

(E) contains satisfactory assurances that State standards for the certification of applicators of pesticides conform with those standards prescribed by the Administrator under paragraph (1).

Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

(b) State plans

If the Administrator rejects a plan submitted under subsection (a)(2) of this section, the Administrator shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under subsection (a)(2) of this section, then such State shall certify applicators of pesticides with respect to such State. Whenever the Administrator determines that a State is not administering the certification program in accordance with the plan approved under this section, the Administrator shall so notify the State and provide for a hearing at the request of the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such plan.

(c) Instruction in integrated pest management techniques

Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a) of this section, and State plans submitted to the Administrator under subsection (a) of this section, shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 136u(c) of this title, but such plans may not require that any individual receive instruction concerning such techniques or to be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified on the availability of such instructional materials.

(d) In general

No regulations prescribed by the Administrator for carrying out the provisions of this subchapter shall require any private applicator to maintain any records or file any reports or other documents.

(e) Separate standards

When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

(June 25, 1947, ch. 125, §11, formerly §§4, 11, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 983, 989; amended Pub. L. 94–140, §§5, 11, Nov. 28, 1975, 89 Stat. 753, 754; Pub. L. 95–396, §9, Sept. 30, 1978, 92 Stat. 827; Pub. L. 100–532, title VIII, §801(c), (q)(1)(A)–(C), Oct. 25, 1988, 102 Stat. 2681, 2683; Pub. L. 102–237, title X, §1006(a)(6), (b)(1), (2), (3)(K), Dec. 13, 1991, 105 Stat. 1895, 1896.)

CODIFICATION

Pub. L. 100–532, §801(q)(1)(A), transferred subsecs. (a) to (c) of section 4 of act June 25, 1947, which was classified to section 136b of this title, to subsecs. (a) to (c) of this section.

PRIOR PROVISIONS

A prior section 11 of act June 25, 1947, was classified to section 135i of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Pub. L. 102–237, §1006(a)(6)(A), substituted ''applicators'' for ''appplicators'' in section catchline.

Subsec. (a)(1). Pub. L. 102–237, §1006(b)(3)(K), substituted ''the applicator'' for ''his'' in ninth sentence and ''the Administrator'' for ''him'' before period at end.

Subsec. (a)(2). Pub. L. 102–237, §1006(b)(2), substituted ''the Administrator's'' for ''his'' in introductory provisions.

Subsec. (b). Pub. L. 102–237, §1006(a)(6)(B), (b)(1), substituted ''subsection (a)(2) of this section'' for ''this

paragraph'' in two places and ''the Administrator'' for ''he'' before ''shall afford'' and before ''shall so notify''.

Subsec. (c). Pub. L. 102–237, §1006(a)(6)(C), substituted ''subsection (a)'' for ''subsections (a) and (b)'' after ''Administrator under''.

1988—Pub. L. 100–532, §801(q)(1)(A), (C), substituted section catchline for one which read: ''Standards applicable to pesticide applicators'', redesignated subsecs. (a) and (b) as (d) and (e), respectively, and transferred subsecs. (a) to (c) of section 136b of this title to subsecs. (a) to (c), respectively, of this section.

Subsec. (a)(1). Pub. L. 100–532, §801(c), substituted ''pesticides. Such program'' for ''pesticides: *Provided*, That such program'' and ''certification. The certification'' for ''certification: *Provided, however*, That the certification''.

1978—Subsec. (a)(1). Pub. L. 95–396 required that, in any State without a State plan for applicator certification approved by the Administrator, the Administrator, in consultation with the Governor of the State, shall conduct a program for the certification of applicators of pesticides under a Federal plan for applicator certification, and also that in such a State records be maintained and reports submitted by persons engaged in commercial application, sale or distribution of pesticides classified for restricted use.

1975—Subsec. (a)(1). Pub. L. 94–140, §5, inserted proviso relating to Administrator's powers and duties with respect to the certification forms and requirement for pesticide dealers participating in certification program.

Subsec. (c). Pub. L. 94–140, §11, added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136j, 136q, 136w–1 of this title.

§ 136i–1. Pesticide recordkeeping

(a) Requirements

(1) The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require certified applicators of restricted use pesticides (of the type described under section 136a(d)(1)(C) of this title) to maintain records comparable to records maintained by commercial applicators of pesticides in each State. If there is no State requirement for the maintenance of records, such applicator shall maintain records that contain the product name, amount, approximate date of application, and location of application of each such pesticide used for a 2-year period after such use.

(2) Within 30 days of a pesticide application, a commercial certified applicator shall provide a copy of records maintained under paragraph (1) to the person for whom such application was provided.

(b) Access

Records maintained under subsection (a) of this section shall be made available to any Federal or State agency that deals with pesticide use or any health or environmental issue related to the use of pesticides, on the request of such agency. Each such Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that would directly or indirectly reveal the identity of individual producers. In the case of Federal agencies, such access to records maintained under subsection (a) of this section shall be through the Secretary of Agriculture, or the Secretary's designee. State agency requests for access to records maintained under subsection (a) of this section shall be through the lead State agency so designated by the State.

(c) Health care personnel

When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to pesticides for which the information is maintained, upon request persons required to maintain records under subsection (a) of this section shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) Penalty

The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), and (c) of this section. A violation of such subsection shall—

(1) in the case of the first offense, be subject to a fine of not more than $500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than $1,000 for each violation, except that the penalty shall be less than $1,000 if the Secretary determines that the person made a good faith effort to comply with such subsection.

(e) Federal or State provisions

The requirements of this section shall not affect provisions of other Federal or State laws.

(f) Surveys and reports

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under subsection (a) of this section to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. The Secretary and Administrator shall enter into a memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be transmitted to Congress not later than April 1 of each year.

(g) Regulations

The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after November 28, 1990.

(Pub. L. 101–624, title XIV, §1491, Nov. 28, 1990, 104 Stat. 3627; Pub. L. 102–237, title X, §1006(d), Dec. 13, 1991, 105 Stat. 1896.)

CODIFICATION

Section was enacted as part of the Conservation Program Improvements Act, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–237, §1006(d)(1), inserted closing parenthesis after ''section 136a(d)(1)(C) of this title''.

Subsec. (d)(1). Pub. L. 102–237, §1006(d)(2), inserted ''of'' after ''fine''.

§ 136i–2. Collection of pesticide use information

(a) In general

The Secretary of Agriculture shall collect data of statewide or regional significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, including fruits and vegetables.

(b) Collection

The data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(c) Coordination

The Secretary of Agriculture shall, as appropriate, coordinate with the Administrator of the Environmental Protection Agency in the design of the surveys and make available to the Administrator the aggregate results of the surveys to assist the Administrator.

(Pub. L. 104–170, title III, §302, Aug. 3, 1996, 110 Stat. 1512.)

CODIFICATION

Section was enacted as part of the Food Quality Protection Act of 1996, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

PESTICIDE USE INFORMATION STUDY

Section 305 of Pub. L. 104–170 provided that:

''(a) The Secretary of Agriculture shall, in consultation with the Administrator of the Environmental Protection Agency, prepare a report to Congress evaluating the current status and potential improvements in Federal pesticide use information gathering activities. This report shall at least include—

''(1) an analysis of the quality and reliability of the information collected by the Department of Agriculture, the Environmental Protection Agency, and other Federal agencies regarding the agricultural use of pesticides; and

''(2) an analysis of options to increase the effectiveness of national pesticide use information collection, including an analysis of costs, burdens placed on agricultural producers and other pesticide users, and effectiveness in tracking risk reduction by those options.

''(b) The Secretary shall submit this report to Congress not later than 1 year following the date of enactment of this section [Aug. 3, 1996].''

§ 136j. Unlawful acts

(a) In general

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute or sell to any person—

(A) any pesticide that is not registered under section 136a of this title or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to—

(i) prepare, maintain, or submit any records required by or under section 136c, 136e, 136f, 136i, or 136q of this title;

(ii) submit any reports required by or under section 136c, 136d, 136e, 136f, 136i, or 136q of this title; or

(iii) allow any entry, inspection, copying of records, or sampling authorized by this subchapter;

(C) to give a guaranty or undertaking provided for in subsection (b) of this section which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) of this section may give a guaranty to the same effect, which guaranty shall contain, in addition to the person's own name and address, the name and address of the person residing in the United States from whom the person received the guaranty or undertaking;

(D) to use for the person's own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to distribute or sell, or to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder, except that it shall not be unlaw-

ful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136a(c)(2)(B), 136a–1, or 136d of this title;

(K) to violate any cancellation order issued under this subchapter or to fail to submit a notice in accordance with section 136d(g) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to this subchapter, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter;

(P) to use any pesticide in tests on human beings unless such human beings (i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and (ii) freely volunteer to participate in the test;

(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this subchapter;

(R) to submit to the Administrator data known to be false in support of a registration; or

(S) to violate any regulation issued under section 136a(a) or 136q of this title.

(b) Exemptions

The penalties provided for a violation of paragraph (1) of subsection (a) of this section shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom the person purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to the person, and that it complies with the other requirements of this subchapter, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

(3) any public official while engaged in the performance of the official duties of the public official;

(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(June 25, 1947, ch. 125, §12, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 989; amended Pub. L. 95–396, §16, Sept. 30, 1978, 92 Stat. 832; Pub. L. 100–532, title VI, §§601(b)(2), 603, title VIII, §801(g), (q)(2)(B), Oct. 25, 1988, 102 Stat. 2677, 2678, 2682, 2683; Pub. L. 102–237, title X, §1006(a)(7), (b)(3)(L)–(O), Dec. 13, 1991, 105 Stat. 1895, 1896.)

PRIOR PROVISIONS

A prior section 12 of act June 25, 1947, was classified to section 135j of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1991—Subsec. (a)(2)(C). Pub. L. 102–237, §1006(b)(3)(L), substituted ''the person's'' for ''his'' and ''the person'' for ''he'' before ''received''.

Subsec. (a)(2)(D). Pub. L. 102–237, §1006(b)(3)(M), substituted ''the person's'' for ''his''.

Subsec. (a)(2)(F). Pub. L. 102–237, §1006(a)(7)(A), substituted ''thereunder, except that it'' for ''thereunder. It''.

Subsec. (a)(2)(O). Pub. L. 102–237, §1006(a)(7)(B), struck out ''or'' after semicolon at end.

Subsec. (a)(2)(P). Pub. L. 102–237, §1006(a)(7)(C), substituted a semicolon for period at end.

Subsec. (b)(1). Pub. L. 102–237, §1006(b)(3)(N), substituted ''the person'' for ''he'' after ''from whom'' and for ''him'' after ''delivery to''.

Subsec. (b)(3). Pub. L. 102–237, §1006(b)(3)(O), substituted ''the official duties of the public official'' for ''his official duties''.

1988—Subsec. (a)(1). Pub. L. 100–532, §601(b)(2)(A), in introductory provisions, substituted ''distribute or sell to any person'' for ''distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person''.

Subsec. (a)(1)(A). Pub. L. 100–532, §603(1), added subpar. (A) and struck out former subpar. (A) which read as follows: ''any pesticide which is not registered under section 136a of this title, except as provided by section 136d(a)(1) of this title;''.

Subsec. (a)(2)(B). Pub. L. 100–532, §603(2)(A), added subpar. (B) and struck out former subpar. (B) which

read as follows: ''to refuse to keep any records required pursuant to section 136f of this title, or to refuse to allow inspection of any records or establishment pursuant to section 136f or 136g of this title, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 136g of this title;''.

Subsec. (a)(2)(F). Pub. L. 100–532, §§ 601(b)(2)(B), 801(g), substituted ''to distribute or sell, or to make'' for ''to make'' and ''thereunder, It'' for ''thereunder: *Provided*, That it''.

Subsec. (a)(2)(J). Pub. L. 100–532, § 801(q)(2)(B), made a technical amendment to the reference to section 136a–1 of this title to reflect the renumbering of the corresponding section of the original act.

Pub. L. 100–532, § 603(2)(B), added subpar. (J) and struck out former subpar. (J) which read as follows: ''to violate any suspension order issued under section 136d of this title;''.

Subsec. (a)(2)(K). Pub. L. 100–532, § 603(2)(B), added subpar. (K) and struck out former subpar. (K) which read as follows: ''to violate any cancellation of registration of a pesticide under section 136d of this title, except as provided by section 136d(a)(1) of this title;''.

Subsec. (a)(2)(M). Pub. L. 100–532, § 603(2)(C), substituted ''this subchapter'' for ''section 136f of this title''.

Subsec. (a)(2)(Q), (R), (S). Pub. L. 100–532, § 603(2)(D), added subpars. (Q), (R), and (S).

1978—Subsec. (a)(2)(F). Pub. L. 95–396 inserted proviso exempting from prohibition the sale, under regulations issued by the Administrator, of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136k. Stop sale, use, removal, and seizure

(a) Stop sale, etc., orders

Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this subchapter, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide has been canceled by a final order or has been suspended, the Administrator may issue a written or printed ''stop sale, use, or removal'' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(b) Seizure

Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

(1) in the case of a pesticide—

(A) it is adulterated or misbranded;

(B) it is not registered pursuant to the provisions of section 136a of this title;

(C) its labeling fails to bear the information required by this subchapter;

(D) it is not colored or discolored and such coloring or discoloring is required under this subchapter; or

(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) in the case of a device, it is misbranded; or

(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this subchapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment.

In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(c) Disposition after condemnation

If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this subchapter or the laws of the jurisdiction in which it is sold. On payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the subchapter or the laws of any jurisdiction in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(d) Court costs, etc.

When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(June 25, 1947, ch. 125, § 13, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 991; amended Pub. L. 100–532, title VIII, § 801(h), Oct. 25, 1988, 102 Stat. 2682.)

PRIOR PROVISIONS

A prior section 13 of act June 25, 1947, was classified to section 135k of this title prior to amendment of act June 25, 1947, by Pub. L. 92–516.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–532, § 801(h)(1), directed that sentence beginning ''In the case of'' be moved from par. (3) and become a full measure sentence after par. (3).

Subsec. (c). Pub. L. 100–532, §801(h)(2), substituted ''sold. On'' for ''sold: *Provided*, That upon''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136e, 136j, 136q of this title.

§ 136*l*. Penalties

(a) Civil penalties

(1) In general

Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who violates any provision of this subchapter subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense, except that any applicator not included under paragraph (1) of this subsection who holds or applies registered pesticides, or uses dilutions of registered pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than $500 for the first offense nor more than $1,000 for each subsequent offense.

(3) Hearing

No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged.

(4) Determination of penalty

In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty.

(5) References to Attorney General

In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

(b) Criminal penalties

(1) In general

(A) Any registrant, applicant for a registration, or producer who knowingly violates any provision of this subchapter shall be fined not more than $50,000 or imprisoned for not more than 1 year, or both.

(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, who knowingly violates any provision of this subchapter shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

(3) Disclosure of information

Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 136a of this title, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

(4) Acts of officers, agents, etc.

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

(June 25, 1947, ch. 125, §14, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 992; amended Pub. L. 95–396, §17, Sept. 30, 1978, 92 Stat. 832; Pub. L. 100–532, title VI, §604, Oct. 25, 1988, 102 Stat. 2678; Pub. L. 102–237, title X, §1006(a)(8), Dec. 13, 1991, 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237 substituted '', except that'' for '': *Provided*, That'' and ''uses'' for ''use''.

1988—Subsec. (b)(1). Pub. L. 100–532 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this subchapter shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.''

1978—Subsec. (a)(2). Pub. L. 95–396, §17(1), authorized assessment of a civil penalty of not more than $500 for a first offense and not more than $1,000 for each subsequent offense against any applicator providing a service of controlling pests for violations of this subchapter.

Subsec. (a)(3). Pub. L. 95–396, §17(2), struck out provision respecting certain considerations when determining amount of penalty, now covered in par. (4).

Subsec. (a)(4). Pub. L. 95–396, §17(4), reenacted second sentence of par. (3) as par. (4) and authorized Administrator to issue a warning in lieu of assessing a penalty. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 95–396, §17(3), redesignated former par. (4) as (5).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a–1, 136g, 136q of this title.

§ 136m. Indemnities

(a) General indemnification

(1) In general

Except as otherwise provided in this section, if—

(A) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(B) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title; and

(C) any person who owned any quantity of the pesticide immediately before the notice to the registrant under subparagraph (A) suffered losses by reason of suspension or cancellation of the registration;

the Administrator shall make an indemnity payment to the person.

(2) Exception

Paragraph (1) shall not apply if the Administrator finds that the person—

(A) had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 136a(c)(5) of this title for registration; and

(B) continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

(3) Report

If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on—

(A) the action taken that requires the payment of indemnification;

(B) the reasons for taking the action;

(C) the estimated cost of the payment; and

(D) a request for the appropriation of funds for the payment.

(4) Appropriation

The Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment.

(b) Indemnification of end users, dealers, and distributors

(1) End users

If—

(A) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(B) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title; and

(C) any person who, immediately before the notice to the registrant under subparagraph (A), owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing it for distribution or sale, suffered a loss by reason of the suspension or cancellation of the pesticide;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

(2) Dealers and distributors

(A) Any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a ''seller'') of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) shall, with respect to any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that the pesticide is not subject to reimbursement by the seller.

(B) If—

(i) the Administrator notifies a registrant under section 136d(c)(1) of this title that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 136d(c)(3) of this title has been issued;

(ii) the registration in question is suspended under section 136d(c) of this title, and thereafter is canceled under section 136d(b), 136d(d), or 136d(f) of this title;

(iii) any person who, immediately before the notice to the registrant under clause (i)—

(I) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the event of suspension or cancellation of the pesticide; and

(II) owned any quantity of the pesticide for purposes of—

(aa) distributing or selling it; or

(bb) further processing it for distribution or sale directly to an end user;

suffered a loss by reason of the suspension or cancellation of the pesticide; and

(iv) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller—

(I) did not provide the notice specified in subparagraph (A) to such person; and

(II) is and will continue to be unable to provide reimbursement to such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of the insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

(C) If an indemnity payment is made by the United States under this paragraph, the United States shall be subrogated to any right that would otherwise be held under this paragraph by a seller who is unable to make a reimbursement in accordance with this paragraph with regard to reimbursements that otherwise would have been made by the seller.

(3) Source

Any payment required to be made under paragraph (1) or (2) shall be made from the appropriation provided under section 1304 of title 31.

(4) Administrative settlement

An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28 and shall be regarded as if it were made under that section for purposes of section 1304 of title 31.

(c) Amount of payment

(1) In general

The amount of an indemnity payment under subsection (a) or (b) of this section to any person shall be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i) of this section, except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice.

(2) Special rule

Notwithstanding any other provision of this subchapter, the Administrator may provide a reasonable time for use or other disposal of the pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this section, proper adjustment shall be made for any pesticide used or otherwise disposed of by the owner.

(June 25, 1947, ch. 125, §15, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 993; amended Pub. L. 100–532, title V, §501(a), Oct. 25, 1988, 102 Stat. 2674.)

AMENDMENTS

1988—Pub. L. 100–532 amended section generally, in subsec. (a), substituting provisions relating to general indemnification for provisions relating to requirements for payment, adding subsec. (b), and redesignating provisions of former subsec. (b), with further amendment, as subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 501(a) of Pub. L. 100–532 provided that amendment made by Pub. L. 100–532 is effective 180 days after Oct. 25, 1988.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

INTERIM PAYMENTS

Section 501(b) of Pub. L. 100–532 provided that:

''(1) SOURCE.—Any obligation of the Administrator to pay an indemnity arising under section 15 [this section], as it existed prior to the effective date of the amendment made by this section [see Effective Date of 1988 Amendment note above], shall be made from the appropriation provided under section 1304 of title 31, United States Code.

''(2) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136a of this title.

§ 136n. Administrative procedure; judicial review

(a) District court review

Except as otherwise provided in this subchapter, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.

(b) Review by court of appeals

In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any person who will be adversely affected by such order and who had been a party to the proceedings may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the Administrator's order, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United

States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order.

(c) Jurisdiction of district courts

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this subchapter.

(d) Notice of judgments

The Administrator shall, by publication in such manner as the Administrator may prescribe, give notice of all judgments entered in actions instituted under the authority of this subchapter.

(June 25, 1947, ch. 125, § 16, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 994; amended Pub. L. 98–620, title IV, § 402(4)(C), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100–532, title VIII, § 801(i), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102–237, title X, § 1006(b)(1), (2), (3)(P), Dec. 13, 1991, 105 Stat. 1895, 1896.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237, § 1006(b)(1), (2), (3)(P), substituted ''the Administrator'' for ''he'' before ''based'', ''the Administrator's'' for ''his'', and ''the Administrator'' for ''him'' after ''designated by''.

Subsec. (d). Pub. L. 102–237, § 1006(b)(1), substituted ''the Administrator'' for ''he'' before ''may''.

1988—Subsec. (a). Pub. L. 100–532 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as is otherwise provided in this subchapter, Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other final Agency actions not committed to Agency discretion by law are judicially reviewable in the district courts.''

1984—Subsec. (b). Pub. L. 98–620 struck out provisions requiring the court to advance on the docket and expedite the disposition of all cases filed pursuant to this section.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136a–1, 136d, 136q of this title.

§ 136*o*. Imports and exports

(a) Pesticides and devices intended for export

Notwithstanding any other provision of this subchapter, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this subchapter—

(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 136(p), (q)(1)(A), (C), (D), (E), (G), and (H), 136(q)(2)(A), (B), (C)(i) and (iii), and (D), 136e, and 136f of this title; and

(2) in the case of any pesticide other than a pesticide registered under section 136a or sold under section 136d(a)(1) of this title, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this subchapter.

A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

(b) Cancellation notices furnished to foreign governments

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 136a of this title and that could be used in lieu of such pesticide.

(c) Importation of pesticides and devices

The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon the Administrator's request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violated the provisions set forth in this subchapter, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe. The Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of

such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) Cooperation in international efforts

The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

(e) Regulations

The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.

(June 25, 1947, ch. 125, §17, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 995; amended Pub. L. 95–396, §18(a), Sept. 30, 1978, 92 Stat. 833; Pub. L. 100–532, title VIII, §801(j), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102–237, title X, §1006(a)(9), (b)(2), Dec. 13, 1991, 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237, §1006(a)(9), removed last sentence from par. (2) and placed it as a full measure sentence under par. (2).

Subsec. (c). Pub. L. 102–237, §1006(b)(2), substituted ''the Administrator's'' for ''his''.

1988—Subsec. (c). Pub. L. 100–532 substituted ''prescribe. The Secretary'' for ''prescribe: *Provided*, That the Secretary'' and ''bond. All'' for ''bond: *And provided further*, That all''.

1978—Subsec. (a). Pub. L. 95–396, §18(a)(1), amended subsec. (a) generally.

Subsec. (b). Pub. L. 95–396, §18(a)(2), inserted sentence at end relating to information to be included in notification.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 18(b) of Pub. L. 95–396 provided that: ''The amendment made by subsection (a)(1) of this section [amending this section] shall become effective one hundred and eighty days after the date of enactment of this Act [Sept. 30, 1978].''

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136a of this title.

§ 136p. Exemption of Federal and State agencies

The Administrator may, at the Administrator's discretion, exempt any Federal or State agency from any provision of this subchapter if the Administrator determines that emergency conditions exist which require such exemption. The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

(June 25, 1947, ch. 125, §18, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 995; amended Pub. L. 94–140, §8, Nov. 28, 1975, 89 Stat. 754; Pub. L. 100–532, title VIII, §801(k), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102–237, title X, §1006(b)(1), (2), Dec. 13, 1991, 105 Stat. 1895.)

AMENDMENTS

1991—Pub. L. 102–237 substituted ''the Administrator'' for ''he'' before ''determines'' and ''the Administrator's'' for ''his''.

1988—Pub. L. 100–532 substituted ''and'' for ''or'' in section catchline, and directed that sentence beginning ''The Administrator, in'' be run in after first sentence beginning ''The Administrator may''.

1975—Pub. L. 94–140 inserted provision requiring Administrator to consult with Secretary of Agriculture and Governor of State concerned in determining whether an emergency situation exists.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a of this title; title 21 section 346a.

§ 136q. Storage, disposal, transportation, and recall

(a) Storage, disposal, and transportation

(1) Data requirements and registration of pesticides

The Administrator may require under section 136a or 136d of this title that—

(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b) of this section, and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

(2) Pesticides

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—

(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

(3) Containers, rinsates, and other materials

The Administrator may by regulation, or as part of an order issued under section 136d of this title or an amendment to such an order—

(A) issue requirements and procedures to be followed by any person who stores or transports any container of a pesticide the registration of which has been suspended or canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide;

(B) issue requirements and procedures to be followed by any person who disposes of stocks of any container of a pesticide the registration of which has been suspended, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

(C) issue requirements and procedures for the disposal of any container of a pesticide the registration of which has been canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.

(b) Recalls

(1) In general

If the registration of a pesticide has been suspended and canceled under section 136d of this title, and if the Administrator finds that recall of the pesticide is necessary to protect health or the environment, the Administrator shall order a recall of the pesticide in accordance with this subsection.

(2) Voluntary recall

If, after determining under paragraph (1) that a recall is necessary, the Administrator finds that voluntary recall by the registrant and others in the chain of distribution may be as safe and effective as a mandatory recall, the Administrator shall request the registrant of the pesticide to submit, within 60 days of the request, a plan for the voluntary recall of the pesticide. If such a plan is requested and submitted, the Administrator shall approve the plan and order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

(3) Mandatory recall

If, after determining under paragraph (1) that a recall is necessary, the Administrator does not request the submission of a plan under paragraph (2) or finds such a plan to be inadequate, the Administrator shall issue a regulation that prescribes a plan for the recall of the pesticide. A regulation issued under this paragraph may apply to any person who is or was a registrant, distributor, or seller of the pesticide, or any successor in interest to such a person.

(4) Recall procedure

A regulation issued under this subsection may require any person that is subject to the regulation to—

(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall program applies, and inform the Administrator of the location of each such facility;

(B) accept and store at such a facility those existing stocks of such pesticide that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such regulation;

(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility; and

(D) take such reasonable steps as the regulation may prescribe to inform persons who may be holders of the pesticide of the terms of the recall regulation and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility.

(5) Contents of recall plan

A recall plan established under this subsection shall include—

(A) the level in the distribution chain to which the recall is to extend, and a schedule for recall; and

(B) the means to be used to verify the effectiveness of the recall.

(6) Requirements or procedures

No requirement or procedure imposed in accordance with paragraph (2) of subsection (a) of this section may require the recall of existing stocks of the pesticide except as provided by this subsection.

(c) Storage costs

(1) Submission of plan

A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result of a recall prescribed under subsection (b) of this section for a pesticide whose registration has been suspended and canceled shall, as soon as practicable after the suspension of the registration of the pesticide, submit to the Administrator a plan for the storage and disposal of the pesticide that meets criteria established by the Administrator by regulation.

(2) Reimbursement

Within a reasonable period of time after such storage costs are incurred and paid by the registrant, the Administrator shall reimburse the registrant, on request, for—

(A) none of the costs incurred by the registrant before the date of submission of the plan referred to in paragraph (1) to the Administrator;

(B) 100 percent of the costs incurred by the registrant after the date of submission of the plan to the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator;

(C) 50 percent of the costs incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later;

(D) none of the costs incurred by the registrant during the 3-year period beginning on

the 366th day following approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later; and

(E) 25 percent of the costs incurred by the registrant during the period beginning on the first day of the 5th year following the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

(d) Administration of storage, disposal, transportation, and recall programs

(1) Voluntary agreements

Nothing in this section shall be construed as preventing or making unlawful any agreement between a seller and a buyer of any pesticide or other substance regarding the ultimate allocation of the costs of storage, transportation, or disposal of a pesticide.

(2) Rule and regulation review

Section 136w(a)(4) of this title shall not apply to any regulation issued under subsection (a)(2) or (b) of this section.

(3) Limitations

No registrant shall be responsible under this section for a pesticide the registration of which is held by another person. No distributor or seller shall be responsible under this section for a pesticide that the distributor or seller did not hold or sell.

(4) Seizure and penalties

If the Administrator finds that a person who is subject to a regulation or order under subsection (a)(2) or (b) of this section has failed substantially to comply with that regulation or order, the Administrator may take action under section 136k or 136*l* of this title or obtain injunctive relief under section 136n(c) of this title against such person or any successor in interest of any such person.

(e) Container design

(1) Procedures

(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

(B) The regulations shall ensure, to the fullest extent practicable, that the containers—

(i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;

(ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;

(iii) facilitate the safe disposal of the containers; and

(iv) facilitate the safe refill and reuse of the containers.

(2) Compliance

The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of this subsection.

(f) Pesticide residue removal

(1) Procedures

(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

(B) The regulations may—

(i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;

(ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;

(iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and

(iv) be coordinated with requirements for the rinsing of containers imposed under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(C) The Administrator may, at the discretion of the Administrator, exempt products intended solely for household use from the requirements of this subsection.

(2) Compliance

Effective beginning 5 years after the effective date of this subsection, a State may not exercise primary enforcement responsibility under section 136w–1 of this title, or certify an applicator under section 136i of this title, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with this subsection.

(3) Solid Waste Disposal Act

Nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Solid Waste Disposal Act (42 U.S.C. 6901).

(g) Pesticide container study

(1) Study

(A) The Administrator shall conduct a study of options to encourage or require—

(i) the return, refill, and reuse of pesticide containers;

(ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and

(iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

(B) In conducting the study, the Administrator shall—

(i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and

(ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

(2) Report

Not later than 2 years after the effective date of this subsection, the Administrator

shall submit to Congress a report describing the results of the study required under paragraph (1).

(h) Relationship to Solid Waste Disposal Act

(1) In general

Nothing in this section shall diminish the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Antimicrobial products

A household, industrial, or institutional antimicrobial product that is not subject to regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) shall not be subject to the provisions of subsections (a), (e), and (f) of this section, unless the Administrator determines that such product must be subject to such provisions to prevent an unreasonable adverse effect on the environment.

(June 25, 1947, ch. 125, § 19, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 995; amended Pub. L. 95–396, § 19, Sept. 30, 1978, 92 Stat. 833; Pub. L. 100–532, title IV, §§ 401–403, title VIII, § 801(q)(1)(D), Oct. 25, 1988, 102 Stat. 2669, 2672, 2683; Pub. L. 104–170, title II, § 225, Aug. 3, 1996, 110 Stat. 1507.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsecs. (e), (f)(1)(A), (2), and (g)(2), is 60 days after Oct. 25, 1988, the effective date of Pub. L. 100–532. See Effective Date of 1988 Amendment note below.

The Solid Waste Disposal Act, referred to in subsecs. (f)(1)(B)(iv), (3) and (h), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–170 designated existing provisions as par. (1), inserted heading, and added par. (2).

1988—Pub. L. 100–532, § 401, amended section generally, in subsec. (a) substituting provisions which related to storage, disposal, and transportation, for provisions which directed Secretary to establish procedures for disposal or storage, in subsec. (b) substituting provisions which related to recalls, for provisions which directed Administrator to provide advice to Secretary of Transportation, in subsec. (c) substituting provisions which related to storage costs, for provisions which related to disposal of unused quantities, and adding subsec. (d).

Subsec. (a)(3). Pub. L. 100–532, § 402, added par. (3).

Subsecs. (e), (f). Pub. L. 100–532, § 403, added subsecs. (e) and (f).

Subsec. (f)(2). Pub. L. 100–532, § 801(q)(1)(D), substituted ''136i'' for ''136b''.

Subsecs. (g), (h). Pub. L. 100–532, § 403, added subsecs. (g) and (h).

1978—Subsec. (c). Pub. L. 95–396 added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136g, 136j of this title.

§ 136r. Research and monitoring

(a) Research

The Administrator shall undertake research including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this subchapter, and the Administrator shall conduct research into integrated pest management in coordination with the Secretary of Agriculture. The Administrator shall also take care to ensure that such research does not duplicate research being undertaken by any other Federal agency.

(b) National monitoring plan

The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

(c) Monitoring

The Administrator shall undertake such monitoring activities, including, but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this subchapter and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidential[1] pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

(June 25, 1947, ch. 125, § 20, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 996; amended Pub. L. 95–396, § 20, Sept. 30, 1978, 92 Stat. 834; Pub. L. 102–237, title X, § 1006(a)(10), (b)(1), Dec. 13, 1991, 105 Stat. 1895.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''ensure'' for ''insure'' and ''the Administrator'' for ''he'' before ''shall conduct''.

1978—Subsec. (a). Pub. L. 95–396, § 20(1), substituted in first sentence ''shall conduct research into integrated pest management in coordination with the Secretary of Agriculture'' for ''shall give priority to research to develop biologically integrated alternatives for pest control''.

Subsec. (c). Pub. L. 95–396, § 20(2), inserted provision requiring establishment of monitoring procedures and the carrying out of the activities in cooperation with other Federal, State, and local agencies.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

AVAILABILITY OF GRANTS

Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1081, provided in part: ''That notwithstanding 7 U.S.C. 136r and 15 U.S.C. 2609, beginning in fiscal year 2000 and thereafter, grants awarded under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136r], as amended, and section 10 of the Toxic Substances Control Act [15 U.S.C. 2609], as amended,

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

shall be available for research, development, monitoring, public education, training, demonstrations, and studies''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5881 of this title.

§ 136r–1. Integrated Pest Management

The Secretary of Agriculture, in cooperation with the Administrator, shall implement research, demonstration, and education programs to support adoption of Integrated Pest Management. Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The Secretary of Agriculture and the Administrator shall make information on Integrated Pest Management widely available to pesticide users, including Federal agencies. Federal agencies shall use Integrated Pest Management techniques in carrying out pest management activities and shall promote Integrated Pest Management through procurement and regulatory policies, and other activities.

(Pub. L. 104–170, title III, § 303, Aug. 3, 1996, 110 Stat. 1512.)

CODIFICATION

Section was enacted as part of the Food Quality Protection Act of 1996, and not as part of the Federal Insecticide, Fungicide, and Rodenticide Act which comprises this subchapter.

§ 136s. Solicitation of comments; notice of public hearings

(a) Secretary of Agriculture

The Administrator, before publishing regulations under this subchapter, shall solicit the views of the Secretary of Agriculture in accordance with the procedure described in section 136w(a) of this title.

(b) Secretary of Health and Human Services

The Administrator, before publishing regulations under this subchapter for any public health pesticide, shall solicit the views of the Secretary of Health and Human Services in the same manner as the views of the Secretary of Agriculture are solicited under section 136w(a)(2) of this title.

(c) Views

In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this subchapter, the Administrator may, at the Administrator's discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as the Administrator deems proper.

(d) Notice

In connection with all public hearings under this subchapter the Administrator shall publish timely notice of such hearings in the Federal Register.

(June 25, 1947, ch. 125, § 21, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 996; amended Pub. L. 94–140, § 2(b), Nov. 28, 1975, 89 Stat. 752; Pub. L. 100–532, title VIII, § 801(*l*), Oct. 25, 1988, 102 Stat. 2682; Pub. L. 102–237, title X, § 1006(b)(1), (2), Dec. 13, 1991, 105 Stat. 1895; Pub. L. 104–170, title II, § 234, Aug. 3, 1996, 110 Stat. 1509.)

AMENDMENTS

1996—Subsecs. (b) to (d). Pub. L. 104–170 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1991—Subsec. (b). Pub. L. 102–237 substituted ''the Administrator'' for ''he'' before ''deems'' and ''the Administrator's'' for ''his''.

1988—Pub. L. 100–532, § 801(*l*), inserted headings for subsecs. (a) to (c).

1975—Subsec. (a). Pub. L. 94–140 inserted ''in accordance with the procedure described in section 136w(a) of this title'' after ''Secretary of Agriculture''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136t. Delegation and cooperation

(a) Delegation

All authority vested in the Administrator by virtue of the provisions of this subchapter may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

(b) Cooperation

The Administrator shall cooperate with Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this subchapter, and in securing uniformity of regulations.

(June 25, 1947, ch. 125, § 22, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 996.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136u. State cooperation, aid, and training

(a) Cooperative agreements

The Administrator may enter into cooperative agreements with States and Indian tribes—

(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this subchapter through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this subchapter, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

(2) to assist States in developing and administering State programs, and Indian tribes that enter into cooperative agreements, to train and certify applicators consistent with the standards the Administrator prescribes.

Effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated

annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under such cooperative agreements, of conducting training and certification programs during such fiscal year. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

(b) Contracts for training

In addition, the Administrator may enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

(c) Information and education

The Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperative State extension services to inform and educate pesticide users about accepted uses and other regulations made under this subchapter.

(June 25, 1947, ch. 125, §23, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 996; amended Pub. L. 95–396, §21, Sept. 30, 1978, 92 Stat. 834.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–396 extended provisions to Indian tribes, authorized annual appropriation of funds for training and certification programs, and required proportionate reduction of shares in the allocation of available funds when appropriations do not cover 50 percent of the annual costs.

Subsec. (b). Pub. L. 95–396 authorized contracts with Indian tribal agencies.

Subsec. (c). Pub. L. 95–396 substituted ''shall'' for ''may'', substituted ''use'' for ''utilize'', and ''to inform and educate pesticide users about accepted uses and other regulations'' for ''for informing farmers of accepted uses and other regulations''.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

AVAILABILITY OF GRANTS FOR PESTICIDE PROGRAM DEVELOPMENT AND IMPLEMENTATION

Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2499, provided in part: ''That beginning in fiscal year 1999 and thereafter, pesticide program implementation grants under section 23(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended [7 U.S.C. 136u(a)(1)], shall be available for pesticide program development and implementation, including enforcement and compliance activities''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136i, 136w–1 of this title.

§ 136v. Authority of States

(a) In general

A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter.

(b) Uniformity

Such State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this subchapter.

(c) Additional uses

(1) A State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that State to meet special local needs in accord with the purposes of this subchapter and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 136a of this title for all purposes of this subchapter, but shall authorize distribution and use only within such State.

(2) A registration issued by a State under this subsection shall not be effective for more than ninety days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator shall, except as provided in paragraph (3) of this subsection, advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator shall not prohibit or disapprove a registration issued by a State under this subsection (A) on the basis of lack of essentiality of a pesticide or (B) except as provided in paragraph (3) of this subsection, if its composition and use patterns are similar to those of a federally registered pesticide.

(3) In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] that permits the residues of the pesticides on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of, a pesticide under a registration issued by a State constitutes an imminent hazard, the Administrator may immediately disapprove the registration.

(4) If the Administrator finds, in accordance with standards set forth in regulations issued under section 136w of this title, that a State is not capable of exercising adequate controls to assure that State registration under this section will be in accord with the purposes of this subchapter or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator shall advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.

(June 25, 1947, ch. 125, §24, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 997; amended Pub. L. 95–396, §22, Sept. 30, 1978, 92 Stat. 835; Pub. L. 100–532, title VIII, §801(m), Oct. 25, 1988, 102 Stat. 2682.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

AMENDMENTS

1988—Pub. L. 100–532, § 801(m), inserted headings for subsecs. (a) to (c) and realigned margins of pars. (1) to (4) of subsec. (c).

1978—Subsec. (a). Pub. L. 95–396 inserted ''federally registered'' before ''pesticide or device''.

Subsec. (b). Pub. L. 95–396 substituted ''labeling or packaging'' and ''required under'' for ''labeling and packaging'' and ''required pursuant to'', respectively.

Subsec. (c)(1). Pub. L. 95–396 incorporated existing text in provisions designated par. (1) and substituted ''registration for additional uses of federally registered pesticides'' for ''registration for pesticides''.

Subsec. (c)(2). Pub. L. 95–396 incorporated existing text in provisions designated par. (2), conditioned disapproval of registration on communication of intention to disapprove and reasons for disapproval and provision for time to respond, and restricted authority of Administrator to prohibit or disapprove a State registration.

Subsec. (c)(3). Pub. L. 95–396 added par. (3).

Subsec. (c)(4). Pub. L. 95–396 incorporated existing text in provisions designated par. (4) and authorized suspension of registration authority of the State based on findings of inability or failure to exercise adequate controls following an indication of intention to suspend and reasons for the suspension and provision for time to respond.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a of this title.

§ 136w. Authority of Administrator

(a) In general

(1) Regulations

The Administrator is authorized, in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this subchapter. Such regulations shall take into account the difference in concept and usage between various classes of pesticides, including public health pesticides, and differences in environmental risk and the appropriate data for evaluating such risk between agricultural, nonagricultural, and public health pesticides.

(2) Procedure

(A) Proposed regulations

At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

(B) Final regulations

At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.

(C) Time requirements

The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.

(D) Publication in the Federal Register

The Administrator shall, simultaneously with any notification to the Secretary of Agriculture under this paragraph prior to the issuance of any proposed or final regulation, publish such notification in the Federal Register.

(3) Congressional committees

At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, the Administrator shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) Congressional review of regulations

Simultaneously with the promulgation of any rule or regulation under this subchapter, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.

(b) Exemption of pesticides

The Administrator may exempt from the requirements of this subchapter by regulation any

pesticide which the Administrator determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this subchapter in order to carry out the purposes of this subchapter.

(c) Other authority

The Administrator, after notice and opportunity for hearing, is authorized—

(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91–601) [15 U.S.C. 1471 et seq.]) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this subchapter as well as to accomplish the other purposes of this subchapter;

(4) to specify those classes of devices which shall be subject to any provision of section 136(q)(1) or section 136e of this title upon the Administrator's determination that application of such provision is necessary to effectuate the purposes of this subchapter;

(5) to prescribe regulations requiring any pesticide to be colored or discolored if the Administrator determines that such requirement is feasible and is necessary for the protection of health and the environment; and

(6) to determine and establish suitable names to be used in the ingredient statement.

(d) Scientific advisory panel

(1) In general

The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this subchapter. The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations. The subpanels may be composed of scientists other than members of the advisory panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the advisory panel. The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. If a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. Should the list of nominees provided under this subsection be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities. The Administrator may require such information from the nominees to the advisory panel as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS–18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest

with respect to the members of the panel. The advisory panel established under this section shall be permanent. In performing the functions assigned by this subchapter, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978 [42 U.S.C. 4365]. Whenever the Administrator exercises authority under section 136d(c) of this title to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly submit to the advisory panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide.

(2) Science Review Board

There is established a Science Review Board to consist of 60 scientists who shall be available to the Scientific Advisory Panel to assist in reviews conducted by the Panel. Members of the Board shall be selected in the same manner as members of temporary subpanels created under paragraph (1). Members of the Board shall be compensated in the same manner as members of the Panel.

(e) Peer review

The Administrator shall, by written procedures, provide for peer review with respect to the design, protocols, and conduct of major scientific studies conducted under this subchapter by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual under grant, contract, or cooperative agreement from or with the Environmental Protection Agency. In such procedures, the Administrator shall also provide for peer review, using the advisory panel established under subsection (d) of this section or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies relied upon by the Administrator with respect to actions the Administrator may take relating to the change in classification, suspension, or cancellation of a pesticide. Whenever the Administrator determines that circumstances do not permit the peer review of the results of any such scientific study prior to the Administrator's exercising authority under section 136d(c) of this title to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly thereafter provide for the conduct of peer review as provided in this sentence. The evaluations and relevant documentation constituting the peer review that relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d) of this section. As used in this subsection, the term ''peer review'' shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.

(June 25, 1947, ch. 125, §25, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 997; amended Pub. L. 94–140, §§2(a), 6, 7, Nov. 28, 1975, 89 Stat. 751, 753; Pub. L. 95–396, §23, Sept. 30, 1978, 92 Stat. 836; Pub. L. 96–539, §§1, 2(a), 4, Dec. 17, 1980, 94 Stat. 3194, 3195; Pub. L. 98–201, §1, Dec. 2, 1983, 97 Stat. 1379; Pub. L. 98–620, title IV, §402(4)(D), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100–352, §6(i), June 27, 1988, 102 Stat. 664; Pub. L. 100–532, title VI, §§602, 605, title VIII, §801(n), Oct. 25, 1988, 102 Stat. 2678, 2679, 2683; Pub. L. 102–237, title X, §1006(b)(1), (2), Dec. 13, 1991, 105 Stat. 1895; Pub. L. 104–170, title I, §104, title II, §235, Aug. 3, 1996, 110 Stat. 1490, 1509.)

REFERENCES IN TEXT

The Poison Prevention Packaging Act, referred to in subsec. (c)(3), is Pub. L. 91–601, Dec. 30, 1970, 84 Stat. 1670, as amended, which is classified principally to chapter 39A (§1471 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of Title 15, and Tables.

References in subsec. (c)(4) to ''section 136(q)(1)'' was, in the original, a reference to ''paragraph 2(q)(1)'' and has been editorially translated as ''section 136(q)(1)'' as the probable intent of Congress.

The Environmental Research, Development, and Demonstration Authorization Act of 1978, referred to in subsec. (d), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended. Provisions of the Act establishing the Science Advisory Board are classified to section 4365 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–170, §235, inserted '', including public health pesticides,'' after ''various classes of pesticides'' and substituted '', nonagricultural, and public health pesticides'' for ''and nonagricultural pesticides''.

Subsec. (d). Pub. L. 104–170, §104, designated existing text as par. (1), inserted heading, and added par. (2).

1991—Subsec. (a)(3). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''shall''.

Subsec. (b). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''determines''.

Subsec. (c)(4). Pub. L. 102–237, §1006(b)(2), substituted ''the Administrator's'' for ''his''.

Subsec. (c)(5). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''determines''.

Subsec. (d). Pub. L. 102–237, §1006(b)(1), substituted ''the Administrator'' for ''he'' before ''deems necessary'' and before ''shall publish''.

1988—Subsec. (a). Pub. L. 100–532, §801(n)(1), amended heading and directed that pars. (1) to (3) be aligned at left margin with subsec. (c)(1), and that subpars. (A) to (D) of par. (2) be indented, and in par. (3) substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

Subsec. (a)(4). Pub. L. 100–532, §605, amended par. (4) generally, substituting single unlettered par. (4) for former subpars. (A) to (E).

Pub. L. 100–352, in subpar. (E), struck out ''(i)'' before ''Any interested'' and struck out cl. (ii) which provided that notwithstanding any other provision of law, any decision on a matter certified under cl. (i) of this subparagraph be reviewable by appeal directly to the Supreme Court of the United States, with such appeal to be brought not later than 20 days after the decision of the court of appeals.

Subsec. (d). Pub. L. 100–532, §602, substituted ''section shall be permanent'' for ''subsection shall terminate September 30, 1987''.

Subsec. (e). Pub. L. 100–532, §801(n)(2), substituted ''pesticide. Whenever'' for ''pesticide: *Provided*, That whenever''.

1984—Subsec. (a)(4)(E)(iii). Pub. L. 98–620 struck out cl. (iii) requiring the court of appeals and the Supreme Court to advance on the docket and expedite the dis-

position of any matter certified under cl. (i) of this subparagraph.

1983—Subsec. (d). Pub. L. 98–201 in fourth sentence, inserted ''under this subsection'' after ''submitted''; in eighth sentence, provided for utilization of a system of staggered terms of appointment and substituted ''7'' and ''6'' for ''seven'' and ''six'', respectively, and inserted ninth through fourteenth sentences respecting basis for selection of members, multidisciplinary representation, appointments to fill vacancies, extension of term pending filling of vacancies, appointment for unexpired term, and request for additional set of nominees from nominating entities; and in present eighteenth, formerly twelfth sentence, extended termination date to Sept. 30, 1987, from Sept. 30, 1981.

1980—Subsec. (a)(4). Pub. L. 96–539, §4, added par. (4).

Subsec. (d). Pub. L. 96–539, §1, inserted provisions relating to composition of subpanels and submissions to advisory panels respecting registration suspensions.

Subsec. (e). Pub. L. 96–539, §2(a), added subsec. (e).

1978—Subsec. (a)(1). Pub. L. 95–396, §23(1), required regulations to take into account differences in environmental risk and appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.

Subsec. (a)(2)(B). Pub. L. 95–396, §23(2), required the Administrator, before taking any final action, to consider certain factors bearing on the agricultural economy and to publish an analysis of the effect in the Federal Register.

Subsec. (d). Pub. L. 95–396, §23(3), (4), required the Administrator to solicit operating guidelines from the scientific advisory panel to improve scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out this subchapter; extended requirement of publication in the Federal Register to evaluations and recommendations of the advisory panel; authorized creation of temporary subpanels on specific projects to assist in accelerating the work of the advisory panel; set forth Sept. 30, 1981, as the termination date of the advisory panel; and required the panel to consult and coordinate its activities with the Science Advisory Board established under section 4365 of title 42.

1975—Subsec. (a)(1). Pub. L. 94–140, §2(a)(1), (2), redesignated existing provision as subsec. (a)(1) and inserted '', in accordance with the procedure described in paragraph (2),'' after ''is authorized''.

Subsec. (a)(2). Pub. L. 94–140, §2(a)(3), added par. (2).

Subsec. (a)(3). Pub. L. 94–140, §6, added par. (3).

Subsec. (d). Pub. L. 94–140, §7, added subsec. (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

Amendment by Pub. L. 100–352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100–352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(b) of Pub. L. 96–539 provided that: ''The provisions of this section [amending this section] shall become effective upon publication in the Federal Register of final procedures for peer review as provided in this section, but in no event shall such provisions become effective later than one year after the date of enactment of this Act [Dec. 17, 1980].''

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

USER FEES

Pub. L. 101–508, title I, §1204(e), Nov. 5, 1990, 104 Stat. 1388–11, provided that: ''Notwithstanding any provision of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508, see Tables for classification], nothing in this title or the other provisions of this Act shall be construed to require or authorize the Administrator of the Environmental Protection Agency to assess or collect any fees or charges for services and activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 136q, 136s, 136v of this title; title 21 section 346a; title 42 section 4365.

§ 136w–1. State primary enforcement responsibility

(a) In general

For the purposes of this subchapter, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

(1) has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this subchapter;

(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

(b) Special rules

Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 136u of this title for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 136i of this title that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 136i of this title in effect on September 30, 1978, not later than six months after that date.

(c) Administrator

The Administrator shall have primary enforcement responsibility for those States that

do not have primary enforcement responsibility under this subchapter. Notwithstanding the provisions of section 136(e)(1) of this title, during any period when the Administrator has such enforcement responsibility, section 136f(b) of this title shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or uses dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 136g(a) of this title shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

(June 25, 1947, ch. 125, § 26, as added Pub. L. 95–396, § 24(2), Sept. 30, 1978, 92 Stat. 836; amended Pub. L. 100–532, title VIII, § 801(*o*), (q)(1)(D), Oct. 25, 1988, 102 Stat. 2683; Pub. L. 102–237, title X, § 1006(a)(11), Dec. 13, 1991, 105 Stat. 1895.)

PRIOR PROVISIONS

A prior section 26 of act June 25, 1947, ch. 125, was renumbered section 33 and is classified to section 136x of this title.

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–237 substituted ''uses'' for ''use''.

1988—Subsec. (a). Pub. L. 100–532, § 801(*o*)(1), (2), inserted heading and substituted ''regulations. The Administrator'' for ''regulations; *Provided*, That the Administrator'' in par. (1).

Subsec. (b). Pub. L. 100–532, § 801(*o*)(3), (q)(1)(D), inserted heading and substituted ''136i'' for ''136b'' in two places.

Subsec. (c). Pub. L. 100–532, § 801(*o*)(4), inserted heading.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136q, 136w–2 of this title.

§ 136w–2. Failure by the State to assure enforcement of State pesticide use regulations

(a) Referral

Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this subchapter, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this subchapter. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this subchapter.

(b) Notice

Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

(c) Construction

Neither section 136w–1 of this title nor this section shall limit the authority of the Administrator to enforce this subchapter, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

(June 25, 1947, ch. 125, § 27, as added Pub. L. 95–396, § 24(2), Sept. 30, 1978, 92 Stat. 837; amended Pub. L. 100–532, title VIII, § 801(p), Oct. 25, 1988, 102 Stat. 2683.)

PRIOR PROVISIONS

A prior section 27 of act June 25, 1947, ch. 125, was renumbered section 34 and is classified to section 136y of this title.

AMENDMENTS

1988—Pub. L. 100–532 inserted headings for subsecs. (a) to (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–532 effective on expiration of 60 days after Oct. 25, 1988, see section 901 of Pub. L. 100–532, set out as a note under section 136 of this title.

§ 136w–3. Identification of pests; cooperation with Department of Agriculture's program

(a) In general

The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.

(b) Pest control availability

(1) In general

The Administrator, in cooperation with the Secretary of Agriculture, shall identify—

(A) available methods of pest control by crop or animal;

(B) minor pest control problems, both in minor crops and minor or localized problems in major crops; and

(C) factors limiting the availability of specific pest control methods, such as resistance to control methods and regulatory actions limiting the availability of control methods.

(2) Report

The Secretary of Agriculture shall, not later than 180 days after November 28, 1990, and an-

nually thereafter, prepare a report and send the report to the Administrator. The report shall—

(A) contain the information described in paragraph (1);

(B) identify the crucial pest control needs where a shortage of control methods is indicated by the information described in paragraph (1); and

(C) describe in detail research and extension efforts designed to address the needs identified in subparagraph (B).

(c) Integrated pest management

The Administrator, in cooperation with the Secretary of Agriculture, shall develop approaches to the control of pests based on integrated pest management that respond to the needs of producers, with a special emphasis on minor pests.

(d) Public health pests

The Administrator, in coordination with the Secretary of Agriculture and the Secretary of Health and Human Services, shall identify pests of significant public health importance and, in coordination with the Public Health Service, develop and implement programs to improve and facilitate the safe and necessary use of chemical, biological, and other methods to combat and control such pests of public health importance.

(June 25, 1947, ch. 125, § 28, as added Pub. L. 95–396, § 24(2), Sept. 30, 1978, 92 Stat. 838; amended Pub. L. 101–624, title XIV, § 1495, Nov. 28, 1990, 104 Stat. 3629; Pub. L. 104–127, title VIII, § 862(b)(1), Apr. 4, 1996, 110 Stat. 1174; Pub. L. 104–170, title II, § 236, Aug. 3, 1996, 110 Stat. 1509.)

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104–127 struck out ''and the information required by section 5882 of this title'' after ''paragraph (1)''.

Subsec. (d). Pub. L. 104–170 added subsec. (d).

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 136w–4. Annual report

The Administrator shall submit an annual report to Congress before February 16 of each year and the first report shall be due February 15, 1979. The report shall include the total number of applications for conditional registration under sections 136a(c)(7)(B) and 136a(c)(7)(C) of this title that were filed during the immediately preceding fiscal year, and, with respect to those applications approved, the Administrator shall report the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides.

(June 25, 1947, ch. 125, § 29, as added Pub. L. 95–396, § 24(2), Sept. 30, 1978, 92 Stat. 838.)

STUDIES; REPORTS AND RECOMMENDATIONS TO CONGRESSIONAL COMMITTEES

Section 27 of Pub. L. 96–396 required the Administrator of the Environmental Protection Agency to report to the Senate Committee on Agriculture, Nutrition, and Forestry and to the House Committee on Agriculture not later than 9 months after Sept. 30, 1978 in respect to fee collection from pesticide registrants, not later than 6 months after Sept. 30, 1978 in respect to pesticide uses, and not later than 9 months after Sept. 30, 1978 in respect to problems of minor uses of pesticides not specifically permitted by labeling.

§ 136w–5. Minimum requirements for training of maintenance applicators and service technicians

Each State may establish minimum requirements for training of maintenance applicators and service technicians. Such training may include instruction in the safe and effective handling and use of pesticides in accordance with the Environmental Protection Agency approved labeling, and instruction in integrated pest management techniques. The authority of the Administrator with respect to minimum requirements for training of maintenance applicators and service technicians shall be limited to ensuring that each State understands the provisions of this section.

(June 25, 1947, ch. 125, § 30, as added Pub. L. 104–170, title I, § 121(2), Aug. 3, 1996, 110 Stat. 1492.)

PRIOR PROVISIONS

A prior section 30 of act June 25, 1947, ch. 125, was renumbered section 33 and is classified to section 136x of this title.

§ 136w–6. Environmental Protection Agency minor use program

(a) The Administrator shall assure coordination of minor use issues through the establishment of a minor use program within the Office of Pesticide Programs. Such office shall be responsible for coordinating the development of minor use programs and policies and consulting with growers regarding minor use issues and registrations and amendments which are submitted to the Environmental Protection Agency.

(b) The Office of Pesticide Programs shall prepare a public report concerning the progress made on the registration of minor uses, including implementation of the exclusive use as an incentive for registering new minor uses, within 3 years of the passage of the Food Quality Protection Act of 1996.

(June 25, 1947, ch. 125, § 31, as added Pub. L. 104–170, title II, § 210(i), Aug. 3, 1996, 110 Stat. 1500.)

REFERENCES IN TEXT

The passage of the Food Quality Protection Act of 1996, referred to in subsec. (b), probably means the date of enactment of Pub. L. 104–170, which was approved Aug. 3, 1996.

PRIOR PROVISIONS

A prior section 31 of act June 25, 1947, ch. 125, was renumbered section 34 and is classified to section 136y of this title.

§ 136w–7. Department of Agriculture minor use program

(a) In general

The Secretary of Agriculture (hereinafter in this section referred to as the ''Secretary'') shall assure the coordination of the responsibilities of

the Department of Agriculture related to minor uses of pesticides, including—

(1) carrying out the Inter-Regional Project Number 4 (IR–4) as described in section 450i of this title and the national pesticide resistance monitoring program established under section 1651[1] of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882);

(2) supporting integrated pest management research;

(3) consulting with growers to develop data for minor uses; and

(4) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

(b) Minor use pesticide data and revolving fund

(1) Minor use pesticide data

(A) Grant authority

The Secretary, in consultation with the Administrator, shall establish a program to make grants for the development of data to support minor use pesticide registrations and reregistrations. The amount of any such grant shall not exceed ½ of the cost of the project for which the grant is made.

(B) Applicants

Any person who wants to develop data to support minor use pesticide registrations and reregistrations may apply for a grant under subparagraph (A). Priority shall be given to an applicant for such a grant who does not directly receive funds from the sale of pesticides registered for minor uses.

(C) Data ownership

Any data that is developed under a grant under subparagraph (A) shall be jointly owned by the Department of Agriculture and the person who received the grant. Such a person shall enter into an agreement with the Secretary under which such person shall share any fee paid to such person under section 136a(c)(1)(F) of this title.

(2) Minor Use Pesticide Data Revolving Fund

(A) Establishment

There is established in the Treasury of the United States a revolving fund to be known as the Minor Use Pesticide Data Revolving Fund. The Fund shall be available without fiscal year limitation to carry out the authorized purposes of this subsection.

(B) Contents of the Fund

There shall be deposited in the Fund—

(i) such amounts as may be appropriated to support the purposes of this subsection; and

(ii) fees collected by the Secretary for any data developed under a grant under paragraph (1)(A).

(C) Authorizations of appropriations

There are authorized to be appropriated for each fiscal year to carry out the purposes of this subsection $10,000,000 to remain available until expended.

(June 25, 1947, ch. 125, §32, as added Pub. L. 104–170, title II, §210(j), Aug. 3, 1996, 110 Stat. 1501.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (a)(1), was classified to section 5882 of this title prior to repeal by Pub. L. 104–127, title VIII, §862(a), Apr. 4, 1996, 110 Stat. 1174.

§ 136x. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable.

(June 25, 1947, ch. 125, §33, formerly §26, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 998; renumbered §30, Pub. L. 95–396, §24(1), Sept. 30, 1978, 92 Stat. 836; renumbered §33, Pub. L. 104–170, title I, §121(1), Aug. 3, 1996, 110 Stat. 1492.)

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

§ 136y. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter (other than section 136u(a) of this title)—

(1) $83,000,000 for fiscal year 1989, of which not more than $13,735,500 shall be available for research under this subchapter;

(2) $95,000,000 for fiscal year 1990, of which not more than $14,343,600 shall be available for research under this subchapter; and

(3) $95,000,000 for fiscal year 1991, of which not more than $14,978,200 shall be available for research under this subchapter.

(June 25, 1947, ch. 125, §34, formerly §27, as added Pub. L. 92–516, §2, Oct. 21, 1972, 86 Stat. 998; amended Pub. L. 94–51, July 2, 1975, 89 Stat. 257; Pub. L. 94–109, Oct. 10, 1975, 89 Stat. 571; Pub. L. 94–140, §3, Nov. 28, 1975, 89 Stat. 752; renumbered §31 and amended Pub. L. 95–396, §§24(1), 25, Sept. 30, 1978, 92 Stat. 836, 838; Pub. L. 96–539, §3, Dec. 17, 1980, 94 Stat. 3195; Pub. L. 98–201, §2, Dec. 2, 1983, 97 Stat. 1380; Pub. L. 99–198, title XVII, §1768, Dec. 23, 1985, 99 Stat. 1656; Pub. L. 100–532, title VII, §701, Oct. 25, 1988, 102 Stat. 2679; renumbered §34, Pub. L. 104–170, title I, §121(1), Aug. 3, 1996, 110 Stat. 1492.)

CODIFICATION

Another section 1768 of Pub. L. 99–198 enacted sections 154a and 159 and amended sections 151, 154, and 157 of Title 21, Food and Drugs.

AMENDMENTS

1988—Pub. L. 100–532 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated to carry out this subchapter for the period beginning October 1, 1985, and ending September 30, 1986, $68,604,200 of which not more than $11,993,100 shall be available for research under this subchapter.''

1985—Pub. L. 99–198 substituted provisions authorizing appropriations of $68,604,200 for fiscal year 1986 of which not more than $11,993,100 shall be available for research for former provisions which had authorized appropriations for fiscal years 1973 through 1984.

1983—Pub. L. 98–201 authorized necessary appropriations for period beginning Oct. 1, 1983, and ending Sept. 30, 1984, not in excess of $64,200,000.

1980—Pub. L. 96–539 inserted provisions authorizing appropriations for period beginning Oct. 1, 1979, and ending Sept. 30, 1980, and for period beginning Oct. 1, 1980, and ending Sept. 30, 1981.

1978—Pub. L. 95–396, § 25, substituted appropriations authorization of $46,636,000 for period beginning Oct. 1, 1976, and ending Sept. 30, 1977, for prior authorization of $23,600,000 for period beginning Oct. 1, 1976, and ending Mar. 31, 1977, and authorized appropriations of $54,500,000 for period beginning Oct. 1, 1977, and ending Sept. 30, 1978, and such sums as may be necessary, limited to $70,000,000, for period beginning Oct. 1, 1978, and ending Sept. 30, 1979.

1975—Pub. L. 94–140 authorized appropriation of $47,868,000 to carry out provisions of this subchapter for period beginning Oct. 1, 1975, and ending Sept. 30, 1976, and $23,600,000 for period beginning Oct. 1, 1976, and ending Mar. 31, 1977.

Pub. L. 94–109 inserted provisions authorizing appropriation of $5,983,500 for period beginning Oct. 1, 1975 and ending Nov. 15, 1975.

Pub. L. 94–51 authorized appropriation of $11,967,000 to carry out provisions of this subchapter for period beginning July 1, 1975, and ending Sept. 30, 1975.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 701 of Pub. L. 100–532 provided that amendment made by Pub. L. 100–532 is effective Oct. 1, 1988.

EFFECTIVE DATE

For effective date of section, see section 4 of Pub. L. 92–516, set out as a note under section 136 of this title.

CHAPTER 6A—NATIONAL LABORATORY ACCREDITATION

Sec.
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§ 138. Definitions

As used in this chapter:

(1) Agricultural product

The term ''agricultural product'' means any fresh fruit or vegetable or any commodity or product derived from livestock or fowl, that is marketed in the United States for human consumption.

(2) Certificate

The term ''certificate'' means a certificate of accreditation issued under this chapter.

(3) Laboratory

The term ''laboratory'' means any facility or vehicle that is owned by an individual or a public or private entity and is equipped and operated for the purpose of carrying out pesticide residue analysis on agricultural products for commercial purposes.

(4) Pesticide

The term ''pesticide'' means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in section 136(u) of this title.

(5) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 101–624, title XIII, § 1321, Nov. 28, 1990, 104 Stat. 3562.)

§ 138a. National Laboratory Accreditation Program

(a) Establishment of Program

The Secretary shall administer a National Laboratory Accreditation Program under which laboratories that request accreditation and conduct residue testing of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products, shall be determined to meet certain minimum quality and reliability standards.

(b) Standards

The Secretary of Health and Human Services, after consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall establish, through regulations, standards for the National Laboratory Accreditation program[1] that shall include—

(1) standards applicable to laboratories;

(2) qualifications for directors and other personnel; and

(3) standards and procedures for quality assurance programs.

(c) Accrediting bodies

The Secretary of Health and Human Services shall approve State agencies or private, nonprofit entities as accrediting bodies to act on behalf of such Secretary in implementing the certification and quality assurance programs in accordance with the requirements of this section. In making such approvals the Secretary of Health and Human Services shall—

(1) oversee and review the performance of any accrediting body acting on behalf of the Secretary to ensure that such accrediting body is in compliance with the requirements of the certification program under this section; and

[1] So in original. Probably should be capitalized.

(2) have the right to obtain from an accrediting body acting on behalf of the Secretary and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by paragraph (1).

(d) Requirements

To be accredited under this chapter, a laboratory shall—

(1) prepare and submit an application for accreditation to the Secretary; and

(2) comply with such terms and conditions as are determined necessary by the Secretary and the Secretary of Health and Human Services.

(e) Exceptions

This chapter shall not apply to—

(1) a laboratory operated by a government agency;

(2) a laboratory operated by a corporation that only performs analysis of residues on agricultural products for such corporation or any wholly owned subsidiary of such corporation and does not make claims to the public or buyers based on such analysis;

(3) a laboratory operated by a partnership that only performs analysis of residues on agricultural products for the partners of such partnership and does not make claims to the public or buyers based on such analysis; or

(4) a laboratory not operated for commercial purposes that performs pesticide chemical residue analysis on agricultural products for research or quality control for the internal use of a person who is initiating the analysis.

(Pub. L. 101–624, title XIII, §1322, Nov. 28, 1990, 104 Stat. 3562.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138b, 138c of this title.

§ 138b. Accreditation

(a) In general

The Secretary shall issue certificates of accreditation to laboratories that meet the requirements of this chapter, as determined by the Secretary.

(b) Requirements for accreditation

To receive accreditation under this chapter, a laboratory shall prepare and submit an application for accreditation to the Secretary and shall complete such required tests, and meet such standards as established under section 138a of this title.

(c) Failure to meet accreditation standards

The Secretary shall deny an application for accreditation or shall revoke any existing accreditation with respect to any laboratory that fails to meet the requirements for accreditation under this chapter.

(d) Limited accreditation

The Secretary may issue certificates of accreditation to laboratories that are limited to specific fields of testing.

(Pub. L. 101–624, title XIII, §1323, Nov. 28, 1990, 104 Stat. 3563.)

§ 138c. Samples

(a) Performance evaluation samples

(1) Provided by Secretary

The Secretary shall ensure that performance evaluation samples are provided to any laboratory that has applied for accreditation under this chapter.

(2) Analysis by laboratory

A laboratory described in paragraph (1) shall analyze such performance evaluation samples and submit the results of such analysis to the Secretary, as provided for in section 138a of this title.

(3) Testing methods

Samples shall be tested by the laboratory according to methods specifically approved for such purpose by alternate methods of demonstrated adequacy or equivalence, as determined in regulations established under this chapter.

(b) Results of testing

(1) Submission of results

The laboratory shall submit the results of the tests conducted under subsection (a) of this section to the Secretary on forms provided by the Secretary, on or before the date determined by the Secretary.

(2) Evaluation of tests

The Secretary shall evaluate the results of such tests achieved by the laboratory and shall determine whether such laboratory is capable of undertaking an accurate analysis of chemical residues in agricultural products.

(c) Review of accreditation

The Secretary shall ensure that performance evaluation samples for analysis are provided to laboratories accredited under this chapter not less than two times a year.

(Pub. L. 101–624, title XIII, §1324, Nov. 28, 1990, 104 Stat. 3564.)

§ 138d. Application

(a) Contents of application

An application for accreditation under this chapter shall be prepared and submitted to the Secretary and shall include—

(1) the name and address of the laboratory;

(2) the name and address of the owners and managers of such laboratory;

(3) a statement concerning the type of analysis the laboratory intends to conduct;

(4) a brief history of the laboratory and its previous operations; and

(5) such other information as may be required by the Secretary.

(b) Restrictions on submission of application

A laboratory that has been denied, or has lost, accreditation under this chapter shall not reapply for accreditation until the expiration of at least 6 months after such denial or loss of accreditation. Corrective actions taken by the laboratory to address deficiencies upon which the denial or loss of accreditation was based must accompany the reapplication.

(Pub. L. 101–624, title XIII, § 1325, Nov. 28, 1990, 104 Stat. 3564.)

§ 138e. Reporting

(a) In general

Each laboratory or individual that performs, brokers, or otherwise arranges for the performance of a pesticide chemical analysis of food shall prepare and submit a report, simultaneously to the Secretary, the Secretary of Health and Human Services, and to the owner of such food, that shall contain any finding of pesticide chemical residues in such food—

(1) for which no chemical residue tolerance or exemption has been established;

(2) that is in excess of residue tolerances; or

(3) for which the chemical residue tolerance has been revoked or the chemical residue is otherwise not permitted by the Environmental Protection Agency.

(b) Timing of report

A laboratory shall submit the report required under subsection (a) of this section to the Secretary, the Secretary of Health and Human Services, and the owner of such food as soon as practicable after the completion of the analysis of such food.

(c) Guidelines

The Secretary shall adopt standardized reporting guidelines to be applied to laboratories under this section and shall provide such guidelines to laboratories accredited under this chapter, as well as other sources of information regarding applicable pesticide chemical tolerances.

(Pub. L. 101–624, title XIII, § 1326, Nov. 28, 1990, 104 Stat. 3565.)

§ 138f. Fees

(a) In general

At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this chapter, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e) of this section, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

(b) Amount of fee

The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a) of this section.

(c) Reimbursement of expenses

Each laboratory that is accredited under a statutory authority set forth in subsection (a) of this section or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

(d) Adjustment of fees

The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a) of this section.

(e) Appropriations prerequisite

No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f) of this section.

(f) Authorization of appropriations

There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.

(Pub. L. 101–624, title XIII, § 1327, Nov. 28, 1990, 104 Stat. 3565; Pub. L. 102–237, title X, § 1017, Dec. 13, 1991, 105 Stat. 1904.)

REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (a), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Dec. 15, 1967, Pub. L. 90–201, 81 Stat. 584, and amended, which are classified generally to subchapters I to IV (§ 601 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (a), is Pub. L. 85–172, Aug. 28, 1957, 71 Stat. 441, as amended, which is classified generally to chapter 10 (§ 451 et seq.) of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

AMENDMENTS

1991—Pub. L. 102–237 amended section generally, in subsec. (a), inserting provisions relating to Federal Meat Inspection Act and Poultry Products Inspection Act and provisions relating to crediting and availability of fees, in subsec. (b), substituting provisions relating to fee under this section for provisions relating to fee under subsec. (a) of this section, and provisions relating to laboratory accreditation programs administered by Secretary under statutory authorities set forth in subsec. (a) of this section for provisions relating to program established under this chapter, in subsec. (c), substituting provisions relating to statutory authority set forth in subsec. (a) of this section for provisions relating to this chapter, in subsec. (d), substituting provisions relating to laboratory accreditation programs under statutory authority set forth in subsec. (a) of this section for provisions relating to program established under this chapter, and adding subsecs. (e) and (f).

§ 138g. Public disclosure

The results of the evaluations of laboratories conducted by the Secretary under this chapter shall be made available to the Secretary of Health and Human Services and to the public on request.

(Pub. L. 101–624, title XIII, § 1328, Nov. 28, 1990, 104 Stat. 3565.)

§ 138h. Regulations

The Secretary shall promulgate regulations to carry out this chapter.

(Pub. L. 101–624, title XIII, § 1329, Nov. 28, 1990, 104 Stat. 3565.)

§ 138i. Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(Pub. L. 101–624, title XIII, § 1330, Nov. 28, 1990, 104 Stat. 3565.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CHAPTER 7—INSECT PESTS GENERALLY

Sec.

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MEDITERRANEAN FRUIT FLY INVESTIGATION BOARD

Act May 23, 1938, ch. 260, 52 Stat. 436, which created the Board for investigative purposes expired by its own terms on Mar. 15, 1939.

TICK ERADICATION ON SEMINOLE RESERVATION IN FLORIDA

Act July 22, 1942, ch. 516, 56 Stat. 675, which provided in part for the eradication of ticks on the Seminole Reservation, was a provision of the Department of Agriculture Appropriation Act, 1943, and expired on June 30, 1943.

§§ 141 to 144. Repealed. Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35

Sections were from act Mar. 3, 1905, ch. 1501, §§ 1–4, 33 Stat. 1269. See chapter 7B of this title.

Section 141 prohibited transportation or removal of insect pests.

Section 142 related to punishment for mailing parcels, etc., containing insect pests.

Section 143 related to regulations for mailing, transportation, etc., of insect pests for scientific purposes.

Section 144, amended Sept. 3, 1954, ch. 1263, § 16, 68 Stat. 1232, related to punishment for unlawful transportation or removal of insect pests.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85–36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85–36 set out as a note under section 147a of this title.

§ 145. Repealed. Pub. L. 94–231, § 2, Mar. 15, 1976, 90 Stat. 216

Section, act Oct. 6, 1917, ch. 79, § 1, 40 Stat. 374, provided for cooperation with Mexico and adjacent States in extermination of pink bollworm infestations in Mexico and related operations.

§§ 146, 147. Omitted

CODIFICATION

Section 146, act Feb. 9, 1927, ch. 90, 44 Stat. 1065, authorized an appropriation of $10,000,000 to eradicate or control European corn borer.

Section 147, act May 24, 1928, ch. 734, 45 Stat. 734, authorized an additional appropriation of $7,000,000 to eradicate or control European corn borer.

§ 147a. Control and eradication of plant pests

(a) Authority of Secretary of Agriculture

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

(b) Intergovernmental cooperation

The Secretary of Agriculture is further authorized to cooperate with the governments of foreign countries, or the local authorities thereof, and with foreign or international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

(c) Cooperating foreign agency

In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the op-

erations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(d) Definitions

As used in this section—

(1) ''plant pest'' means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

(2) ''living stage'' includes the egg, pupal, and larval stages as well as any other living stage; and

(3) ''State'' includes the District of Columbia and the territories and possessions of the United States.

(e) Rules and regulations

The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

(f) Authorization of appropriations; fees, late payment penalties, and accrued interest

(1) Notwithstanding paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Unless otherwise specifically authorized or provided for in appropriations Acts, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. Any person for whom such an activity is performed shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary of Agriculture shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by section 3717 of title 31. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation. The Secretary of Agriculture shall have a lien for the fees, any late payment penalty, and any accrued interest assessed against the plant or plant product for which services have been provided. In the case of any person who fails to make payment when due, the Secretary of Agriculture shall also have a lien against any plant or plant product thereafter attempted to be exported by such person. The Secretary of Agriculture may, in case of nonpayment of the fees, late payment penalty, or accrued interest, after giving reasonable notice of default to the person liable for payment of such assessments, sell at public sale after reasonable public notice, or otherwise dispose of, any such plant or plant product upon which the Secretary of Agriculture has a lien pursuant to this section. If the sale proceeds exceed the fees due, any late payment penalty assessed, any accrued interest and the expenses of the sale, the excess shall be paid, in accordance with regulations of the Secretary of Agriculture, to the owner of the plant or plant product sold upon the owner making application therefore with proof of ownership, within six months after such sale, and otherwise the excess shall be credited to accounts that incur the costs and shall remain available until expended. The Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary of Agriculture, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest.

(Sept. 21, 1944, ch. 412, title I, § 102, 58 Stat. 735; June 17, 1949, ch. 220, 63 Stat. 200; Pub. L. 85–36, title II, § 201, May 23, 1957, 71 Stat. 35; Pub. L. 94–231, § 1, Mar. 15, 1976, 90 Stat. 215; Pub. L. 101–624, title XXV, §§ 2504, 2509(b), Nov. 28, 1990, 104 Stat. 4068, 4070.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624, § 2504, substituted ''foreign countries'' for ''all countries of the Western Hemisphere'' and inserted ''foreign or'' before ''international''.

Subsec. (f). Pub. L. 101–624, § 2509(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.''

1976—Subsecs. (a) to (d). Pub. L. 94–231 redesignated existing provisions of subsec. (a) as subsecs. (a) to (d) and broadened Secretary's authority to control and eradicate plant pests and animal diseases, extended Secretary's authority to cooperate with foreign governments, and inserted definitions for ''plant pest'' and ''living stage''. Former subsecs. (b) and (c) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 94–231 redesignated subsec. (b) as (e) and made discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products offered for export or transit in the United States.

Subsec. (f). Pub. L. 94–231 redesignated subsec. (c) as (f) and substituted provisions authorizing appropriations on a Congressional finding of necessity made ''annually'' for provisions authorizing appropriations on a Congressional finding of necessity made ''from time to time''.

1957—Subsec. (a). Pub. L. 85–36 inserted ''insect pests, plant diseases, and nematodes, such as imported fire

ant, soybean cyst nematode, witchweed, spotted alfalfa aphid,'' after ''or to prevent or retard the spread of''.

1949—Subsec. (a). Act June 17, 1949, authorized the Secretary to carry out operations to combat the citrus blackfly, white-fringed beetle, and the Hall scale.

CONTINUATION OF PROVISIONS

Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35, provided in part that: ''All Acts amended or repealed hereby [this section and sections 141 to 144, 149, and 441 of this title] shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to the effective date of this Act [May 23, 1957]. Nothing contained in this Act [enacting chapter 7B of this title, amending this section and section 149 of this title, and repealing sections 141 to 144, and 441 of this title] shall affect the validity of any findings, regulations, or other orders, permits, or certificates, which were issued under any of the Acts cited in this section [sections 141 to 144, and 441 of this title] prior to the effective date of this Act [May 23, 1957] and which are in effect on said date, but such findings, regulations, other orders, permits, and certificates shall remain in effect unless and until modified in accordance with this Act [enacting chapter 7B of this title, amending this section and section 149 of this title, and repealing sections 141 to 144, and 441 of this title].''

For disposition of remainder of section 111, see note set out under section 150ii of this title.

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 147b of this title; title 21 section 129.

§ 147b. Emergency transfer of funds by Secretary of Agriculture

The Secretary of Agriculture may, in connection with emergencies which threaten any segment of the agricultural production industry of this country, transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such sums as the Secretary may deem necessary, to be available only in such emergencies for the arrest and eradication of plant pests or contagious or infectious diseases of animals or poultry, and for expenses in accordance with section 147a of this title and section 114b of title 21.

(Pub. L. 97–46, § 1, Sept. 25, 1981, 95 Stat. 953.)

EFFECTIVE DATE

Section 2 of Pub. L. 97–46 provided that: ''The provisions of this Act [this section] shall become effective upon enactment [Sept. 25, 1981].''

§ 148. Control of insect pests and plant diseases

The Secretary of Agriculture, in cooperation with authorities of the States concerned, organizations, or individuals, is authorized and directed to apply such methods for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs as may be necessary. The Secretary of Agriculture is further authorized to cooperate with the Governments of Canada or Mexico or local Canadian or Mexican authorities in carrying out in such countries necessary operations or measures to control incipient or emergency outbreaks of insect pests or plant diseases, when such operations or measures are necessary to protect the agriculture of the United States. In performing the operations or measures authorized under sections 148 to 148e of this title, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Apr. 6, 1937, ch. 69, 50 Stat. 57; May 9, 1938, ch. 192, 52 Stat. 344; Aug. 13, 1954, ch. 731, 68 Stat. 717.)

AMENDMENTS

1954—Act Aug. 13, 1954, extended provisions to include cooperation with the Governments of Canada or Mexico or local Canadian or Mexican authorities.

1938—Act May 9, 1938, incorporated part of introductory clause of original section in first sentence and struck out remainder of such section consisting of the other parts of introductory clause relating to personnel and appropriations (see sections 148a and 148e of this title), the appropriation provisions of second clause (see section 148e of this title), provisions of first proviso relating to general administration, field work, etc. (see section 148a of this title) and provisions of second proviso restricting the uses of appropriations (see section 148d of this title).

SHORT TITLE

Act Apr. 6, 1937, ch. 69, 50 Stat. 57, as amended, which is classified to sections 148 to 148e of this title, is popularly known as the ''Insect Control Act''.

CROSS REFERENCES

Authorization of appropriation, see section 148e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148c, 148e of this title; title 41 section 6b.

§ 148a. Availability of appropriated money for general administration; personnel; field work, etc.

Any sums which may be appropriated for such purpose shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, printing, rent outside the District of Columbia, general administration and supervision, surveys, and the purchase, transportation, and application of poison bait or materials and equipment for control of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs, and for the preparation of such poison bait or materials for application, and such other expenses as may be necessary.

(Apr. 6, 1937, ch. 69, § 2, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148b. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111

Section, act Apr. 6, 1937, ch. 69, § 3, as added May 9, 1938, ch. 192, 52 Stat. 344, related to procurement of materials and equipment for the control of insect pests and plant diseases. See section 6b(a) of Title 41, Public Contracts.

§ 148c. Control of insect pests and plant diseases; cooperation of States

In the discretion of the Secretary of Agriculture, no part of any sums appropriated to carry out the purposes of sections 148 to 148e of this title shall be expended for the control of incipient or emergency outbreaks of insect pests or plant diseases in any State until the State concerned has provided the organization or materials and supplies necessary for cooperation with the Federal Government.

(Apr. 6, 1937, ch. 69, § 4, as added May 9, 1938, ch. 192, 52 Stat. 344.)

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148e of this title; title 41 section 6b.

§ 148d. Restrictions on appropriations

No part of the sums hereinafter authorized to be appropriated shall be used to pay the cost or value of farm animals, farm crops, or other property injured or destroyed.

(Apr. 6, 1937, ch. 69, § 5, as added May 9, 1938, ch. 192, 52 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148e. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to carry out the provisions of sections 148 to 148e of this title.

(Apr. 6, 1937, ch. 69, § 6, as added May 9, 1938, ch. 192, 52 Stat. 344.)

ADDITIONAL APPROPRIATIONS

Additional appropriations for purposes of this section were made as follows: Act Mar. 2, 1938, ch. 39, § 1, 52 Stat. 83—$2,000,000; Joint Res. June 13, 1939, ch. 207, 53 Stat. 821—$1,750,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c of this title; title 41 section 6b.

§ 148f. Control of grasshoppers and Mormon Crickets on Federal lands

(a) Authority of Secretary of Agriculturell carry out a program to control grasshoppers and Mormon Crickets on all Federal lands.

(b) Funds for lands subject to jurisdiction of Federal Government or Federal lands subject to jurisdiction of Secretary of the Interior; prompt requests for transferred funds and for replenishing appropriations

(1) Subject to paragraph (2), the Secretary of Agriculture shall expend or transfer, and upon request, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Federal Government.

(2)(A) Appropriated funds made available to the Secretary of the Interior shall be available for the payment of obligations incurred on Federal lands subject to the jurisdiction of the Secretary of the Interior.

(B) Funds transferred pursuant to this paragraph shall be requested as promptly as possible by the Secretary of Agriculture.

(C) Funds transferred pursuant to this section shall be replenished by supplemental or regular appropriations which shall be requested as promptly as possible.

(c) Exhaustion of contingency grasshopper emergency funds before availability of transferred funds for control of outbreaks on Federal lands subject to jurisdiction of Secretary of the Interior

(1) Except as provided in paragraph (2), from any funds made available to the Department of the Interior until expended, moneys shall be made available for the transfer by the Secretary of the Interior to the Secretary of Agriculture for the prevention, suppression, and control of grasshoppers and Mormon Cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior.

(2) No funds shall be made available under this authority, until contingency funds specifically available to the Animal and Plant Health Inspection Service for grasshopper emergencies have been exhausted.

(d) Time for treatment of lands dependent on determination of economic damage

On request of the administering agency or the Department of Agriculture of an affected State, the Secretary of Agriculture shall immediately treat Federal, State, or private lands that are infested by grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will optimize biological control and not cause greater economic damage to adjacent landowners.

(e) Amount of payments for costs of control on Federal, State, and private lands; interrelated participation efforts

The Secretary of Agriculture shall—

(1) pay out of appropriated funds made available to the Secretary or transferred to the

Secretary by the Secretary of the Interior—100 percent of the cost of grasshopper or Mormon Cricket control on Federal lands;

(2) pay out of appropriated funds made available to the Secretary—

(A) 50 percent of the cost of such control on State lands; and

(B) 33.3 percent of the cost of such control on private rangelands; and

(3) participate in prevention, control, or suppression programs for grasshoppers and Mormon Crickets in conjunction with other Federal, State and private prevention, control or suppression efforts.

(f) Funding of personnel training program

From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to effectively accomplish the objective of this section.

(Pub. L. 99–198, title XVII, §1773, Dec. 23, 1985, 99 Stat. 1658.)

§ 149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico

(a) Administration by Secretary; fees

To prevent the introduction of insect pests and plant diseases the Secretary of Agriculture is authorized and directed to promulgate such rules and regulations as he may deem necessary to regulate the entry into the United States of railway cars and other vehicles and freight, express, baggage, and other materials which may carry such pests and to provide for the inspection, cleaning, and, when necessary, disinfection of such vehicles and materials; to carry out the activities required to accomplish this purpose, the Secretary of Agriculture shall use such means as he may deem necessary, including construction and repair of buildings, plants, and equipment for fumigation and disinfection or cleaning of vehicles and materials; the cleaning and disinfection of vehicles or materials necessary to accomplish the purpose shall be carried out by or under the direction of authorized inspectors of the Department of Agriculture, and the Secretary of Agriculture shall make and collect such charge as will cover, as nearly as may be, the average cost of materials, facilities, and special labor used in performing such disinfection, and fees so collected shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Penalties

(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Jan. 31, 1942, ch. 31, 56 Stat. 40; Pub. L. 85–36, title I, §110, May 23, 1957, 71 Stat. 34; Pub. L. 97–461, §3, Jan. 12, 1983, 96 Stat. 2524; Pub. L. 103–465, title IV, §431(b), Dec. 8, 1994, 108 Stat. 4967.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–465 struck out ''from Mexico'' after ''regulate the entry into the United States''.

1983—Pub. L. 97–461 designated existing provisions as subsec. (a) and added subsec. (b).

1957—Pub. L. 85–36 substituted ''or'' for ''and'' before ''under the direction of authorized inspectors''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

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

DISPOSITION OF MONEYS

Department of Agriculture Appropriation Acts, July 12, 1943, ch. 215, 57 Stat. 408; June 28, 1944, ch. 296, 58 Stat. 440, provided that any moneys received in payment of charges shall be covered into the Treasury as miscellaneous receipts.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85–36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85–36, set out as a note under section 147a of this title.

CHAPTER 7A—GOLDEN NEMATODE

Sec.

150. Governmental policy for protection of potatoes and tomatoes from golden nematode.
150a. Duty of Secretary of Agriculture.
150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers.
150c. Expenditure of funds; discretion of Secretary.
150d. State legislative action authorizing restrictions on or destruction of crops.
150e. Computation of compensation paid growers; method; finality of determination.
150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles.
150g. Chapter as supplemental legislation.

§ 150. Governmental policy for protection of potatoes and tomatoes from golden nematode

To protect potato and tomato production in the United States from the destructive pest known as the golden nematode which subsists on the roots of potatoes and tomatoes, causes marked reduction in yield, persists in the soil for many years in an inactive state in the ab-

sence of preferred hosts, and becomes active and destructive when potatoes or tomatoes are again planted, it is the policy of the Government of the United States, independently or in cooperation with State and local governmental agencies, and other public and private organizations, associations, and individuals, to eradicate, suppress, control, and prevent the spread of, this pest.

(June 15, 1948, ch. 471, § 1, 62 Stat. 442.)

SHORT TITLE

Section 9 of act June 15, 1948, provided that: ''This Act [enacting this chapter] may be cited as the 'Golden Nematode Act'.''

CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

§ 150a. Duty of Secretary of Agriculture

The Secretary of Agriculture either independently or in cooperation with public or private agencies is authorized to carry out operations or measures to eradicate, suppress, control, or prevent the spread of, the golden nematode.

(June 15, 1948, ch. 471, § 2, 62 Stat. 443.)

§ 150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers

The activities contemplated by this chapter include cooperation with States and other agencies in making inspections, applying suppressive measures, enforcing quarantines, enforcing restrictions on the planting of potatoes and tomatoes, destroying potatoes and tomatoes growing in soil found infested or exposed to infestation with the golden nematode, and compensating growers in areas infected, or exposed to infestation, with the golden nematode for not planting potatoes or tomatoes or for losses resulting from destruction for the purposes of this chapter of potatoes or tomatoes.

(June 15, 1948, ch. 471, § 3, 62 Stat. 443.)

§ 150c. Expenditure of funds; discretion of Secretary

In the discretion of the Secretary of Agriculture no part of any sums appropriated to carry out the purposes of this chapter shall be expended with respect to any area infested with the golden nematode or exposed to such infestation until the appropriate cooperating agency or agencies have presented evidence satisfactory to the Secretary of Agriculture that they will provide funds, materials, means, and State and local authority necessary for the cooperating agency or agencies to carry out effectively that part of the cooperative program the Secretary of Agriculture may require from the cooperating agency or agencies.

(June 15, 1948, ch. 471, § 4, 62 Stat. 443.)

§ 150d. State legislative action authorizing restrictions on or destruction of crops

The Secretary of Agriculture shall not undertake any program involving mandatory restrictions on the planting of potatoes or tomatoes, or mandatory destruction of potatoes or tomatoes unless the State concerned shall have enacted legislation authorizing such restrictions or destruction.

(June 15, 1948, ch. 471, § 5, 62 Stat. 443.)

§ 150e. Computation of compensation paid growers; method; finality of determination

The amount of compensation to be paid by the Federal Government and any cooperating agency, and the method of computation thereof, shall be determined by the Secretary of Agriculture or the agent or agents designated by him, in cooperation with the responsible officials of the agency concerned and in a manner to assure that necessary records are preserved to show full compliance with the provisions of this chapter and regulations promulgated in accordance therewith. No payment shall be made to any grower except after compliance in good faith with regulations concerning the golden nematode promulgated by the Secretary of Agriculture and the responsible official of the cooperating agency. The determination by the Secretary of Agriculture, or his authorized agent, of the amount of compensation to be provided by the Federal Government for any grower shall be final.

(June 15, 1948, ch. 471, § 6, 62 Stat. 443.)

§ 150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles

To carry out the purposes of this chapter the Secretary of Agriculture is authorized to incur all necessary expenses, including the employment of persons in the District of Columbia and elsewhere, printing and binding, and the purchase of passenger-carrying vehicles.

(June 15, 1948, ch. 471, § 7, 62 Stat. 443.)

§ 150g. Chapter as supplemental legislation

The provisions of this chapter are intended to supplement, and shall not be construed as limiting or repealing existing legislation.

(June 15, 1948, ch. 471, § 8, 62 Stat. 443.)

CHAPTER 7B—PLANT PESTS

Sec.

150aa. Definitions.
150bb. Movement of pests prohibited.
(a) In general.
(b) Regulations.
150cc. Mailing of pests; opening of mail; exception.
150dd. Emergency measures by Secretary.
(a) Remedial measures or disposal by Secretary.
(b) Additional remedial measures; payment of compensation; authorization of appropriations.
(c) Ordering treatment or disposal by owner; procedure.
(d) Other adequate action to prevent dissemination.

Sec.
(e) Compensation of owner for unauthorized disposal.
150ee. Regulations and conditions.
150ff. Inspections and seizures; warrants.
150gg. Violations.
(a) Criminal penalties.
(b) Civil penalty.
150hh. Separability.
150ii. Authority as additional.
150jj. Plant Quarantine Act unaffected.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 18 section 42.

§ 150aa. Definitions

As used in this chapter, except where the context otherwise requires:

(a) ''Secretary'' means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) ''Properly identified employee of the Department of Agriculture'' means an employee of that Department authorized to enforce the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.], and wearing a suitable badge for identification, or otherwise properly identified.

(c) ''Plant pest'' means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(d) ''Living stage'' includes the egg, pupal, and larval stages as well as any other living stage.

(e) ''United States'' means any of the States, Territories, or Districts (including possessions and the District of Columbia) of the United States.

(f) ''Interstate'' means from one State, Territory, or District (including possessions and the District of Columbia) of the United States into or through any other such State, Territory, or District.

(g) ''Move'' means ship, deposit for transmission in the mail, otherwise offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport, or move, or allow to be moved, by mail or otherwise.

(h) ''Plant Quarantine Act'' means the Act of August 20, 1912 (37 Stat. 315), as from time to time amended.

(i) ''Mexican Border Act'' means the Act of January 31, 1942 (56 Stat. 40), as from time to time amended.

(Pub. L. 85–36, title I, § 102, May 23, 1957, 71 Stat. 31.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 85–36, May 23, 1957, 71 Stat. 31, as amended, which enacted this chapter, amended sections 147a and 149 of this title, repealed sections 141 to 144 and 441 of this title, and enacted provisions set out as a note under section 147a of this title. For complete classification of this Act to the Code, see Tables.

The Plant Quarantine Act, referred to in subsecs. (b) and (h), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

The Mexican Border Act, referred to in subsec. (i), is act Jan. 31, 1942, ch. 31, 56 Stat. 40, as amended, which is classified to section 149 of this title.

SHORT TITLE

Section 101 of Pub. L. 85–36 provided that: ''This title [enacting this chapter and provisions set out as a note under section 147a of this title, amending section 149 of this title and repealing sections 141 to 144 and 441 of this title] may be cited as the 'Federal Plant Pest Act'.''

§ 150bb. Movement of pests prohibited

(a) In general

No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Regulations

The regulations promulgated by the Secretary to implement subsection (a) of this section may include regulations requiring that a plant pest moving into or through the United States, or interstate—

(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved.

(Pub. L. 85–36, title I, § 103, May 23, 1957, 71 Stat. 32; Pub. L. 97–461, § 1(a), Jan. 12, 1983, 96 Stat. 2523; Pub. L. 100–449, title III, § 301(f)(1), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103–465, title IV, § 431(c)(1), Dec. 8, 1994, 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103–465 amended section generally, substituting present provisions for former subsecs. (a) to (c) which prohibited movement of plant pests into or through United States unless permitted by Secretary, provided for conditions for granting or refusing permits for such movement, and provided for movement of plant pests from Canada into or through United States only in accordance with such regulations as Secretary may promulgate.

1988—Subsec. (a). Pub. L. 100–449, § 301(f)(1)(A), substituted ''Except as provided in subsection (c) of this section, no person shall'' for ''No person shall''.

Subsec. (c). Pub. L. 100–449, § 301(f)(1)(B), added subsec. (c).

1983—Subsec. (a). Pub. L. 97–461 struck out ''knowingly'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150gg of this title; title 39 section 3015.

§ 150cc. Mailing of pests; opening of mail; exception

(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Nothing in this chapter shall authorize any person to open any letter or other sealed matter except in accordance with the postal laws and regulations.

(c) The prohibitions of this chapter shall not apply to any employee of the United States in the performance of his duties in handling mail.

(Pub. L. 85–36, title I, § 104, May 23, 1957, 71 Stat. 32; Pub. L. 100–449, title III, § 301(f)(2), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103–465, title IV, § 431(c)(2), Dec. 8, 1994, 108 Stat. 4967.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–465, § 431(c)(2)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided in subsection (b) of this section, any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and will not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except when accompanied by a copy of a permit issued under this chapter.''

Subsecs. (b) to (d). Pub. L. 103–465, § 431(c)(2)(B), (C), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''Any letter, parcel, box, or other package from Canada containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.''

1988—Subsec. (a). Pub. L. 100–449, § 301(f)(2)(A), substituted ''Except as provided in subsection (b) of this section, any letter'' for ''Any letter''.

Subsecs. (b) to (d). Pub. L. 100–449, § 301(f)(2)(B), (C), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3015.

§ 150dd. Emergency measures by Secretary

(a) Remedial measures or disposal by Secretary

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States, or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest, or which has moved into the United States, or interstate, and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement; and any plant pest, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation thereunder: *Provided*, That this subsection shall not authorize such action with respect to any product, article, means of conveyance, or plant pest subject, at the time of the proposed action, to disposal under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(b) Additional remedial measures; payment of compensation; authorization of appropriations

(1) Whereas, the existence of a plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States on any premises in the United States would constitute a threat to crops, other plant life, and plant products of the Nation and thereby seriously burden interstate or foreign commerce, whenever the Secretary determines that an extraordinary emergency exists because of the presence of such plant pest on any premises in the United States, and that the presence of such plant pest anywhere in the United States threatens the crops, other plant life, or plant products of the United States, the Secretary may (A) seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as the Secretary deems appropriate, any product or article of any character whatsoever, or means of conveyance which the Secretary has reason to believe is infested or infected by or contains any such plant pest; (B) quarantine, treat, or apply other remedial meas-

ures to, in such manner as the Secretary deems appropriate, any premises, including articles on such premises which the Secretary has reason to believe are infested or infected by any such plant pest: *Provided*, That any action taken under clauses (A) and (B) shall be consistent with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]: *Provided further*, That such action may be taken under this subsection only if the Secretary finds after review of measures taken by the State or other jurisdiction and after consultation with the Governor that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence. The cost of any action taken by the Secretary under this subsection shall be at the expense of the United States.

(2) The Secretary may pay compensation to producers and other persons for economic losses incurred by them as a result of the quarantine, destruction, or other action taken under the authority of paragraph (1) of this subsection. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) Ordering treatment or disposal by owner; procedure

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or plant pest subject to disposal under subsection (a) of this section, or his agent, to treat, apply other remedial measures to, destroy, or make other disposal of such product, article, means of conveyance, or plant pest, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States district court, or to the United States court of any Territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or plant pest is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpena for witnesses who are required to attend a court in any judicial district in such a case may run into any other judicial district.

(d) Other adequate action to prevent dissemination

No product, article, means of conveyance, or plant pest shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of plant pests new to or not theretofore known to be widely prevalent or distributed within and throughout the United States.

(e) Compensation of owner for unauthorized disposal

The owner of any product, article, means of conveyance, or plant pest destroyed, or otherwise disposed of by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or plant pest (not including compensation for loss due to delays incident to determining eligibility for movement into or through the United States or for interstate movement) if the owner establishes that neither this section nor the Plant Quarantine Act [7 U.S.C. 151 et seq.] authorized such destruction or disposal. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for plant disease and pest control activities of the Department of Agriculture.

(Pub. L. 85–36, title I, § 105, May 23, 1957, 71 Stat. 32; Pub. L. 97–98, title XI, § 1119(1), Dec. 22, 1981, 95 Stat. 1272.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

The Plant Quarantine Act, referred to in subsecs. (a) and (d), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

AMENDMENTS

1981—Subsecs. (b) to (e). Pub. L. 97–98 added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

EFFECTIVE DATE OF 1981 AMENDMENT

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

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 150ee. Regulations and conditions

The Secretary may promulgate such regulations requiring inspection of products and arti-

cles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States, or interstate, and imposing other conditions upon such movement, as he deems necessary to prevent the dissemination into the United States, or interstate, of plant pests, in any situation in which such regulations are not authorized under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85–36, title I, § 106, May 23, 1957, 71 Stat. 33.)

REFERENCES IN TEXT

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

§ 150ff. Inspections and seizures; warrants

Any properly identified employee of the Department of Agriculture shall have authority to stop and inspect, without a warrant, any persons or means of conveyance moving into the United States, and any plant pests and any products and articles of any character whatsoever carried thereby, to determine whether such persons or means of conveyance are carrying any plant pest contrary to this chapter and whether any such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving in violation of any regulation under this chapter; to stop and inspect, without a warrant, any persons or means of conveyance moving interstate, and any plant pests and any products and articles of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, products, or articles are infested or infected by or contain any plant pest or are moving subject to any regulation under this chapter, or that such persons or means of conveyance are carrying any plant pest subject to this chapter; to stop and inspect without a warrant any person or means of conveyance moving intrastate upon probable cause to believe that the person or conveyance is carrying any product or article subject to treatment or disposal under the provisions of this chapter or the regulations issued thereunder; and to enter, with a warrant, any premises in the United States, other than places which may be entered under section 167 of this title, to make any inspections and seizures necessary under this chapter. Any judge of the United States or of a court of record of any State, Territory or possession, or a United States magistrate judge, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or plant pests regulated or subject to disposal under this chapter, issue warrants for the entry of such premises to make any inspections or seizures under this chapter. Such warrants may be executed by any authorized employee of the Department of Agriculture.

(Pub. L. 85–36, title I, § 107, May 23, 1957, 71 Stat. 34; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 97–98, title XI, § 1119(2), Dec. 22, 1981, 95 Stat. 1273; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

AMENDMENTS

1981—Pub. L. 97–98 inserted ''to stop and inspect without a warrant any person or means of conveyance moving intrastate upon probable cause to believe that the person or conveyance is carrying any product or article subject to treatment or disposal under the provisions of this Act or the regulations issued thereunder;'' after ''subject to this chapter;''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

EFFECTIVE DATE OF 1981 AMENDMENT

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

§ 150gg. Violations

(a) Criminal penalties

Any person who—

(1) knowingly violates section 150bb of this title or any regulation promulgated under this chapter;

(2) knowingly forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document;

shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

(b) Civil penalty

Any person who—

(1) violates section 150bb of this title or any regulation promulgated under this chapter;

(2) forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Pub. L. 85–36, title I, § 108, May 23, 1957, 71 Stat. 34; Pub. L. 97–461, § 1(b), Jan. 12, 1983, 96 Stat. 2523.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

AMENDMENTS

1983—Pub. L. 97–461 designated existing provisions as subsec. (a), divided existing provisions among pars. (1) through (3), substituted ''$5,000'' for ''$500'', and added subsec. (b).

§ 150hh. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 85–36, title I, § 109, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

§ 150ii. Authority as additional

The authority conferred by this chapter shall be in addition to authority conferred by other statues not specifically repealed hereby.

(Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

CODIFICATION

Section constitutes first sentence of section 111 of Pub. L. 85–36. Second sentence of section 111 is classified as section 150jj of this title. Third sentence of section 111 repealed sections 141 to 144, and 441 of this title. Remainder of section 111 is set out as a note under section 147a of this title.

§ 150jj. Plant Quarantine Act unaffected

Nothing in this chapter shall amend or repeal any of the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

CODIFICATION

Section constitutes second sentence of section 111 of Pub. L. 85–36. For disposition of remainder of section 111, see Codification note set out under section 150ii of this title.

CHAPTER 8—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

Sec.

151. ''Person'' defined.
152. ''Nursery stock'' defined.
153. Liability of principal for act of agent.
154. Importation of nursery stock.
(a) In general.
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155. Importation for scientific purposes permitted.
156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment.
157. Marking packages, etc., for entry.
158. Marking packages, etc., for interstate shipment; inspection.
159. Regulations by Secretary restricting importation of plants, etc., other than ''nursery stock''.
160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective.
161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation.
161a. Omitted.
162. Rules and regulations.
163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty.
164. Duty of United States attorneys to prosecute.
164a. Enforcement of quarantine against nursery stock and plant products; search and seizure.
165, 165a. Repealed or Omitted.
166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by United States Postal Service.
167. Rules governing District of Columbia.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 150aa, 150dd, 150ee, 150jj, and 2811 of this title; title 39 sections 3014, 3015.

§ 151. "Person" defined

The word ''person'' as used in this chapter shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is comprised of a part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 153 of this title.

EFFECTIVE DATE

Section 14 of act Aug. 20, 1912, provided: ''That this Act [enacting this chapter] shall become and be effective from and after the first day of October, nineteen hundred and twelve, except as herein otherwise provided.''

SHORT TITLE

Act Aug. 20, 1912, as amended, which is classified to this chapter is popularly known as the ''Nursery Stock Quarantine Act'' and the ''Plant Quarantine Act''.

CROSS REFERENCES

Words denoting number, etc., see section 1 of Title 1, General Provisions.

§ 152. "Nursery stock" defined

For the purpose of this chapter the term ''nursery stock'' shall include all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding

plants, and other herbaceous plants, bulbs, and roots.

(Aug. 20, 1912, ch. 308, § 6, 37 Stat. 317.)

CROSS REFERENCES

Regulations restricting importation of plants, etc., other than nursery stock, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title; title 39 section 3014.

§ 153. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is composed of part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 151 of this title.

§ 154. Importation of nursery stock

(a) In general

No person shall—

(1) import or enter into the United States any nursery stock; or

(2) accept delivery of any nursery stock moving from any foreign country into or through the United States;

unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

(b) Regulations

The regulations promulgated by the Secretary of Agriculture to implement subsection (a) of this section may include regulations requiring that nursery stock moving into or through the United States—

(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infected with plant diseases, not discernible by port-of-entry inspection; and

(4) if the nursery stock is found to be infested with plant pests or insect pests or infected with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases.

(Aug. 20, 1912, ch. 308, § 1, 37 Stat. 315; July 31, 1947, ch. 405, 61 Stat. 680; Pub. L. 100–449, title III, § 301(f)(3)(A), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103–465, title IV, § 431(d)(1), Dec. 8, 1994, 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103–465 amended section generally, substituting present provisions for provisions outlining general restrictions on importation of nursery stock into the United States along with exceptions to such restrictions.

1988—Pub. L. 100–449 struck out ''*Provided*'' the first place it appeared and inserted in lieu thereof ''*Provided*, That the Secretary of Agriculture may waive the permit requirement for nursery stock imported or offered for entry from Canada: *Provided further*''.

1947—Act July 31, 1947, inserted last proviso.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 155. Importation for scientific purposes permitted

Any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products of which the importation may be forbidden from any country or locality under the provisions of section 160 of this title may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe.

(Mar. 4, 1913, ch. 145, § 1 [part], 37 Stat. 854.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1914, and not as part of the ''Plant Quarantine Act'' which comprises this chapter.

TRANSFER OF FUNCTIONS

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

§ 156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment

It shall be the duty of the Secretary of the Treasury promptly to notify the Secretary of Agriculture of the arrival of any nursery stock at port of entry. The person receiving such stock at port of entry shall, immediately upon entry and before such stock is delivered for shipment or removed from the port of entry, advise the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or the District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, of the name and address of the consignee, the nature and quantity of the stock it is proposed to ship, and the country and locality where the same was grown. No person shall ship or offer for shipment from one State or Territory or District of the United States into any other State or Territory or District, any nursery stock imported into the United States without notifying the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, immediately upon the delivery of the said stock for shipment, of the name and address of the consignee, of the nature and quantity of stock it is proposed to ship, and the country and locality where the same was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States. This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section.

(Aug. 20, 1912, ch. 308, § 2, 37 Stat. 316; Pub. L. 100–449, title III, § 301(f)(3)(B), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103–465, title IV, § 431(d)(2), Dec. 8, 1994, 108 Stat. 4968.)

AMENDMENTS

1994—Pub. L. 103–465 amended last sentence generally. Prior to amendment, last sentence read as follows: ''This section shall not apply to nursery stock that arrives from, or is imported from, Canada.''

1988—Pub. L. 100–449 inserted at end ''This section shall not apply to nursery stock that arrives from, or is imported from, Canada.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 157. Marking packages, etc., for entry

No person shall import or offer for entry into the United States any nursery stock unless the case, box, package, crate, bale, or bundle thereof shall be plainly and correctly marked to show the general nature and quantity of the contents, the country and locality where the same was grown, the name and address of the shipper, owner, or person shipping or forwarding the same, and the name and address of the consignee.

(Aug. 20, 1912, ch. 308, § 3, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a state maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 158. Marking packages, etc., for interstate shipment; inspection

No person shall ship or deliver for shipment from one State or Territory or District of the United States into any other State or Territory or District any such imported nursery stock the case, box, package, crate, bale, or bundle whereof is not plainly marked so as to show the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where such stock was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

(Aug. 20, 1912, ch. 308, § 4, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a State maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 159. Regulations by Secretary restricting importation of plants, etc., other than "nursery stock"

Whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term ''nursery stock'' as defined in section 152 of this title may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall promulgate his determination, specifying the class of plants and plant products the importation of which shall be restricted and the

country and locality where they are grown, and thereafter, and until such promulgation is withdrawn, such plants and plant products imported or offered for import into the United States or any of its Territories or Districts shall be subject to all the provisions of sections 154 and 156 to 158 of this title.

(Aug. 20, 1912, ch. 308, § 5, 37 Stat. 316; Pub. L. 97–432, § 1(1), Jan. 8, 1983, 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97–432 struck out provision directing the Secretary to hold a hearing before promulgating a determination under this section.

§ 160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective

Whenever, in order to prevent the introduction into the United States of any tree, plant, or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded. Following the promulgation of such determination by the Secretary of Agriculture, and until the withdrawal of the said promulgation by him, the importation of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the said promulgation from the country and locality therein named, regardless of the use for which the same is intended, is hereby prohibited; and until the withdrawal of the said promulgation by the Secretary of Agriculture, and notwithstanding that such class of nursery stock, or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products be accompanied by a certificate of inspection from the country of importation, no person shall import or offer for entry into the United States from any country or locality specified in such promulgation, any of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products named therein, regardless of the use for which the same is intended: *Provided*, That the quarantine provisions of this section, as applying to the white-pine blister rust, potato wart, and the Mediterranean fruit fly, shall become and be effective on August 20, 1912.

(Aug. 20, 1912, ch. 308, § 7, 37 Stat. 317; Pub. L. 97–432, § 1(2), Jan. 8, 1983, 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97–432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity of forbidding importation.

EFFECTIVE DATE

Section effective Oct. 1, 1912, see note set out under section 151 of this title.

CROSS REFERENCES

Importation for scientific purposes permitted, see section 155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 155 of this title.

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States. No person shall ship or offer for shipment to any common carrier nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public interests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District: *Provided*, That if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture,

in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That until the Secretary of Agriculture shall have made a determination that such a quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as hereinabove provided, nothing in this chapter shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further*, That the Secretary of Agriculture is authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further*, That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this chapter shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(Aug. 20, 1912, ch. 308, §8, 37 Stat. 318; Mar. 4, 1917, ch. 179, 39 Stat. 1165; Apr. 13, 1926, ch. 135, 44 Stat. 250; Pub. L. 95–439, §4, Oct. 10, 1978, 92 Stat. 1062; Pub. L. 97–432, §1(3), Jan. 8, 1983, 96 Stat. 2276; Pub. L. 104–127, title IX, §911, Apr. 4, 1996, 110 Stat. 1185.)

AMENDMENTS

1996—Pub. L. 104–127, in fourth sentence, inserted ''if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That'' after ''*Provided*, That''.

1983—Pub. L. 97–432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity to quarantine.

1978—Pub. L. 95–439 struck out provisions requiring the Secretary of Agriculture to give notice of the establishment of a quarantine to common carriers doing business in or through the quarantined area, to publish notice of the establishment of the quarantine in newspapers in the quarantined area, and to give notice of the rules and regulations provided for in this section for the notice of establishment of quarantine.

1926—Act Apr. 13, 1926, inserted last three provisos.

1917—Act Mar. 4, 1917, substituted ''that such quarantine is necessary to prevent the spread of'' for ''the fact that,'' in first sentence, inserted ''or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infection'' after the first three references to ''seeds, or other plant products,'', and inserted ''when the public interest will permit'' after ''That it shall be the duty of the Secretary of Agriculture''.

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3014.

§ 161a. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1945, act June 28, 1944, ch. 296, 58 Stat. 440, related to disposition of moneys from inspection and certification of domestic plants and plant products for export, and was not repeated in subsequent appropriation acts. Similar provisions were contained in prior appropriation acts as follows:

July 12, 1943, ch. 215, 57 Stat. 408.
July 22, 1942, ch. 516, 56 Stat. 686.

§ 162. Rules and regulations

The Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this chapter.

(Aug. 20, 1912, ch. 308, §9, 37 Stat. 318.)

§ 163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty

Any person who knowingly violates any provision of this chapter or any rule or regulation promulgated by the Secretary of Agriculture under this chapter, or who knowingly forges or counterfeits any certificate provided for in this chapter or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318; Pub. L. 97–461, § 2, Jan. 12, 1983, 96 Stat. 2523.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 164 and 164a of this title. Section is also set out in D.C. Code, § 6–1105.

AMENDMENTS

1983—Pub. L. 97–461 added the element of knowledge to the definition of all violations, added use and the lack of authority from the Secretary to the definition of the group of violations including alteration, defacement or destruction of certificates, substituted criminal penalties of a fine not exceeding $5,000 or a year's imprisonment or both for a fine of $500 or a year's imprisonment or both in the discretion of the court, inserted provisions relating to civil penalties, and struck out provision that no common carrier would be deemed to have violated sections 152, 154, 156 to 161, and 162 of this title on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such in the United States.

CROSS REFERENCES

District of Columbia, violation of rules and regulations, see section 167 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167 of this title.

§ 164. Duty of United States attorneys to prosecute

It shall be the duty of the United States attorneys diligently to prosecute any violations of this chapter which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164a of this title. Section is also set out in D.C. Code, § 6–1105.

§ 164a. Enforcement of quarantine against nursery stock and plant products; search and seizure

Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of this chapter and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of this chapter, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of this chapter, or of such quarantine or order.

(Aug. 20, 1912, ch. 308, § 10, as added May 1, 1928, ch. 462, 45 Stat. 468.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164 of this title.

TRANSFER OF FUNCTIONS

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

§ 165. Repealed. Pub. L. 88–448, title IV, § 402(a)(13), Aug. 19, 1964, 78 Stat. 493

Section, act Aug. 20, 1912, ch. 308, § 12, 37 Stat. 319, related to appointment of members of a Federal Horticultural Board from among employees of Department of Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

§ 165a. Omitted

CODIFICATION

Section, act May 16, 1928, ch. 572, 45 Stat. 565, provided that the functions of the Federal Horticultural Board should devolve upon and be exercised by the Plant Quarantine and Control Administration. Said act also created an Advisory Federal Plant Quarantine Board which was abolished by act Mar. 3, 1933, ch. 203, 47 Stat. 1463. Appropriations to enable the Secretary of Agriculture to carry into effect the provisions of this chapter, which in prior appropriation acts had been made to the Plant Quarantine and Control Administration, were made to the Bureau of Plant Quarantine by the appropriation act of July 7, 1932, ch. 443, 47 Stat. 640, and to the Bureau of Entomology and Plant Quarantine by the appropriation act of Mar. 26, 1934, ch. 89, 48 Stat. 486, and subsequent appropriation acts.

§ 166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by United States Postal Service

When any State shall provide for terminal inspection of plants and plant products, and shall establish and maintain, at the sole expense of the State, such inspection at one or more places therein, the proper officials of said State may submit to the Secretary of Agriculture a list of plants and plant products and the plant pests transmitted thereby, that in the opinion of said officials should be subject to terminal inspection in order to prevent the introduction or dissemination in said State of pests injurious to agriculture. Upon his approval of said list, in whole or in part, the Secretary of Agriculture shall transmit the same to the United States Postal Service, and thereafter all packages containing any plants or plant products named in said approved lists shall, upon payment of postage therefor, be forwarded by the postmaster at the destination of said package to the proper

State official at the nearest place where inspection is maintained. If the plants or plant products (including seed) are found upon inspection to be free from injurious pests and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, or if infected shall be disinfected by said official, they shall upon payment of postage therefor be returned to the postmaster at the place of inspection to be forward[1] to the person to whom they are addressed; but if found to be infected with injurious pests and incapable of satisfactory disinfection or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, the State inspector shall so notify the postmaster at the place of inspection who shall promptly notify the sender of said plants or plant products that they will be returned to him upon his request and at his expense, or in default of such request that they will be turned over to the State authorities for destruction.

It shall be unlawful for any person, firm, or corporation to deposit in the United States mails any package containing any plant or plant product addressed to any place within a State maintaining inspection thereof, as herein defined, without plainly marking the package so that its contents may be readily ascertained by an inspection of the outside thereof. Whoever shall fail to so mark said packages shall be punished by a fine of not more than $100.

The United States Postal Service is authorized and directed to make all needful rules and regulations for carrying out the purposes hereof.

(Mar. 4, 1915, ch. 144, 38 Stat. 1113; June 4, 1936, ch. 495, 49 Stat. 1461; Pub. L. 91–375, §4(a), Aug. 12, 1970, 84 Stat. 773.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1916, and not as part of the ''Plant Quarantine Act'' which comprises this chapter.

AMENDMENTS

1936—Act June 4, 1936, amended last sentence of first par. by changing introductory word ''plant'' to ''plants'', inserting ''(including seed)'', ''and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests'', ''or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests,'' and striking out the comma after ''place of inspection''.

SHORT TITLE

This section is popularly known as the ''Terminal Inspection Act.''

TRANSFER OF FUNCTIONS

In first and third pars., ''United States Postal Service'' substituted for ''Postmaster General'' pursuant to Pub. L. 91–375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

[1] So in original.

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

§ 167. Rules governing District of Columbia

Prohibition against shipment generally.—In order further to control and eradicate and to prevent the dissemination of dangerous plant diseases and insect infections and infestations no plant or plant products for or capable of propagation, including nursery stock, hereinafter referred to as plants and plant products, shall be moved or allowed to be moved, shipped, transported, or carried by any means whatever into or out of the District of Columbia, except in compliance with such rules and regulations as shall be prescribed by the Secretary of Agriculture as hereinafter provided.

Eradication by owner.—Whenever the Secretary of Agriculture, after investigation, shall determine that any plants and plant products in the District of Columbia are infested or infected with insect pests and diseases and that any place, articles, and substances used or connected therewith are so infested or infected, written notice thereof shall be given by him to the owner or person in possession or control thereof, and such owner or person shall forthwith control or eradicate and prevent the dissemination of such insect pest or disease and shall remove, cut, or destroy such infested and infected plants, plant products, and articles and substances used or connected therewith, which are declared to be nuisances, within the time and in the manner required in said notice or by the rules and regulations of the Secretary of Agriculture.

Eradication by Secretary of Agriculture.—Whenever such owner or person cannot be found, or shall fail, neglect, or refuse to comply with the foregoing provisions of this section, the Secretary of Agriculture is authorized and required to control and eradicate and prevent dissemination of such insect pest or disease and to remove, cut, or destroy infested or infected plants and plant products and articles and substances used or connected therewith, and the United States shall have an action of debt against such owner or persons for expenses incurred by the Secretary of Agriculture in that behalf.

Inspection.—Employees of the Bureau of Entomology and Plant Quarantine are authorized and required to inspect places, plants, and plant products and articles and substances used or connected therewith whenever the Secretary of Agriculture shall determine that such inspections are necessary for the purposes of this section.

Entry upon premises; opening packages; destruction of plants, etc.—For the purpose of carrying out the provisions and requirements of this section and of the rules and regulations of the Secretary of Agriculture made hereunder, and the notices given pursuant thereto, employees of the Bureau of Entomology and Plant Quarantine shall have power with a warrant to enter into or upon any place and open any bundle, package, or other container of plants or plant products whenever they shall have cause to believe that infections or infestations of

plant pests and diseases exist therein or thereon, and when such infections or infestations are found to exist, after notice by the Secretary of Agriculture to the owner or person in possession or control thereof and an opportunity by said owner or person to be heard, to destroy the infected or infested plants or plant products contained therein.

Search warrants.—The Superior Court of the District of Columbia shall have power, upon information supported by oath or affirmation showing probable cause for believing that there exists in any place, bundle, package, or other container in the District of Columbia any plant or plant product which is infected or infested with plant pests or disease, to issue warrants for the search for and seizure of all such plants and plant products.

Rules and regulations.—It shall be the duty of the Secretary of Agriculture, and he is required, from time to time, to make and promulgate such rules and regulations as shall be necessary to carry out the purposes of this section, and any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plant or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in section 163 of this title.

(Aug. 20, 1912, ch. 308, §15, as added May 31, 1920, ch. 217, 41 Stat. 726; amended May 16, 1928, ch. 572, 45 Stat. 565; July 7, 1932, ch. 443, 47 Stat. 640; Mar. 26, 1934, ch. 89, 48 Stat. 486; Apr. 1, 1942, ch. 207, §§1, 4, 56 Stat. 190, 192; Pub. L. 88–60, §§1, 7, July 8, 1963, 77 Stat. 77, 78; Pub. L. 91–358, title I, §155(a), July 29, 1970, 84 Stat. 570.)

CODIFICATION

Section is also set out in D.C. Code, §6–1104.

CHANGE OF NAME

In penultimate par., ''Superior Court of the District of Columbia'' substituted for ''District of Columbia Court of General Sessions'' on authority of Pub. L. 91–358.

''District of Columbia Court of General Sessions'' was the designation given to the ''Municipal Court for the District of Columbia'' by Pub. L. 88–60, §§1, 7, July 8, 1963, 77 Stat. 77, 78, which provided that, eff. Jan. 1, 1963, whenever reference is made in any Act of Congress to the ''Municipal Court for the District of Columbia'', such reference shall be held to be a reference to the ''District of Columbia Court of General Sessions.''

Police Court of District of Columbia and Municipal Court of District of Columbia consolidated into a single court known as ''The Municipal Court for the District of Columbia'' and powers and jurisdiction of such courts transferred thereto by act Apr. 1, 1942, ch. 207, §§1, 4, 56 Stat. 190, 192.

TRANSFER OF FUNCTIONS

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

Functions of Bureau of Entomology and Plant Quarantine transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees.

''Bureau of Entomology and Plant Quarantine'' substituted in text for ''Federal Horticultural Board'' by acts May 16, 1928, July 7, 1932, and Mar. 26, 1934. See note under section 165a of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150ff of this title.

CHAPTER 8A—RUBBER AND OTHER CRITICAL AGRICULTURAL MATERIALS

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SUBCHAPTER I—GENERAL PROVISIONS

§ 171. Program for development of guayule and other rubber-bearing plants

The Secretary of Agriculture (hereinafter called the ''Secretary'') is authorized—

(1) To acquire by purchase, license, or other agreement, the right to operate under processes or patents relating to the growing and harvesting of guayule or the extraction of rubber therefrom, and such properties, processes, records, and data as are necessary to such operation, including but not limited to any such rights owned or controlled by the Intercontinental Rubber Company, or any of its subsidiaries, and all equipment, materials, structures, factories, real property, seed, seedlings, growing shrub, and other facilities, patents and processes of the Intercontinental Rubber Company, or any of its subsidiaries, located in California, and for such rights, properties, and facilities of the Intercontinental Rubber Company or any of its subsidiaries, the Secretary is authorized to pay not to exceed $2,000,000;

(2) To plant, or contract for the planting of, not in excess of five hundred thousand acres of guayule in areas in the Western Hemisphere where the best growth and yields may be expected in order to maintain a nucleus planting of guayule to serve as a domestic source of crude rubber as well as of planting material for use in further expanding guayule planting to meet emergency needs of the United States for crude rubber; to establish and maintain nurseries to provide seedlings for field plants; and to purchase necessary equipment, facilities, land for nurseries and administrative sites and water rights;

(3) To acquire by lease, or other agreement, for not exceeding ten years, rights to land for the purpose of making plantings of guayule; to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased; to make surveys, directly or through appropriate Government agencies, of areas in the Western Hemisphere where guayule might be grown; and to establish and maintain records indicating areas to which guayule cultivation could be extended for emergency production;

(4) To construct or operate, or to contract for the operation of, factories for the extraction of rubber from guayule, and from Chrysothamnus, commonly known as rabbit brush; to purchase guayule shrub; and to purchase, operate, and maintain equipment for the harvesting, storing, transporting, and complete processing of guayule, and Chrysothamnus, commonly known as rabbit brush, and to purchase land as sites for processing plants;

(5) To conduct studies, in which he may cooperate with any other public or private agency, designed to increase the yield of guayule by breeding to by selection, and to improve planting methods; to make surveys of areas suitable for cultivating guayule; to make experimental plantings; and to conduct agronomic tests;

(6) To conduct tests, in which he may cooperate with any other public or private agency, to determine the qualities of rubber obtained from guayule and to determine the most favorable methods of compounding and using guayule in rubber manufacturing processes;

(7) To improve methods of processing guayule shrubs and rubber and to obtain and hold patents on such new processes;

(8) To sell guayule or rubber processed from guayule and to use funds so obtained in replanting and maintaining an area not in excess of five hundred thousand acres of guayule inside the Western Hemisphere; and

(9) To exercise with respect to rubber-bearing plants other than guayule the same powers as are granted in the foregoing provisions of this section with respect to guayule.

(Mar. 5, 1942, ch. 140, § 1, 56 Stat. 126; Oct. 20, 1942, ch. 617, §§ 1–4, 56 Stat. 796, 797.)

AMENDMENTS

1942—Par. (2). Act Oct. 20, 1942, § 1, increased acreage from 75,000 to 500,000 and inserted reference to land for administrative sites and water rights.

Par. (3). Act Oct. 20, 1942, § 2, inserted ''to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased;''.

Par. (4). Act Oct. 20, 1942, § 3, inserted ''to purchase guayule shrub;''.

Par. (8). Act Oct. 20, 1942, § 4, substituted ''not in excess of five hundred'' for ''of seventy-five''.

ADDITIONAL ACREAGE AUTHORIZED

Act Oct. 26, 1942, ch. 629, title II, 56 Stat. 1002, provided that: ''The Secretary of Agriculture, in connection with the appropriations herein and heretofore made for such project, is authorized to plant, or contract for the planting of, not to exceed twenty-five thousand acres of guayule in areas in the Western Hemisphere in addition to the acreage permitted under the provisions of paragraph (1), section 1 of the act of March 5, 1942 (Public Law 473) [par. (1) of this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173, 175 of this title.

§ 172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water

(a) The Secretary is authorized to appoint such employees, including citizens of other countries, as may be necessary for carrying out the provisions of sections 171 to 173 of this title. Such appointments may be made without regard to the provisions of the civil-service laws. (Sections 321, 322, 324, and 325a of title 40 shall not apply to any nursery, planting, cultivating or harvesting operations conducted pursuant to sections 171 to 173 of this title.) All appointments so made by the Secretary shall be made only on the basis of merit and efficiency.

(b) The Secretary may delegate any of the powers and duties conferred on him by sections 171 to 173 of this title to any agency or bureau of the Department of Agriculture.

(c) The Secretary, with the consent of any board, commission, independent establishment, corporation, or executive department of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers and employees thereof, in carrying out the provisions of sections 171 to 173 of this title.

(d) The Secretary may allot to bureaus and offices of the Department of Agriculture, or may transfer to such other agencies of the State and Federal Governments as may be requested by him to assist in carrying out sections 171 to 173 of this title, any funds made available to him under said sections.

(e) In carrying out the provisions of sections 171 to 173 of this title the Secretary shall have all of the authority conferred upon him by section 502 of title 16.

(f) The Secretary may lease at reasonable rentals structures erected by the Government with essential facilities for such periods as such structures and facilities are not required for the purposes of sections 171 to 173 of this title; and any part of land or structures with essential facilities acquired by lease, deed, or other agreement pursuant to said sections, which are not required or suitable for the purposes of said sections during the period the United States is entitled to possession thereof may be leased or subleased at a reasonable rental; and any surplus water controlled by the United States on land owned or leased by the United States for the purposes of said sections may be disposed of at reasonable rates.

(Mar. 5, 1942, ch. 140, § 2, 56 Stat. 127; Oct. 20, 1942, ch. 617, §§ 5–7, 56 Stat. 797.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Sections 321, 322, 324, and 325a of title 40, referred to in subsec. (a), were repealed by Pub. L. 87–581, title II, § 203, Aug. 13, 1962, 76 Stat. 360. See sections 328, 330, and 332 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In the second sentence of subsec. (a), the words ''and the compensation of the persons so appointed may be fixed without regard to the provisions of the Classification Act of 1923, as amended'' were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act of any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1942—Subsec. (a). Act Oct. 20, 1942, §§ 5, 7, substituted ''other countries'' for ''countries in the Western Hemisphere'' and inserted sentence relating to inapplicability of certain sections of title 40.

Subsecs. (e), (f). Act Oct. 20, 1942, § 6, added subsecs. (e) and (f).

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 173, 175 of this title.

§ 173. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of sections 171 to 173 of this title. Any amounts so appropriated, and any funds received by the Secretary under said sections, shall remain permanently available for the purposes of said sections without regard to the provisions of any other laws relating to the availability and disposition of appropriated funds and the disposition of funds collected by officers or agencies of the United States.

(Mar. 5, 1942, ch. 140, § 3, 56 Stat. 128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 175 of this title.

§ 174. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1946, act July 5, 1945, ch. 271, title I, 59 Stat. 423, provided for the disposition of proceeds from the sale of guayule and other rubber-bearing plants, and was not repeated in subsequent appropriation acts. Similar provisions were contained in prior appropriation acts as follows:

May 5, 1945, ch. 109, 59 Stat. 152.
June 28, 1944, ch. 296, 58 Stat. 447.
July 12, 1943, ch. 215, 57 Stat. 415.
July 2, 1942, ch. 476, title I, 56 Stat. 597.
Apr. 28, 1942, ch. 247, title III, 56 Stat. 240.

§ 175. Lease or sublease of unsuitable lands; disposal of water supply

Subject to conditions prescribed by the Secretary of Agriculture, any part of the land acquired by lease, deed, or other agreement pursuant to sections 171 to 173 of this title, which is not required or suitable for the purposes of said sections may be leased or subleased at a reasonable rental during the period the United States is entitled to possession thereof; and any surplus water supplies controlled by the United States on such land may be disposed of at reasonable rates.

(July 2, 1942, ch. 476, title I, 56 Stat. 597.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 172, 173 of this title.

§ 176. Sale of guayule shrub to Reconstruction Finance Corporation

Guayule shrub may be sold to the Reconstruction Finance Corporation at a price reflecting the net realization from the sale of the rubber recovered from such shrub in mills operated by said Corporation after deducting the cost of milling and amortization of the cost of mills constructed for the purpose by said Corporation.

(June 30, 1945, ch. 215, § 1, 59 Stat. 310; July 5, 1945, ch. 271, title I, 59 Stat. 423.)

TRANSFER OF FUNCTIONS

Rubber Reserve Company dissolved and functions transferred to Reconstruction Finance Corporation by Joint Res. June 30, 1945, eff. July 1, 1945.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 649, set out as a note under section 601 of Title 15, Commerce and Trade, abolished Reconstruction Finance Corporation.

SUBCHAPTER II—CRITICAL AGRICULTURAL MATERIALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3311 of this title.

§ 178. Congressional findings and declaration of policy

(a)(1) Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, the defense, and the general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

(2) Congress further recognizes that certain plant species of the genus Parthenium (Guayule), native to Texas and the Republic of Mexico, as well as other plants, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out by the Secretary of Agriculture in the Emergency Rubber Project, the United States demonstrated that Parthenium latex is a promising and realistic substitute for Hevea latex.

(3) Congress further recognizes that additional research and development are needed, especially into methods for increasing latex yields, before commercialization of native Parthenium latex or other hydrocarbon-containing plants by private industry is feasible.

(4) Congress further recognizes that the development of a domestic natural rubber industry, based on Parthenium and other hydrocarbon-containing plants, would not only relieve the Nation's dependence upon foreign latex sources but also convey substantial economic benefits to people living in arid and semiarid regions of the United States. Such an industry would comprise the agricultural production of the hydrocarbon-containing plants and the development of commercial processing and manufacturing facilities to extract the latex and other products.

(5) Congress further recognizes that ongoing research into the development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and industrial research groups, and that these research efforts should be continued and expanded.

(b) In addition, Congress recognizes that the development of a domestic industry or industries for the production and manufacture from native agricultural crops of products other than rubber which are of strategic and industrial importance but for which the Nation is now dependent upon foreign sources, would benefit the economy, the defense, and the general well-being of the Nation, and that additional research efforts in this area should be undertaken or continued and expanded.

(c) It is therefore the policy of the United States to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants, along with other native agricultural crops, for the production of critical agricultural materials to benefit the Nation and promote economic development.

(Pub. L. 95–592, §2, Nov. 4, 1978, 92 Stat. 2529; Pub. L. 98–284, §2, May 16, 1984, 98 Stat. 181.)

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98–284, §2(1), redesignated existing provisions of subsec. (a) as par. (1).

Subsec. (a)(2) to (4). Pub. L. 98–284, §2(2), redesignated subsecs. (b), (c), and (d) as pars. (2), (3), and (4), respectively, of subsec. (a).

Subsec. (a)(5). Pub. L. 98–284, §2(2), (3), redesignated subsec. (e) as par. (5) of subsec. (a), and in par. (5), as so redesignated, substituted ''development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and industrial research groups,'' for ''commercialization of native latex has been conducted by the Department of Agriculture and by the Department of Commerce through the regional commissions''.

Subsec. (b). Pub. L. 98–284, §2(4), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 98–284, §2(4), added subsec. (c). Former subsec. (c) redesignated (a)(3).

Subsecs. (d) and (e). Pub. L. 98–284, §2(2), redesignated subsecs. (d) and (e) as (a)(4) and (a)(5), respectively.

Subsec. (f). Pub. L. 98–284, §2(4), struck out subsec. (f) which provided: ''It is the policy of the Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants for the extraction of natural rubber and other products to benefit the Nation and promote economic development''. See subsec. (c).

SHORT TITLE

Section 1 of Pub. L. 95–592, as amended by Pub. L. 98–284, §1, May 16, 1984, 98 Stat. 181, provided: ''That this Act [enacting this subchapter and amending section 1314f of this title] may be cited as the 'Critical Agricultural Materials Act'.'' As originally enacted Pub. L. 95–592 had been cited as the ''Native Latex Commercialization and Economic Development Act of 1978''.

§ 178a. Definitions

As used in this subchapter—

(a) The term ''State'' means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) The term ''Secretaries'' means the Secretary of Agriculture and/or the Secretary of Commerce acting each separately or jointly.

(c) The term ''commercialization'' means the stage in the development or advancement of a technology at which point private enterprise is willing to invest in a full-scale production facility.

(d) The term ''native'' means hydrocarbon-containing plants and other agricultural crops of strategic and industrial importance which may be cultured in North America, especially plants which are members of the genus Parthenium known as Guayule.

(Pub. L. 95–592, §3, Nov. 4, 1978, 92 Stat. 2529; Pub. L. 98–284, §3, May 16, 1984, 98 Stat. 181.)

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–284, §3(a), inserted ''and other agricultural crops of strategic and industrial importance'' and ''plants which are''.

Subsec. (e). Pub. L. 98–284, §3(b), struck out subsec. (e) which defined ''Regional Commissions'' as the Regional Action Planning Commissions established pursuant to title V of the Public Works and Economic Development Act of 1965.

§ 178b. Joint Commission on Research and Development of Critical Agricultural Materials

(a) Establishment; function

There is established a Joint Commission on Research and Development of Critical Agricultural Materials, hereinafter referred to as the Joint Commission. The function of the Joint Commission shall be to assist the Secretaries in carrying out the purposes of this subchapter.

(b) Membership

The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of the Department of Agriculture; three individuals designated by the Secretary of Commerce from among the staff of the Department of Commerce; a representative of the Bureau of Indian Affairs of the Department of the Interior; a representative of the National Science Foundation; a representative of the Department of State; a representative of the Department of Defense; and a representative of the Federal Emergency Management Agency. Each of the members of the Joint Commission shall be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, development, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.

(c) Chairman

The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b) of this section.

(d) Delegation of responsibilities to Joint Commission; transfer and use of appropriated funds

The Secretaries may delegate to the Joint Commission one or more of their responsibilities under this subchapter, and transfer to the Joint Commission funds appropriated to carry out the purposes of this subchapter as they deem appropriate to achieve the purposes of this subchapter, and the Joint Commission is authorized to carry out such functions and expend such funds to achieve the purposes of the subchapter.

(e) Duties

The Joint Commission shall—

(1) develop a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of this subchapter;

(2) establish broad policy for implementing the plan carrying out the purposes of this subchapter;

(3) establish criteria for evaluating and awarding contracts for research, development, and demonstration projects; and

(4) review and advise the Secretaries with respect to grants, contracts, and other project expenditures.

(f) Administrative support services

The Secretaries are authorized to provide without reimbursement such administrative support services, including the detail of staff personnel not to exceed a total of five persons from each Department, as the Joint Commission may need to carry out its functions.

(g) Advice of scientific, engineering and business communities

To the maximum extent possible, the Secretaries and the Joint Commission shall seek the advice of the scientific, engineering and business communities with respect to the activities carried out under this subchapter. The Secretaries and the Commission shall specifically seek the advice of persons with expertise in appropriate fields of agricultural research in land grant colleges and other universities, in State agricultural experiment stations, and in other appropriate organizations; and, persons with expertise in manufacturing and commerce involving rubber and other critical agricultural materials in private enterprise and other appropriate organizations.

(Pub. L. 95–592, §4, Nov. 4, 1978, 92 Stat. 2530; Pub. L. 98–284, §4, May 16, 1984, 98 Stat. 181; Pub. L. 104–127, title VIII, §881(a), Apr. 4, 1996, 110 Stat. 1175.)

AMENDMENTS

1996—Subsecs. (g), (h). Pub. L. 104–127 redesignated subsec. (h) as (g), and struck out former subsec. (g) which read as follows: ''One year after November 4, 1978, and each year thereafter, the Joint Commission shall provide to the Congress a report on the implementation of the subchapter. Such report shall (1) recommend specific directions for further research, development, and other work, and (2) recommend funding levels for various elements of the overall project.''

1984—Subsec. (a). Pub. L. 98–284, §4(a), substituted ''Research and Development of Critical Agricultural Materials'' for ''Guayule Research and Commercialization''.

Subsec. (b). Pub. L. 98–284, §4(b), struck out provision mandating that two of the designees of the Secretary of Commerce be Federal Cochairmen of Regional Commissions engaged in the support of native latex research, development, demonstration, or commercialization activities, inserted provisions for the appointment of a representative of the Department of State, a representative of the Department of Defense, and a representative of the Federal Emergency Management Agency, and inserted provisions that each of the members of the Joint Commission be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, development, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.

Subsec. (c). Pub. L. 98–284, §4(c), substituted ''The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b) of this section'' for ''The Joint Commission shall be headed by a Chairman. The Secretary of Agriculture shall designate one

of the two members from his Department to serve as Joint Commission Chairman during the first two-year period following November 4, 1978, and the Secretary of Commerce shall designate one of the two members from his Department as Joint Commission Chairman during the second two-year period following November 4, 1978. And the same process of designating Joint Commission Chairmen shall be followed in ensuing years''.

Subsec. (h). Pub. L. 98–284, §4(d), substituted ''manufacturing and commerce involving rubber and other critical agricultural materials'' for ''rubber manufacturing and commerce''.

§ 178c. Research and development program by Secretary of Agriculture

(a) Designation of Department as lead agency

The Department of Agriculture shall be the lead agency in carrying out this subchapter.

(b) Scope of program

The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants, and for the development of other critical agricultural materials from native agricultural crops having strategic and industrial importance. Such research shall include, but not be limited to—

(1) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(2) developing a stockpile of Parthenium seeds, such stockpile to be appropriately classified and stored at a suitable facility;

(3) accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the Parthenium plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production;

(4) establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7);

(5) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(6) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necessary agricultural activities;

(7) accelerating the refinement of present extraction and processing technologies and future extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;

(8) establishing and maintaining a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture; and

(9) studying the economic feasibility of developing other native agricultural crops (in addition to Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, carrying out demonstration projects to promote the development or commercialization of such crops (including projects designed to expand domestic or foreign markets for such crops), and, to the extent appropriate, carrying out research activities with respect to such crops in the manner specified in paragraphs (1) through (8).

(c) Office of Critical Agricultural Materials

The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Critical Agricultural Materials, as a central location where such Department can address research and development with respect to agricultural crops that have the potential of producing critical materials for strategic and industrial purposes.

(d) Authority of Secretary in carrying out demonstration project

Notwithstanding any other provision of law, in carrying out a demonstration project referred to in subsection (b)(9) of this section, the Secretary may—

(1) enter into a contract or cooperative agreement with, or provide a grant to, any person, or public or private agency or organization, to participate in, carry out, support, or stimulate such project;

(2) make available for purposes of clause (1) agricultural commodities or the products thereof acquired by the Commodity Credit Corporation under price support operations conducted by the Corporation; or

(3) use any funds appropriated pursuant to section 178n(a) of this title, or any funds provided by any person, or public or private agency or organization, to carry out such project or reimburse the Commodity Credit Corporation for agricultural commodities or products that are utilized in connection with such project.

(Pub. L. 95–592, §5, Nov. 4, 1978, 92 Stat. 2531; Pub. L. 98–284, §5, May 16, 1984, 98 Stat. 182; Pub. L. 99–198, title XIV, §1439, Dec. 23, 1985, 99 Stat. 1559; Pub. L. 102–237, title X, §1005(1), Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Subsec. (b)(9). Pub. L. 102–237 substituted ''industrial purposes,'' for ''industrial purposes,,''.

1985—Subsec. (b)(9). Pub. L. 99–198, §1439(a), extended research program to carrying out demonstration projects to promote the development or commercialization of native agricultural crops, including projects designed to expand domestic or foreign markets for such crops.

Subsec. (d). Pub. L. 99–198, §1439(b), added subsec. (d).

1984—Subsec. (a). Pub. L. 98–284, §5(1), added subsec. (a).

Subsec. (b). Pub. L. 98–284, §5(1), designated existing provisions as subsec. (b) and in first sentence of subsec. (b) as so designated inserted provision relating to de-

velopment of other critical agricultural materials from native agricultural crops having strategic and industrial importance.

Subsec. (b)(1), (2). Pub. L. 98–284, § 5(2), redesignated cls. (a) and (b) as pars. (1) and (2) of subsec. (b).

Subsec. (b)(3). Pub. L. 98–284, § 5(2), (3), redesignated cl. (c) as par. (3) of subsec. (b) and substituted ''accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the Parthenium plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production'' for ''carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant''.

Subsec. (b)(4). Pub. L. 98–284, § 5(2), (4), redesignated cl. (d) as par. (4) of subsec. (b) and substituted ''establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7)'' for ''establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium''.

Subsec. (b)(5), (6). Pub. L. 98–284, § 5(2), redesignated cls. (e) and (f) as pars. (5) and (6), respectively, of subsec. (b).

Subsec. (b)(7). Pub. L. 98–284, § 5(2), (5), redesignated cl. (g) as par. (7) of subsec. (b) and substituted ''accelerating the refinement of present extraction and processing technologies and future extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;'' for ''further refining present extraction technologies and future extraction technologies, including technologies which utilize solar energy; and''.

Subsec. (b)(8). Pub. L. 98–284, § 5(2), redesignated cl. (h) as par. (8) of subsec. (b).

Subsec. (b)(9). Pub. L. 98–284, § 5(7), added par. (9).

Subsec. (c). Pub. L. 98–284, § 5(8), added subsec. (c).

§ 178d. Research and development program by Secretary of Commerce

The Secretary of Commerce is authorized and directed to initiate and carry out research, technology development, technology transfer, and demonstration projects to test and demonstrate the economic feasibility of the manufacture and commercialization of natural rubber from Parthenium or other hydrocarbon-containing plants or the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance. Such research shall include but not be limited to—

(a) conducting research and development on extraction and processing techniques;

(b) economic analysis of the production of native latex, including usable byproducts;

(c) studying the environmental, social, and economic impacts of the commercial development of native latex;

(d) evaluating the commercial marketability of Parthenium and rubber derived from other hydrocarbon-containing plants;

(e) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy;

(f) developing pertinent material and records on manufacturing of natural rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber development, or manufacture; and

(g) to the extent appropriate, carrying out research activities with respect to native agricultural crops (other than Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, in the manner specified in clauses (a) through (f).

(Pub. L. 95–592, § 6, Nov. 4, 1978, 92 Stat. 2531; Pub. L. 98–284, § 6, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98–284, § 6(1), (2), inserted in provisions preceding cl. (a) reference to the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance, and struck out ''may be carried out through the Regional Commissions or otherwise and'' after ''Such research''.

Cl. (g). Pub. L. 98–284, § 6(5), added cl. (g).

§ 178e. Cooperative projects with Mexico, Australia, and Israel

The Secretaries, in consultation with the Secretary of State, are authorized and encouraged to enter into cooperative projects with the Government of Mexico, the Government of Australia, and the Government of Israel in order to accomplish appropriate aspects of the research and development provided for in this subchapter. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of extraction and processing of latex and other critical agricultural materials produced in the United States.

(Pub. L. 95–592, § 7, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98–284, § 7, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98–284 inserted '', the Government of Australia, and the Government of Israel'', and substituted ''extraction and processing of latex and other critical agricultural materials produced in the United States'' for ''latex extraction and processing''.

§ 178f. Assistance from States and public agencies; contracts and agreements

The Secretaries are authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this subchapter and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research or methods of economic development relating to native latex or to other critical agricultural materials.

(Pub. L. 95–592, § 8, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98–284, § 8, May 16, 1984, 98 Stat. 183.)

AMENDMENTS

1984—Pub. L. 98–284 inserted ''or to other critical agricultural materials''.

§ 178g. Powers of Secretary of Agriculture

In carrying out the provisions of this subchapter, the Secretary of Agriculture is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93–638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this subchapter;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interest in land (including water rights), facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this subchapter will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture or the culture of other native agricultural crops which could supply critical agricultural materials;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology or the technology of other native agricultural crops which could supply critical agricultural materials; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

(Pub. L. 95–592, §9, Nov. 4, 1978, 92 Stat. 2532; Pub. L. 98–284, §9, May 16, 1984, 98 Stat. 183.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93–638, 25 U.S.C. 450), as amended, referred to in cl. (a), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1984—Cl. (h). Pub. L. 98–284, §9(1), inserted ''or the culture of other native agricultural crops which could supply critical agricultural materials''.

Cl. (i). Pub. L. 98–284, §9(2), inserted ''or the technology of other native agricultural crops which could supply critical agricultural materials''.

§ 178h. Powers of Secretary of Commerce

In carrying out the provisions of this subchapter, the Secretary of Commerce is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93–638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel having expertise in native agricultural crops which could supply critical agricultural materials by contract or otherwise;

(c) utilize the facilities of Federal and State institutions and other scientific laboratories;

(d) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this section;

(e) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation; and

(f) foster and participate in regional, national, and international conferences relating to the activities authorized by this subchapter.

(Pub. L. 95–592, §10, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98–284, §10, May 16, 1984, 98 Stat. 184.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93–638, 25 U.S.C. 450), as amended, referred to in cl. (a), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1984—Pub. L. 98–284, §10(1), (2), in provisions preceding cl. (a) substituted ''this subchapter'' for ''this section'' and struck out '', acting through the Regional Commissions or otherwise,'' after ''the Secretary of Commerce''.

Cl. (b). Pub. L. 98–284, §10(3), inserted ''having expertise in native agricultural crops which could supply critical agricultural materials''.

Cl. (f). Pub. L. 98–284, §10(4), substituted ''the activities authorized by this subchapter'' for ''natural rubber manufacture''.

§ 178i. Coordination of activities with Federal agencies

In carrying out the provisions of this subchapter, the Secretaries and the Joint Commission shall cooperate with each other in the conduct of their activities under this subchapter, and shall ensure that their activities under this subchapter are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Bureau of Indian Affairs, Department of Energy, Department of State, Department of Defense, Treasury Department, Federal Emergency Management Agency, and others, in order to prevent duplication of effort, ensure compatibility with ongoing programs and poli-

cies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex.

(Pub. L. 95–592, § 11, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98–284, § 11, May 16, 1984, 98 Stat. 184; Pub. L. 102–237, title X, § 1005(2), Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Pub. L. 102–237 substituted ''ensure'' for ''insure'' in two places.

1984—Pub. L. 98–284 substituted ''shall cooperate with each other in the conduct of their activities under this subchapter, and shall insure that their activities under this subchapter are closely coordinated with the activities of other Federal agencies'' for ''shall insure that their activities are closely coordinated with the activities of other Federal agencies'' and ''Federal Emergency Management Agency, and others,'' for ''Federal Preparedness Agency, and others'', and inserted ''Department of State,''.

§ 178j. Laws governing inventions under this subchapter

Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this subchapter, and notwithstanding any other provisions of law, the provisions of sections 5908 and 5909 of title 42 shall govern.

(Pub. L. 95–592, § 12, Nov. 4, 1978, 92 Stat. 2533.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210.

§ 178k. Disposition of byproducts and strategic and industrially important products

The Secretaries may dispose of any latex, resin, wax, pulp, and any other byproducts, as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance, resulting from operations under this subchapter. Dispositions under this section may include sales of the materials involved to other Federal departments and agencies for testing purposes. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

(Pub. L. 95–592, § 13, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98–284, § 12, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98–284, substituted ''The Secretaries'' for ''The Secretary of Agriculture and the Secretary of Commerce'', and inserted '', as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance,'' and ''Dispositions under this section may include sales of the materials involved to other Federal departments and agencies for testing purposes.''

§ 178*l*. Rules and regulations

The Secretaries may issue rules and regulations necessary to effectuate the purposes of this subchapter.

(Pub. L. 95–592, § 14, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98–284, § 13, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98–284 substituted ''The Secretaries'' for ''The Secretary of Agriculture and the Secretary of Commerce''.

§ 178m. Report to President and Congress

The Secretaries shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1987, a report on the status of the research, development, and other work underway under this subchapter. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project.

(Pub. L. 95–592, § 15, Nov. 4, 1978, 92 Stat. 2533; Pub. L. 98–284, § 14, May 16, 1984, 98 Stat. 184.)

AMENDMENTS

1984—Pub. L. 98–284 substituted ''The Secretaries'' for ''The Secretary of Agriculture and the Secretary of Commerce'' and ''1987'' for ''1982''.

§ 178n. Administration and funding

(a) Authorization of appropriations to Secretary of Agriculture

There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to carry out this subchapter in each of the fiscal years 1991 through 2002.

(b) Administration and management

No more than 3 per centum of funds authorized under subsection (a) of this section shall be available for administration and management of the program.

(c) Contract authority as limited by amounts provided in appropriations acts

Notwithstanding any other provision of this subchapter the authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

(d) Activities limited to critical materials other than native latex after fiscal 1988

Notwithstanding any other provision of this subchapter, the Secretaries and the Joint Commission shall limit their activities under this subchapter to critical agricultural materials other than native latex after the close of the fiscal year ending September 30, 1988.

(Pub. L. 95–592, § 16, Nov. 4, 1978, 92 Stat. 2534; Pub. L. 98–284, § 15, May 16, 1984, 98 Stat. 184; Pub. L. 101–624, title XVI, § 1601(e), Nov. 28, 1990, 104 Stat. 3704; Pub. L. 104–127, title VIII, § 881(b), Apr. 4, 1996, 110 Stat. 1175; Pub. L. 105–185, title III, § 301(c), June 23, 1998, 112 Stat. 563.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Subsec. (a). Pub. L. 104–127 substituted ''1997'' for ''1995''.

1990—Subsec. (a). Pub. L. 101–624, § 1601(e)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''There is authorized to be appropriated to the Secretary of Agriculture $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, $5,000,000 for the fiscal year ending September 30, 1984, $5,500,000 for the fiscal year ending September 30, 1985, $6,500,000 for the fiscal year ending September 30, 1986, $7,500,000 for the fiscal year ending September 30, 1987, and $8,000,000 for the fiscal year ending September 30, 1988, to carry

out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.''

Subsec. (b). Pub. L. 101–624, §1601(e)(2)–(4), redesignated subsec. (c) as (b) and substituted ''subsection (a)'' for ''subsections (a) and (b)'', and struck out former subsec. (b) which read as follows: ''There is authorized to be appropriated to the Secretary of Commerce $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, $2,500,000 for the fiscal year ending September 30, 1984, $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $4,500,000 for the fiscal year ending September 30, 1988, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.''

Subsecs. (c) to (e). Pub. L. 101–624, §1601(e)(4), redesignated subsecs. (c) to (e) as (b) to (d), respectively.

1984—Subsec. (a). Pub. L. 98–284, §15(a), inserted ''$5,000,000 for the fiscal year ending September 30, 1984, $5,500,000 for the fiscal year ending September 30, 1985, $6,500,000 for the fiscal year ending September 30, 1986, $7,500,000 for the fiscal year ending September 30, 1987, and $8,000,000 for the fiscal year ending September 30, 1988,'' and struck out ''and'' after ''1981,''.

Subsec. (b). Pub. L. 98–284, §15(b), inserted ''$2,500,000 for the fiscal year ending September 30, 1984, $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $4,500,000 for the fiscal year ending September 30, 1988,'' and struck out ''and'' after ''1981,''.

Subsec. (e). Pub. L. 98–284, §15(c), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 178c of this title.

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SUBCHAPTER VI—CHARGE FOR INSPECTION

231. Omitted.

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

By order of Secretary of Agriculture, Packers and Stockyards Administration abolished on July 1, 1927, and enforcement of Packers and Stockyards Act of 1921, which is classified to this chapter, was put under control of chief of Bureau of Animal Industry.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1636 of this title; title 11 section 525; title 15 sections 45, 1607, 1681s, 1691c, 1692*l*, 6505; title 28 section 2342.

SUBCHAPTER I—GENERAL DEFINITIONS

§ 181. Short title

This chapter may be cited as the ''Packers and Stockyards Act, 1921.''

(Aug. 15, 1921, ch. 64, title I, § 1, 42 Stat. 159.)

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–173, § 1, Nov. 23, 1987, 101 Stat. 917, provided that: ''This Act [enacting sections 197 and 228b–1 to 228b–4 of this title, amending sections 182, 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 182 and 227 of this title] may be cited as the 'Poultry Producers Financial Protection Act of 1987'.''

§ 182. Definitions

When used in this chapter—

(1) The term ''person'' includes individuals, partnerships, corporations, and associations;

(2) The term ''Secretary'' means the Secretary of Agriculture;

(3) The term ''meat food products'' means all products and byproducts of the slaughtering and meat-packing industry—if edible;

(4) The term ''livestock'' means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term ''livestock products'' means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock;

(6) The term ''poultry'' means chickens, turkeys, ducks, geese, and other domestic fowl;

(7) The term ''poultry product'' means any product or byproduct of the business of slaughtering poultry and processing poultry after slaughter;

(8) The term ''poultry grower'' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry;

(9) The term ''poultry growing arrangement'' means any growout contract, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

(10) The term ''live poultry dealer'' means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and

(11) The term ''commerce'' means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(Aug. 15, 1921, ch. 64, title I, §2(a), 42 Stat. 159; Pub. L. 94–410, §3(c), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 100–173, §2, Nov. 23, 1987, 101 Stat. 917.)

CODIFICATION

Section is composed of subsec. (a) of section 2 of act Aug. 15, 1921. Subsec. (b) of section 2 is classified to section 183 of this title.

AMENDMENTS

1987—Pars. (6) to (11). Pub. L. 100–173 added pars. (6) to (10) and redesignated former par. (6) as (11).

1976—Pars. (4), (5). Pub. L. 94–410 substituted ''livestock'' for ''live stock'' in par. (4) and for ''live-stock'' in par. (5).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 12 of Pub. L. 100–173 provided that: ''This Act and the amendments made by this Act [enacting sections 197 and 228b–1 to 228b–4 of this title, amending this section and sections 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 181 and 227 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov. 23, 1987].''

SAVINGS PROVISION

Section 10 of Pub. L. 94–410 provided that: ''Pending proceedings shall not be abated by reason of any provision of this Act [enacting sections 196 and 228a to 228c of this title and amending this section and sections 183, 191–193, 201, 204, 207, 209, 210, 212, 213, 228, and 229 of this title], but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended [this chapter], and the Act of July 12, 1943 [section 204 of this title], in effect immediately prior to the effective date of this Act [Sept. 13, 1976].''

CROSS REFERENCES

Dealer, see section 201 of this title.
Definition of commerce as not limited by definition of transaction in commerce, see section 183 of this title.
Market agency, see section 201 of this title.
Packer, see section 191 of this title.
Stockyard, see section 202 of this title.
Stockyard owner, see section 201 of this title.
Stockyard services, see section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 183 of this title; title 31 section 3903.

§ 183. When transaction deemed in commerce; "State" defined

For the purpose of this chapter (but not in anywise limiting the definition in section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word ''State'' includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Aug. 15, 1921, ch. 64, title I, §2(b), 42 Stat. 160; Pub. L. 94–410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (b) of section 2 of act Aug. 15, 1921. Subsec. (a) of section 2 is classified to section 182 of this title.

AMENDMENTS

1976—Pub. L. 94–410 substituted ''livestock'' for ''live stock'' and ''live-stock'' wherever appearing.

SUBCHAPTER II—PACKERS GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 204 of this title.

PART A—GENERAL PROVISIONS

§ 191. "Packer" defined

When used in this chapter the term ''packer'' means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(Aug. 15, 1921, ch. 64, title II, §201, 42 Stat. 160; Pub. L. 94–410, §2, Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94–410 substituted definition of ''packer'' for former definition which included provisions dealing with direct or indirect control of specified businesses through stock ownership or otherwise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 198b, 1636e of this title.

§ 192. Unlawful practices enumerated

It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect; or

(c) Sell or otherwise transfer to or for any other packer or any live poultry dealer, or buy or otherwise receive from or for any other packer or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e) of this section.

(Aug. 15, 1921, ch. 64, title II, § 202, 42 Stat. 161; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 85–909, § 1(1), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 94–410, § 3(a), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 100–173, § 3, Nov. 23, 1987, 101 Stat. 917; Pub. L. 102–237, title X, § 1008(1), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 106–78, title IX, § 912, Oct. 22, 1999, 113 Stat. 1205.)

AMENDMENT OF SECTION

For termination of amendment by section 942 of Pub. L. 106–78, see Termination Date of 1999 Amendment note below.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–78, §§ 912, 942, temporarily struck out ''whatsoever'' after ''locality in any respect'' and after ''disadvantage in any respect''. See Termination Date of 1999 Amendment note below.

1991—Subsec. (c). Pub. L. 102–237 substituted a comma for period after second reference to ''dealer''.

1987—Pub. L. 100–173, § 3(1), substituted ''for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to'' for ''with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to'' in introductory provisions.

Par. (c). Pub. L. 100–173, § 3(2), struck out reference to poultry handlers wherever appearing and substituted ''such persons'' for ''such packers''.

1976—Pub. L. 94–410 struck out ''in commerce'' wherever appearing.

1958—Pub. L. 85–909 inserted ''with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products'' after ''unlawful''.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

TERMINATION DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–78 to terminate 5 years after Oct. 22, 1999, see section 942 of Pub. L. 106–78, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

§ 193. Procedure before Secretary for violations

(a) Complaint; hearing; intervention

Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this subchapter, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) Report and order; penalty

If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this subchapter covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Depart-

ment of Agriculture. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(c) Amendment of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of process

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title II, §203, 42 Stat. 161; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85–791, §6(a), Aug. 28, 1958, 72 Stat. 944; Pub. L. 94–410, §3(b), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–410 inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1958—Subsec. (c). Pub. L. 85–791 struck out ''a transcript of'' after ''until''.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals''.

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of orders by district courts, see section 2351 of Title 28, Judiciary and Judicial Procedure.

Finality of orders under this section, see section 194 of this title.

Punishment for violation of order, see section 195 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 194, 195, 204 of this title; title 28 section 2351.

§ 194. Conclusiveness of order; appeal and review

(a) Filing of petition; bond

An order made under section 193 of this title shall be final and conclusive unless within thirty days after service the packer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) Filing of record by Secretary

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Additional evidence

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modifications or setting aside of his order, with the return of such additional evidence.

(g) Injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Finality

The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside,

or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title II, § 204, 42 Stat. 162; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 6(b), (c), Aug. 28, 1958, 72 Stat. 944; Pub. L. 98–620, title IV, § 402(5), Nov. 8, 1984, 98 Stat. 3357.)

CODIFICATION

Former subsec. (i), which extended the former term ''circuit court of appeals'', in case the principal place of business of the packer is in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for the purposes of sections 191 to 195 of this title, was omitted from the Code as obsolete. The District of Columbia is a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name note below.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–620 struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1958—Subsec. (b). Pub. L. 85–791 § 6(b), substituted ''thereupon file in the court'' for ''forthwith prepare, certify, and file in the court a full and accurate transcript of'', and ''as provided in section 2112 of Title 28'' for ''including the complaint, the evidence, and the report and order'' in first sentence, and ''record'' for ''transcript'' in second sentence.

Subsec. (c). Pub. L. 85–791, § 6(b), substituted ''petition'' for ''transcript''.

Subsec. (d). Pub. L. 85–791, § 6(b), struck out ''duly certified'' after ''admitted''.

Subsec. (h). Pub. L. 85–791, § 6(c), substituted ''jurisdiction, which upon the finding of the record with it shall be exclusive,'' for ''exclusive jurisdiction,'' and section ''1254'' for ''347''.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'', wherever appearing.

Act of June 7, 1934, provided that Court of Appeals in District of Columbia, should hereafter be known as the United States Court of Appeals for the District of Columbia.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Amending or setting aside report or order affecting packer prior to filing of transcript of record in court of appeals, see section 193 of this title.

Federal meat inspection labeling, marking, and container requirements, provisions of section as applicable to appeals, see section 606 of Title 21, Food and Drugs.

Injunction by courts of appeals restraining orders, see section 2349 of Title 28, Judiciary and Judicial Procedure.

Review of cases in courts of appeals by the Supreme Court, see section 1254 of Title 28.

Review of orders by court of appeals, see section 2341 et seq. of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 193, 195 of this title; title 21 sections 457, 467, 607, 1036, 1047.

§ 195. Punishment for violation of order

Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 193 of this title, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 194 of this title; shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title II, § 205, 42 Stat. 163; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'', wherever appearing in this section.

§ 196. Statutory trust established; livestock

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

(b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller

All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this section. Payment

shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 228b of this title, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title II, § 206, as added Pub. L. 94–410, § 8, Sept. 13, 1976, 90 Stat. 1251.)

§ 197. Statutory trust established; poultry

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which live poultry dealers encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such financing arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

(b) Poultry, inventories, receivables and proceeds held by dealer in trust for benefit of unpaid cash sellers or poultry growers

All poultry obtained by a live poultry dealer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid cash sellers or poultry growers, unless such live poultry dealer does not have average annual sales of live poultry, or average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

(c) Effect of dishonored instruments

Payment shall not be considered to have been made if the cash seller or poultry grower receives a payment instrument which is dishonored.

(d) Preservation of trust benefit by seller or poultry grower

The unpaid cash seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within 30 days of the final date for making payment under section 228b–1 of this title, or within 15 business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the live poultry dealer and by filing such notice with the Secretary.

(e) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title II, § 207, as added Pub. L. 100–173, § 4, Nov. 23, 1987, 101 Stat. 918.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228b–2 of this title.

PART B—SWINE PACKER MARKETING CONTRACTS

TERMINATION OF PART

For termination of part by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 198. Definitions

Except as provided in section 198b(a) of this title, in this part:

(1) Market

The term ''market'' means the sale or disposition of swine, pork, or pork products in commerce.

(2) Packer

The term ''packer'' has the meaning given the term in section 1635i of this title.

(3) Pork

The term ''pork'' means the meat of a porcine animal.

(4) Pork product

The term ''pork product'' means a product or byproduct produced or processed in whole or in part from pork.

(5) State

The term ''State'' means each of the 50 States.

(6) Swine

The term ''swine'' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

(7) Type of contract

The term ''type of contract'' means the classification of contracts or risk management agreements for the purchase of swine by—

(A) the mechanism used to determine the base price for swine committed to a packer, grouped into practicable classifications by the Secretary (including swine or pork market formula purchases, other market formula purchases, and other purchase arrangements); and

(B) the presence or absence of an accrual account or ledger that must be repaid by the producer or packer that receives the benefit of the contract pricing mechanism in relation to negotiated prices.

(8) Other terms

Except as provided in this part, a term has the meaning given the term in section 1635a or 1635i of this title.

(Aug. 15, 1921, ch. 64, title II, § 221, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1208.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

TERMINATION DATE

Part to terminate 5 years after Oct. 22, 1999, see section 942 of Pub. L. 106–78, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

§ 198a. Swine packer marketing contracts offered to producers

(a) In general

Subject to the availability of appropriations to carry out this section, the Secretary shall establish and maintain a library or catalog of each type of contract offered by packers to swine producers for the purchase of all or part of the producers' production of swine (including swine that are purchased or committed for delivery), including all available noncarcass merit premiums.

(b) Availability

The Secretary shall make available to swine producers and other interested persons information on the types of contracts described in subsection (a) of this section, including notice (on a real-time basis if practicable) of the types of contracts that are being offered by each individual packer to, and are open to acceptance by, producers for the purchase of swine.

(c) Confidentiality

The reporting requirements under subsections (a) and (b) of this section shall be subject to the confidentiality protections provided under section 1636 of this title.

(d) Information collection

(1) In general

The Secretary shall—

(A) obtain (by a filing or other procedure required of each individual packer) information indicating what types of contracts for the purchase of swine are available from each packer; and

(B) make the information available in a monthly report to swine producers and other interested persons.

(2) Contracted swine numbers

Each packer shall provide, and the Secretary shall collect and publish in the monthly report required under paragraph (1)(B), information specifying—

(A) the types of existing contracts for each packer;

(B) the provisions contained in each contract that provide for expansion in the numbers of swine to be delivered under the contract for the following 6-month and 12-month periods;

(C) an estimate of the total number of swine committed by contract for delivery to all packers within the 6-month and 12-month periods following the date of the report, reported by reporting region and by type of contract; and

(D) an estimate of the maximum total number of swine that potentially could be delivered within the 6-month and 12-month periods following the date of the report under the provisions described in subparagraph (B) that are included in existing contracts, reported by reporting region and by type of contract.

(e) Violations

It shall be unlawful and a violation of this subchapter for any packer to willfully fail or refuse to provide to the Secretary accurate information required under, or to willfully fail or refuse to comply with any requirement of, this section.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as necessary to carry out this section.

(Aug. 15, 1921, ch. 64, title II, § 222, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1208.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 198b. Report on the Secretary's jurisdiction, power, duties, and authorities

(a) Definition of packer

In this section, the term ''packer'' has the meaning given the term in section 191 of this title.

(b) Report

Not later than 90 days after October 22, 1999, the Comptroller General of the United States shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the jurisdiction, powers, duties, and authorities of the Secretary that relate to packers and other persons involved in procuring, slaughtering, or processing swine, pork, or pork products that are covered by this Act and other laws, including—

(1) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), especially sections 6, 8, 9, and 10 of that Act (15 U.S.C. 46, 48, 49, and 50); and

(2) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(c) Contents

The Comptroller General shall include in the report an analysis of—

(1) burdens on and obstructions to commerce in swine, pork, and pork products by packers,

and other persons that enter into arrangements with the packers, that are contrary to, or do not protect, the public interest;

(2) noncompetitive pricing arrangements between or among packers, or other persons involved in the processing, distribution, or sale of pork and pork products, including arrangements provided for in contracts for the purchase of swine;

(3) the effective monitoring of contracts entered into between packers and swine producers;

(4) investigations that relate to, and affect, the disclosure of—

(A) transactions involved in the business conduct and practices of packers; and

(B) the pricing of swine paid to producers by packers and the pricing of products in the pork and pork product merchandising chain;

(5) the adequacy of the authority of the Secretary to prevent a packer from unjustly or arbitrarily refusing to offer a producer, or disqualifying a producer from eligibility for, a particular contract or type of contract for the purchase of swine; and

(6) the ability of the Secretary to cooperate with and enhance the enforcement of actions initiated by other Federal departments and agencies, or Federal independent agencies, to protect trade and commerce in the pork and pork product industries against unlawful restraints and monopolies.

(Aug. 15, 1921, ch. 64, title II, § 223, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1209.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (b)(1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Agricultural Marketing Act of 1946, referred to in subsec. (b)(2), is title II of act Aug. 14, 1946, ch. 966, 60 Stat. 1087, as amended, which is classified generally to chapter 38 (§ 1621 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198 of this title.

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

§ 201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined

When used in this chapter—

(a) The term ''stockyard owner'' means any person engaged in the business of conducting or operating a stockyard;

(b) The term ''stockyard services'' means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling in commerce, or livestock;

(c) The term ''market agency'' means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard services; and

(d) The term ''dealer'' means any person, not a market agency, engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser.

(Aug. 15, 1921, ch. 64, title III, § 301, 42 Stat. 163; Pub. L. 85–909, § 2(1), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsecs. (b) to (d). Pub. L. 94–410 substituted ''livestock'' for ''live stock''.

1958—Subsecs. (c), (d). Pub. L. 85–909 struck out ''at a stockyard'' after ''livestock''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 203 of this title.

§ 202. "Stockyard" defined; determination by Secretary as to particular yard

(a) When used in this subchapter the term ''stockyard'' means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this subchapter until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

(Aug. 15, 1921, ch. 64, title III, § 302, 42 Stat. 163; Pub. L. 85–909, § 2(2), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(a), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–446 substituted ''operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers'' for ''or operated for compensation or profit as a public market''.

1958—Subsec. (a). Pub. L. 85–909 struck out ''Said sections shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.''

TRANSPORTATION OF LIVESTOCK

Section 2(2) of Pub. L. 85–909 provided in part: ''That nothing herein [this section] shall be deemed as a definition of the term 'public stockyards' as used in section 15(5) of the Interstate Commerce Act [former 49 U.S.C. 15(5)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 207 of this title.

§ 203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register

After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, which determination shall be made on a basis which is not unreasonable or unjustly discriminatory, and has given written authorization to such person, and (2) he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(Aug. 15, 1921, ch. 64, title III, § 303, 42 Stat. 163; Pub. L. 85–909, § 2(3), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(b), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90–446 designated existing provisions as cl. (2) and added cl. (1).

1958—Pub. L. 85–909 inserted ''Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe.''

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Jurisdiction of district of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 204. Bond and suspension of registrants

On and after July 12, 1943, the Secretary may require reasonable bonds from every market agency (as defined in this subchapter), every packer (as defined in subchapter II of this chapter) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in this subchapter) under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 193 of this title requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of this chapter.

(July 12, 1943, ch. 215, 57 Stat. 422; Pub. L. 94–410, §§ 1, 4, Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1944, act July 12, 1943, and not as part of the Packers and Stockyards Act which comprises this chapter.

AMENDMENTS

1976—Pub. L. 94–410 inserted provisions exempting market agencies and packers whose average annual purchases do not exceed $500,000 from bonding requirement and authorizing Secretary, after notice and hearing, to issue cease and desist orders to insolvent packers prohibiting the purchase of livestock except under conditions prescribed by Secretary, respectively.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
July 22, 1942, ch. 516, 56 Stat. 689.
July 1, 1941, ch. 267, 55 Stat. 432.
June 25, 1940, ch. 421, 54 Stat. 557.
June 30, 1939, ch. 253, title I, 53 Stat. 970.
June 16, 1938, ch. 464, title I, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.
July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.
May 16, 1928, ch. 572, 45 Stat. 547.
Jan. 18, 1927, ch. 39, 44 Stat. 1002.
May 11, 1926, ch. 286, 44 Stat. 527.
Feb. 10, 1925, ch. 200, 43 Stat. 851.
June 5, 1924, ch. 266, 43 Stat. 460.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 228c of this title; title 11 section 525.

§ 205. General duty as to services; revocation of registration

All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stock-

yard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title.

(Aug. 15, 1921, ch. 64, title III, § 304, 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397; Pub. L. 90–446, § 1(c), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90–446 inserted provision requiring that stockyard services which are furnished not be refused on any basis that is unreasonable or unjustly discriminatory.

1926—Act May 5, 1926, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful: *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis.

(Aug. 15, 1921, ch. 64, title III, § 305, 42 Stat. 164; Pub. L. 95–409, § 1(a), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95–409 inserted proviso that rates and charges based upon percentages of gross sales of livestock shall not be prohibited merely because based on such percentages rather than on a per head basis.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 207. Schedule of rates

(a) Filing; public inspection

Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Detail required; form

Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) Changes

No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) Rejection by Secretary

The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Determination of lawfulness; hearing; suspension

Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) Suspension of operations; compliance

After the expiration of the sixty days referred to in subsection (a) of this section, no person shall carry on the business of a stockyard owner or market agency unless the rates and charges

for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Penalty

Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than $500 for each such offense, and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Intentional violations; penalty

Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, title III, § 306, 42 Stat. 164; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94–410 substituted ''livestock'' for ''live stock'' after ''earnings on their''.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

Jurisdiction of district court of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, title III, § 307, 42 Stat. 165; Pub. L. 90–446, § 1(d), July 31, 1968, 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90–446 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, the purchase or sale of poultry, or relating to any poultry growing arrangement, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, title III, § 308, 42 Stat. 165; Pub. L. 94–410, § 6, Sept. 13, 1976, 90 Stat. 1250; Pub. L. 100–173, § 5, Nov. 23, 1987, 101 Stat. 918.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–173 inserted ''the purchase or sale of poultry, or relating to any poultry growing arrangement,'' after ''livestock,''.

1976—Subsec. (a). Pub. L. 94–410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

CROSS REFERENCES

Application to certain licensees, see section 218c of this title.

§ 210. Proceedings before Secretary for violations

(a) Complaint; response; satisfaction or investigation

Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the ''defendant'') in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the

complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) Complaints forwarded by agencies of a State or Territory

The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a) of this section.

(c) Inquiries instituted by Secretary

The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) Damage to complainant not required

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) Award and payment of damages

If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) Enforcement of orders

If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, title III, §309, 42 Stat. 165; Pub. L. 94–410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–410 substituted ''livestock'' for ''live-stock'' after ''request of the''.

FEDERAL RULES OF CIVIL PROCEDURE

Costs, see rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under subsec. (e) of this section and section 217a of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Enforcement of liability to individuals for violations, by complaint to Secretary as provided in this section, see section 209 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 211 of this title; title 28 section 2342.

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be violative of section 205, 206, or 208 of this title, the Secretary—

(a) May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate or charge, or rates or charges, to be thereafter in such case observed as the maximum or minimum or both to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed: *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 206 of this title; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge

for the furnishing of stockyard services other than the rate or charge or rates or charges so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(Aug. 15, 1921, ch. 64, title III, § 310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351; Pub. L. 95–409, § 1(b), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95–409, § 1(b)(1), in provision preceding subsec. (a), substituted ''violative of section 205, 206 or 208 of this title'' for ''unjust, unreasonable, or discriminatory''.

Subsec. (a). Pub. L. 95–409, § 1(b)(2), substituted ''May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate'' for ''May determine and prescribe what will be the just and reasonable rate'', and ''as the maximum or minimum or both'' for ''as both the maximum and minimum'', and inserted proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95–409, § 1(b)(3), substituted ''other than the rate or charge or rates or charges'' for ''more or less than the rate or charge''.

1939—Subsec. (a). Act Aug. 10, 1939, substituted ''as both'' for ''or the''.

Subsec. (b)(2). Act Aug. 10, 1939, substituted ''more or less than the rate or charge so prescribed'' for ''other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, § 311, 42 Stat. 167; Pub. L. 85–909, § 2(4), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94–410 substituted ''livestock'' for ''live stock'' wherever appearing.

1958—Pub. L. 85–909 substituted ''stockyard owner, market agency, or dealer'' for ''stockyard owner or market agency'' wherever occurring, and ''stockyard owners, market agencies, or dealers'' for ''stockyard owners or market agencies''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(Aug. 15, 1921, ch. 64, title III, § 312, 42 Stat. 167; Pub. L. 85–909, § 2(5), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(e), July 31, 1968, 82 Stat. 475; Pub. L. 94–410, § 3, Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–410, § 3(a), (c), struck out ''in commerce'' after ''or handling'' and substituted ''livestock'' for ''live stock''.

Subsec. (b). Pub. L. 94–410, § 3(b), inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1968—Subsec. (a). Pub. L. 90–446 inserted ''determining whether persons should be authorized to operate at stockyards, or with'' after ''in connection with''.

1958—Subsec. (a). Pub. L. 85–909 struck out ''at a stockyard'' after ''in commerce''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 215 of this title.

§ 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, title III, § 313, 42 Stat. 167.)

§ 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, title III, § 314, 42 Stat. 167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys'' in subsec. (a). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, title III, § 315, 42 Stat. 167.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Enforcement and review of Surface Transportation Board orders, see section 2321 et seq. of Title 28, Judiciary and Judicial Procedure.

Revocation of registration as market agency of department or agency of the State, enforcement as provided in this section, see section 205 of this title.

§ 217. Proceedings for suspension of orders

For the purposes of this subchapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this subchapter, and to any person subject to the provisions of this subchapter.

(Aug. 15, 1921, ch. 64, title III, § 316, 42 Stat. 168.)

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

FEDERAL RULES OF CIVIL PROCEDURE

Process, stay of proceedings to enforce judgment, and injunctions, see rules 4, 62, 65, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Exclusive jurisdiction of courts of appeals to enjoin and set aside final orders of Secretary of Agriculture under this chapter, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts to enjoin and set aside orders of Surface Transportation Board, see section 1336 of Title 28.

Procedure for enforcement and review of orders of Surface Transportation Board, see section 2321 et seq. of Title 28.

§ 217a. Fees for inspection of brands or marks

(a) Authorization by Secretary; registration as market agency

The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such au-

thorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) Applicability of section

The provisions of this subchapter, relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Collection and payment of charges

Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) Revocation of authorization or registration

The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

(Aug. 15, 1921, ch. 64, title III, § 317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

PRIOR PROVISIONS

Former provisions relating to fees for inspection of brands appearing upon livestock were contained in section 231 of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

§§ 218 to 218d. Repealed. Pub. L. 100–173, § 10, Nov. 23, 1987, 101 Stat. 922

Section 218, act Aug. 15, 1921, ch. 64, title V, § 501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, stated necessity to curb unfair, deceptive, and fraudulent practices relating to live poultry.

Section 218a, act Aug. 15, 1921, ch. 64, title V, § 502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, authorized Secretary to designate cities and markets where unfair practices exist, to require licensing, and to prescribe information to be contained in application license, and authorized penalty for dealing without license.

Section 218b, act Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, defined ''live poultry dealer''.

Section 218c, act Aug. 15, 1921, ch. 64, title V, § 504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to application of other provisions of this chapter to this subchapter and posting of rates, charges, and rentals in licensee's place of business.

Section 218d, act Aug. 15, 1921, ch. 64, title V, § 505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to suspension and revocation of licenses.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§ 221. Accounts and records of business; punishment for failure to keep

Every packer, any live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

(Aug. 15, 1921, ch. 64, title IV, § 401, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 100–173, § 6, Nov. 23, 1987, 101 Stat. 918.)

AMENDMENTS

1987—Pub. L. 100–173 substituted '', any live poultry dealer,'' for ''or any live poultry dealer or handler,''.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

LIENS OR SECURITY INTERESTS AGAINST LIVESTOCK; INTERAGENCY TASK FORCE TO RECOMMEND METHOD OF PROVIDING INFORMATION TO PURCHASERS; REPORT TO CONGRESS

Pub. L. 95–409, § 2, Oct. 2, 1978, 92 Stat. 887, required the Secretary of Agriculture to appoint a task force to recommend methods of providing information to purchasers of livestock concerning the existence of a lien or security interest against livestock and to submit a report to Congress not later than Feb. 1, 1979.

§ 222. Federal Trade Commission powers adopted for enforcement of chapter

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 to 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Aug. 15, 1921, ch. 64, title IV, § 402, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, purported to insert ''or any live poultry dealer or handler'' after ''packer'' but word ''packer'' does not appear in this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena and application of Rules of Civil Procedure, see rules 45 and 81, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 223. Responsibility of principal for act or omission of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, any live poultry dealer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, any live poultry dealer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

(Aug. 15, 1921, ch. 64, title IV, § 403, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; amended Pub. L. 100–173, § 6, Nov. 23, 1987, 101 Stat. 918.)

AMENDMENTS

1987—Pub. L. 100–173 substituted '', any live poultry dealer,'' for ''or any live poultry dealer or handler,'' in two places.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

§ 224. Attorney General to institute court proceedings for enforcement

The Secretary may report any violation of this chapter to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

(Aug. 15, 1921, ch. 64, title IV, § 404, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, purported to insert ''or any live poultry dealer or handler'' after ''packer'' but word ''packer'' does not appear in this section.

CROSS REFERENCES

Enforcement by Secretary of Agriculture under this chapter, with respect to activities subject to this chapter, of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

§ 225. Laws unaffected

Nothing contained in this chapter, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies,'' approved July 2, 1890, the Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,'' approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled ''An Act to promote export trade, and for other purposes,'' approved April 10, 1918 [15 U.S.C. 61 et seq.] or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'' as amended by the Act entitled ''An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' '' approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending on August 15, 1921.

(Aug. 15, 1921, ch. 64, title IV, § 405, 42 Stat. 168.)

REFERENCES IN TEXT

The Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', approved July 2, 1890, referred to in subsec. (a), means act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes'', approved October 15, 1914, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of the Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended,

which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

The Act entitled ''An Act to promote export trade and for other purposes'', approved April 10, 1918, referred to in subsec. (a), means act Apr. 10, 1918, ch. 50, 40 Stat. 516, known as the Webb-Pomerene Act, which is classified generally to subchapter II (§ 61 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 66 of Title 15 and Tables.

Sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes'', referred to in subsec. (a), are sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, and are known as the Wilson Tariff Act. Sections 73 to 76 enacted sections 8 to 11 of Title 15. Section 77 was not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

The Act entitled ''An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes','' approved February 12, 1913, referred to in subsec. (a), is act Feb. 12, 1913, ch. 40, 37 Stat. 667, which is classified to sections 8 and 11 of Title 15.

§ 226. Powers of Interstate Commerce Commission unaffected

Nothing in this chapter shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission.

(Aug. 15, 1921, ch. 64, title IV, § 406(a), 42 Stat. 169.)

CODIFICATION

Section is comprised of subsec. (a) of section 406, of act Aug. 15, 1921. Subsecs. (b) to (e) of section 406, as amended, are classified to section 227 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 1607, 1681s, 1691c, 1692*l*, 6505.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture

(a) Omitted

(b) Jurisdiction of Federal Trade Commission

The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, or livestock products in unmanufactured form, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this chapter involving the same subject matter.

(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.

(c) Limitation of Federal Trade Commission jurisdiction

The Federal Trade Commission shall have no power or jurisdiction over any matter which by this chapter is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) Jurisdiction of Secretary of Agriculture except for poultry products

The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this chapter, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form if the Commission within 10 days from the date of

receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) Jurisdiction of Secretary of Agriculture regarding poultry products

The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 197 of this title or section 228b–1 of this title when such action is necessary to avoid impairment of his jurisdiction.

(f) Information to be included in annual reports

The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b), (d), and (e) of this section.

(Aug. 15, 1921, ch. 64, title IV, § 406, 42 Stat. 169; Pub. L. 85–909, § 1(2), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 100–173, § 7, Nov. 23, 1987, 101 Stat. 919; Pub. L. 102–237, title X, § 1008(2), Dec. 13, 1991, 105 Stat. 1898.)

CODIFICATION

Subsection (a) of section 406 is classified to section 226 of this title.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out comma after ''unmanufactured form,''.

1987—Subsec. (b)(2). Pub. L. 100–173, § 7(1)(A)(ii), which directed insertion of ''or'' before ''livestock products in unmanufactured form.'' was executed by making insertion before ''livestock products in unmanufactured form,'' as the probable intent of Congress.

Pub. L. 100–173, § 7(1)(A)(i), struck out ''or poultry products'' after ''in unmanufactured form,''.

Subsec. (b)(3). Pub. L. 100–173, § 7(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.''

Subsec. (d). Pub. L. 100–173, § 7(2), amended subsec. (d) generally, striking out reference to poultry products in two places and substituting ''10 days'' for ''ten days''.

Subsec. (e). Pub. L. 100–173, § 7(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 100–173, § 7(3), (5), redesignated former subsec. (e) as (f) and substituted ''subsections (b), (d), and (e)'' for ''subsections (b) and (d)''.

1958—Pub. L. 85–909 substituted subsecs. (b) to (e) for former provisions providing that Federal Trade Commission shall have no power or jurisdiction over matters within jurisdiction of Secretary of Agriculture except when Secretary requests Commission to make investigations and reports in any case, which were incorporated in subsecs. (b)(1) and (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

CONSTRUCTION OF 1987 AMENDMENTS

Section 11 of Pub. L. 100–173 provided that:

''(a) GENERAL RULE.—The amendments made by this Act [see Short Title of 1987 Amendment note set out under section 181 of this title] to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to prevent the use of—

''(1) unfair methods of competition in or affecting commerce, and

''(2) unfair and deceptive acts or practices in or affecting commerce,

involving poultry products.

''(b) SECRETARY'S AUTHORITY.—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921 [7 U.S.C. 227(e)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 45, 1607, 1681s, 1691c, 1692*l*, 6505.

§ 228. Authority of Secretary

(a) Rules, regulations, and expenditures; appropriations

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) Deductions from proceeds for financing promotional, educational, and research activities

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the chapter.

(c) Budget estimate; testimony of Secretary before Congressional committees

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

(d) Development and promulgation of rules governing hearings

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

(e) Definitions

For the purposes of subsection (d) of this section—

(1) the term ''unit of local government'' means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term ''geographic area within a State'' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, title IV, § 407, 42 Stat. 169; Pub. L. 85–909, § 4, Sept. 2, 1958, 72 Stat. 1750; Pub. L. 88–61, July 8, 1963, 77 Stat. 79; Pub. L. 94–410, § 11, Sept. 13, 1976, 90 Stat. 1252; Pub. L. 103–354, title II, § 293(b), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103–437, § 4(a)(2), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–354, § 293(b)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.''

Subsec. (c). Pub. L. 103–437, which directed the amendment of subsec. (d) by substituting ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry'', was executed by making the amendment to subsec. (c) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 103–354. See below.

Pub. L. 103–354, § 293(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Pub. L. 103–354, § 293(b)(2), (3), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and in subsec. (e) substituted ''subsection (d)'' for ''subsection (e)''.

1976—Subsecs. (d) to (f). Pub. L. 94–410 added subsecs. (d) to (f).

1963—Subsec. (c). Pub. L. 88–61 added subsec. (c).

1958—Pub. L. 85–909 designated existing provisions as subsec. (a) and added subsec. (b).

§ 228a. Authority of Secretary to request temporary injunction or restraining order

Whenever the Secretary has reason to believe that any person subject to this chapter (a) with respect to any transactions subject to this chapter, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this chapter in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this chapter or enjoin him from operating subject to this chapter except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this chapter is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this chapter or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

(Aug. 15, 1921, ch. 64, title IV, § 408, as added Pub. L. 94–410, § 5, Sept. 13, 1976, 90 Stat. 1250; amended Pub. L. 100–173, § 8, Nov. 23, 1987, 101 Stat. 919.)

CODIFICATION

A prior section 228a, act Sept. 21, 1944, ch. 412, title I, § 101(c), 58 Stat. 734, which related to inspections of livestock, hides, animal products, etc., was transferred to section 396 of this title.

PRIOR PROVISIONS

A prior section 408 of act Aug. 15, 1921, was renumbered section 415 and is classified to section 229 of this title.

AMENDMENTS

1987—Pub. L. 100–173 inserted ''or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,'' after ''unmanufactured form,''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

§ 228b. Prompt payment for purchase of livestock

(a) Full amount of purchase price required; methods of payment

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver

to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or ''grade and yield'' basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Waiver of prompt payment by written agreement; disclosure requirements

Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a) of this section. Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Delay in payment or attempt to delay deemed unfair practice

Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an ''unfair practice'' in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term ''unfair practice'' as used in this chapter.

(Aug. 15, 1921, ch. 64, title IV, § 409, as added Pub. L. 94–410, § 7, Sept. 13, 1976, 90 Stat. 1250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 196, 228c of this title.

§ 228b–1. Final date for making payment to cash seller or poultry grower

(a) Delivery of full amount due

Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

(b) Delay or attempt to delay collection of funds as "unfair practice"

Any delay or attempt to delay, by a live poultry dealer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased in a cash sale, shall be considered an ''unfair practice'' in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term ''unfair practice'' as used in this chapter.

(c) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title IV, § 410, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 410 of act Aug. 15, 1921, was renumbered section 414 and is classified to section 228c of this title.

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 197, 227, 228b–2 of this title.

§ 228b–2. Violations by live poultry dealers

(a) Written complaint by Secretary; hearing; intervention; amended complaint

Whenever the Secretary has reason to believe that any live poultry dealer has violated or is violating any provision of section 197 of this title or section 228b–1 of this title, he shall cause a complaint in writing to be served upon the live poultry dealer, stating his charges in that respect, and requiring the live poultry dealer to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the live poultry dealer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing, the Secretary may amend the complaint; but in case of any amendment adding new charges, the hearing shall, on the request of the live poultry dealer, be adjourned for a period not exceeding 15 days.

(b) Report on findings of fact by Secretary; cease and desist order; assessment of civil penalty; action by Attorney General upon live poultry dealer's failure to pay penalty

If, after such hearing, the Secretary finds that the live poultry dealer has violated, or is violating, any provisions of section 197 of this title or section 228b–1 of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the live poultry dealer an order requiring such live poultry dealer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $20,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business: *Provided, however*, That in no event can the penalty assessed by the Secretary take priority over or impede the ability of the live poultry dealer to pay any unpaid cash seller or poultry grower. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General, who may recover such penalty by an action in the appropriate District Court of the United States.

(c) Amendment or setting aside of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 228b–3 of this title, the Secretary, at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the live poultry dealer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of complaints, orders, and other processes

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title IV, § 411, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 411 of act Aug. 15, 1921, was renumbered section 415 and is classified to section 229 of this title.

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228b–3, 228b–4 of this title.

§ 228b–3. Judicial review of order regarding live poultry dealer

(a) Finality of order unless appeal to court of appeals; time limit; bond

An order made under section 228b–2 of this title shall be final and conclusive unless within 30 days after service the live poultry dealer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such live poultry dealer will pay the costs of the proceedings if the court so directs.

(b) Notification of appeal to Secretary; filing of record with court

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Issuance of temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the live poultry dealer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence in record as evidence in case; expedited proceedings

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Taking of additional evidence; modified or additional findings by Secretary

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) Affirmance or modification of order as injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate

as an injunction to restrain the live poultry dealer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Exclusive jurisdiction of court of appeals; finality of decree; appeal to Supreme Court; stay of decree

The court of appeals shall have jurisdiction which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title IV, § 412, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 921.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228b–2, 228b–4 of this title.

§ 228b–4. Violation of final order by live poultry dealer; penalty

Any live poultry dealer, or any officer, director, agent, or employee of a live poultry dealer, who fails to obey any order of the Secretary issued under the provisions of section 228b–2 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 228b–3 of this title;

shall on conviction be fined not less than $1,000 nor more than $20,000. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title IV, § 413, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 922.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

§ 228c. Federal preemption of State and local requirements

No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under section 204 of this title, and prompt payment provisions of section 228b of this title, respectively: *Provided*, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this chapter, which is not in conflict with this chapter or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this chapter or section 204 of this title.

(Aug. 15, 1921, ch. 64, title IV, § 414, formerly § 410, as added Pub. L. 94–410, § 9, Sept. 13, 1976, 90 Stat. 1252; renumbered § 414, Pub. L. 100–173, § 9(1), Nov. 23, 1987, 101 Stat. 919.)

§ 229. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 15, 1921, ch. 64, title IV, § 415, formerly § 408, 42 Stat. 169; renumbered § 411, Pub. L. 94–410, § 5, Sept. 13, 1976, 90 Stat. 1250; renumbered § 415, Pub. L. 100–173, § 9(1), Nov. 23, 1987, 101 Stat. 919.)

§ 229a. Repealed. Pub. L. 106–78, title IX, § 913(a), Oct. 22, 1999, 113 Stat. 1205

Section, act Aug. 15, 1921, ch. 64, title IV, § 416, as added Pub. L. 105–277, div. A, § 101(a) [title XI, § 1127(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–46, related to mandatory domestic reporting pilot investigation.

TERMINATION OF REPEAL

For termination of repeal by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

TERMINATION DATE OF REPEAL

Repeal by Pub. L. 106–78 to terminate 5 years after Oct. 22, 1999, see section 942 of Pub. L. 106–78, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

SUBCHAPTER VI—CHARGE FOR INSPECTION

§ 231. Omitted

CODIFICATION

Section, act July 22, 1942, ch. 516, 56 Stat. 689, was from the Department of Agriculture Appropriation Act, 1943, and provided for fees for inspection of brands appearing upon livestock. See section 217a of this title. Similar provisions were contained in the following prior appropriation acts:

July 1, 1941, ch. 267, 55 Stat. 432.
June 25, 1940, ch. 421, 54 Stat. 557.
June 30, 1939, ch. 253, title I, 53 Stat. 970.
June 16, 1938, ch. 464, title I, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.

July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.

CHAPTER 10—WAREHOUSES

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270. Punishment for violations; reimbursement of owner of products converted.
271. Authorization of appropriations; employment of temporary personnel.
272. Separability.
273. Rights reserved.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 7a, 61a, 79a, 420 of this title.

§ 241. Short title

This chapter shall be known by the short title of ''United States Warehouse Act.''

(Aug. 11, 1916, ch. 313, pt. C, § 1, 39 Stat. 486.)

CODIFICATION

This chapter constitutes part C of ''An act making appropriations for the Department of Agriculture for the fiscal year ending June 13, 1917, and for other purposes,'' approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, ch. 313, containing the ''United States Cotton Futures Act'' formerly classified to chapter 13 of Title 26, Internal Revenue Code, was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part B of that act contained the ''United States Grain Standards Act'' and constitutes section 71 et seq. of this title.

CROSS REFERENCES

Warehouse receipts as satisfaction of futures contract, see section 7a of this title.

§ 242. Definitions

The term ''warehouse'' as used in this chapter shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this chapter, ''person'' includes a corporation or partnership or two or more persons having a joint or common interest; ''warehouseman'' means a person lawfully engaged in the business of storing agricultural products; and ''receipt'' means a warehouse receipt.

(Aug. 11, 1916, ch. 313, pt. C, § 2, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out second sentence defining ''agricultural product''.

§ 243. Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen

The Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this chapter, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this chapter; to determine whether warehouses for which licenses are applied for or have been issued under this chapter are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, loca-

tion, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this chapter; and to prescribe, within the limitations of this chapter, the duties of the warehousemen conducting warehouses licensed under this chapter with respect to their care of and responsibility for agricultural products stored therein.

(Aug. 11, 1916, ch. 313, pt. C, § 3, 39 Stat. 486.)

CROSS REFERENCES

Publication of general investigation of warehousing under this section, see section 266 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 266 of this title.

§ 244. Licensing warehouseman

The Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this chapter and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this chapter and the rules and regulations prescribed hereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 4, 39 Stat. 486; Mar. 2, 1931, ch. 366, § 1, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 245 of this title.

§ 245. Term of license; renewal

Each license issued under sections 244 and 248 of this title shall terminate as therein provided, or in accordance with the terms of this chapter and the regulations thereunder, and may from time to time be modified or extended by written instrument.

(Aug. 11, 1916, ch. 313, pt. C, § 5, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

AMENDMENTS

1923—Act Feb. 23, 1923, substituted provisions for termination of the license in accordance with the terms of the license or this chapter, and regulations thereunder for provision for license period.

§ 246. Suspension and revocation of license

The Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this chapter, for any violation of or failure to comply with any provision of this chapter or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, pt. C, § 25, 39 Stat. 490; Mar. 2, 1931, ch. 366, § 8, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture'' in first clause of section.

§ 247. Bond of applicant for warehouse license; additional bond

Each warehouseman applying for a license to conduct a warehouse in accordance with this chapter shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this chapter and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this chapter, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

(Aug. 11, 1916, ch. 313, pt. C, § 6, 39 Stat. 486; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 2, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, struck out ''under the laws of the State, District, or Territory in which he is conducting such warehouse, as well as'' in first sentence, and inserted '', or his designated representative,'' after ''Secretary of Agriculture'' in last sentence.

1923—Act Feb. 23, 1923, inserted provision permitting the Secretary of Agriculture, in his discretion, to include the requirements of fire insurance among the terms and conditions of the bond.

1919—Act July 24, 1919, struck out ''other than personal security'' after ''good and sufficient bond'' in first sentence and after ''including the requirements of fire insurance'' at end of second sentence.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

Designation as bonded warehouse, filing of bond such as is provided in this section as prerequisite to, see section 250 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 249, 250 of this title.

§ 248. License to person not warehouseman; bond; duties of licensee

The Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this chapter and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this chapter, and the rules and regulations hereunder affecting warehousemen licensed under this chapter, and shall otherwise be subject to this chapter, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 9, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 4, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture''.

CROSS REFERENCES

Action on bond by person injured, see section 249 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 245, 249 of this title.

§ 249. Action on bond by person injured

Any person injured by the breach of any obligation to secure which a bond is given, under the provisions of sections 247 or 248 of this title, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(Aug. 11, 1916, ch. 313, pt. C, § 7, 39 Stat. 487.)

§ 250. Designation as bonded warehouse

Upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this chapter, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this chapter, and no name or description conveying the impression that it is so bonded, shall be used, until a bond, such as provided for in section 247 of this title, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this chapter for the conduct of such warehouse remains unsuspended and unrevoked.

(Aug. 11, 1916, ch. 313, pt. C, § 8, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 3, 46 Stat. 1463.)

AMENDMENTS

1931—Act Mar. 2, 1931, substituted ''may'' for ''shall'' before ''be designated'' in first clause, and inserted '', or his designated representative,'' after ''Secretary of Agriculture'' wherever appearing.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 270 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 251. Fee for warehouse examination, inspection, and licensing; amount; disposition of moneys

The Secretary of Agriculture, or the Secretary's designated representative, shall charge, assess, and cause to be collected a reasonable fee for (1) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this chapter; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this chapter; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse under this chapter; and (4) each warehouse license amended, modified, extended, or reinstated under this chapter. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses, including administrative and supervisory costs: *Provided*, That the amount of such fees collected for cotton warehouse inspections shall not exceed $400,000 in the fiscal year ending September 30, 1982, $415,000 in fiscal year ending September 30, 1983, and $430,000 in the fiscal year ending September 30, 1984. All fees collected shall be credited to the current appropriation account that incurs the costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this chapter. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this account such interest shall be credited to the account for use by the Secretary in providing such services.

(Aug. 11, 1916, ch. 313, pt. C, § 10, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 5, 46 Stat. 1464; Pub. L. 97–35, title I, § 158(a)(1), Aug. 13, 1981, 95 Stat. 375.)

AMENDMENTS

1981—Pub. L. 97–35 substituted provisions requiring the Secretary or the Secretary's designated representative to charge, assess, and cause to be collected fees for warehouse examination, inspection, and licensing, for provisions authorizing the Secretary or his designated representative to charge, assess, and cause to be collected fees for warehouse inspection and licensing.

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture'', substituted ''may'' for ''shall'' where appearing for first time and substituted provision authorizing a reasonable fee to be charged for license issued to warehouseman or other person to classify etc., agricultural products for former provision requiring a fee of $2 per annum for each license or renewal thereof issued to a warehouseman, all in first sentence.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 158(b) of Pub. L. 97–35 provided that: ''The provisions of this section [amending this section and section 271 of this title] shall become effective October 1, 1981.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 252. License to classify, grade, or weigh agricultural products

The Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this chapter, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder so far as the same relate to him.

(Aug. 11, 1916, ch. 313, pt. C, § 11, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 6, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture''.

1923—Act Feb. 23, 1923, inserted ''inspect, sample or'' before ''classify'' and ''condition'' before ''grade'' wherever appearing.

§ 253. Suspension and revocation of license to classify, grade, or weigh

Any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this chapter may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

(Aug. 11, 1916, ch. 313, pt. C, § 12, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 7, 46 Stat. 1464.)

AMENDMENTS

1931—Act Mar. 2, 1931, inserted '', or his designated representative,'' after ''Secretary of Agriculture'' wherever appearing.

1923—Act Feb. 23, 1923, inserted ''inspect, sample or'' before ''classify'' wherever appearing.

§ 254. Discrimination by warehouseman prohibited

Every warehouseman conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

(Aug. 11, 1916, ch. 313, pt. C, § 13, 39 Stat. 488.)

§ 255. Deposits of products deemed subject to chapter

Any person who deposits agricultural products for storage in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed thereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 14, 39 Stat. 488.)

§ 256. Inspection and grading of products stored

Any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter, shall be inspected and graded by a person duly licensed to grade the same under this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 15, 39 Stat. 488; Feb. 23, 1923, ch. 106, 42 Stat. 1283.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out ''That grain, flaxseed or''.

§ 257. Standards for agricultural products

The Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority or any other Act of Congress shall be, and are, adopted for the purposes of this chapter as the official standards of the United States for the agricultural products to which they relate.

(Aug. 11, 1916, ch. 313, pt. C, § 19, 39 Stat. 489; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, struck out ''in this chapter defined'' after ''products''.

§ 258. Mingling products stored

Every warehouseman conducting a warehouse licensed under this chapter shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products

had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

(Aug. 11, 1916, ch. 313, pt. C, § 16, 39 Stat. 488.)

§ 259. Security interests

(a) Receipts for products stored

Except as provided in subsection (b) of this section, for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

(b) Transfer of agricultural products stored in warehouses

(1) Notwithstanding any other provision of this chapter, if a warehouseman because of a temporary shortage lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for which receipts have been issued out of such warehouse to another licensed warehouse for continued storage.

(2) The warehouseman of a licensed warehouse from which agricultural products have been transferred under paragraph (1) shall deliver to the rightful owner of such products, on request, at the licensed warehouse where first deposited, such products in the amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner.

(c) Central filing system records in lieu of receipts for cotton stored; delivery of cotton; electronic transmission facilities between warehouses and systems; system records equivalent to receipts and ownership interests; recordation and enforcement of liens in central filing system; warehousemen's liens unaffected; conditions for delivery on demand of cotton stored

(1)(A) Notwithstanding any other provision of Federal or State law, the Secretary of Agriculture, or the designated representative of the Secretary, may provide that in lieu of issuing a receipt for cotton stored in a warehouse licensed under this chapter or in any other warehouse the information required to be included in a receipt (i) under section 260 of this title in the case of a warehouse licensed under this chapter or (ii) under any applicable State law in the case of a warehouse not licensed under this chapter shall be recorded instead in a central filing system or systems maintained in one or more locations in accordance with regulations issued by the Secretary.

(B) Any such record shall state that the cotton shall be delivered to a specified person or to the order of the person.

(C) This subsection and subsection (d) of this section shall not apply to a warehouse that does not have facilities to electronically transmit and receive information to and from the central filing system. Nothing in this subsection shall be construed as to require a warehouseman to obtain the facilities.

(2) Notwithstanding any other provision of Federal or State law:

(A) The record of the possessory interests of persons in cotton included in any such central filing system shall be deemed to be a receipt for the purposes of this chapter or State law and shall establish the possessory interest of persons in the cotton.

(B) Any person designated as a holder of an electronic warehouse receipt authorized under this subsection and subsection (d) of this section shall, for the purpose of perfecting the security interest of the person under Federal or State law with respect to the cotton covered by the warehouse receipt, be considered to be in possession of the warehouse receipt. If more than one security interest exist in the cotton reflected on the electronic warehouse receipt, the priority of the security interests shall be determined by the applicable Federal or State law. This subsection is applicable to electronic cotton warehouse receipts and any other security interests covering cotton stored in a cotton warehouse, regardless of whether the warehouse is licensed under this chapter.

(3) A warehouseman conducting a warehouse covered under this subsection, in the absence of a lawful excuse, shall, without unnecessary delay, deliver the cotton stored in the warehouse on demand made by the person named in the record in the central filing system as the holder of the receipt representing the cotton, if demand is accompanied by—

(A) an offer to satisfy a valid warehouseman's lien, as determined by the Secretary; and

(B) an offer to provide an acknowledgement in the central filing system, if requested by the warehouseman, that the cotton has been delivered.

(d) Administration of central filing system or systems; imposition and collection of fees; fund as depository for fees, late payment penalties, and investments; fund monies available for expenses

(1) The Secretary shall (under such regulations as the Secretary may prescribe) charge and provide for the collection of reasonable fees to cover the estimated costs to the Department of Agriculture incident to the functioning and the maintenance of any central filing system or systems referred to in subsection (c) of this section that is administered by the Department of Agriculture.

(2) The Secretary may provide for the fees to be collected by persons operating the central filing system administered by the Department from those persons recording information in the central filing system at such time and in such manner as may be prescribed in regulations issued by the Secretary.

(3) The fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incurred in carrying out subsection (c) of this section and this subsection. Any sums collected or

received by the Secretary under this chapter and deposited to the fund and any late payment penalties collected by the Secretary and credited to the fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on the sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitations for the expenses of the Service incurred in carrying out subsection (c) of this section and this subsection.

(Aug. 11, 1916, ch. 313, pt. C, §17, 39 Stat. 488; Pub. L. 99–260, §14, Mar. 20, 1986, 100 Stat. 54; Pub. L. 101–624, title V, §508(a), Nov. 28, 1990, 104 Stat. 3441; Pub. L. 102–237, title X, §1009, Dec. 13, 1991, 105 Stat. 1898; Pub. L. 102–553, §1, Oct. 28, 1992, 106 Stat. 4140.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(1)(A), (2) and (d)(3), was in the original ''this Act'' and was translated as reading ''this part'', meaning part C of act Aug. 11, 1916, known as the United States Warehouse Act, to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (c)(1)(A). Pub. L. 102–553, §1(1), substituted ''Notwithstanding any other provision of Federal or State law, the Secretary'' for ''The Secretary'', inserted ''or in any other warehouse'' after ''licensed under this chapter'', and substituted ''(i) under section 260 of this title in the case of a warehouse licensed under this chapter or (ii) under any applicable State law in the case of a warehouse not licensed under this chapter'' for ''under section 260 of this title''.

Subsec. (c)(2). Pub. L. 102–553, §1(2), substituted ''provision of Federal or State law:'' for ''provision of law—'' in introductory provisions and in subpar. (A) substituted ''The record'' for ''the record'', ''possessory'' for ''ownership'' in two places, ''of this chapter or State law'' for ''of this chapter'', and a period for ''; and'' at end, added subpar. (B) and struck out former subpar. (B) which read as follows: ''the Secretary may provide for the recording of liens in the central filing system that shall represent the perfected security interest of persons whose liens are so recorded and for liens that are so recorded to be the only liens that are enforceable against owners and purchasers of cotton registered in the central filing system, except that nothing in this paragraph shall be construed to alter the enforceability of the warehouseman's lien.''

Subsec. (c)(3). Pub. L. 102–553, §1(3), substituted ''covered under this subsection'' for ''licensed under this chapter'' and ''holder'' for ''owner''.

1991—Subsec. (c)(1)(B). Pub. L. 102–237 struck out '', or to a specified person'' after ''specified person''.

1990—Subsecs. (c), (d). Pub. L. 101–624 added subsecs. (c) and (d).

1986—Pub. L. 99–260 designated existing provision as subsec. (a), substituted ''Except as provided in subsection (b) of this section, for'' for ''For'', and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 260. Contents of receipts

Every receipt issued for agricultural products stored in a warehouse licensed under this chapter shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to this chapter and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this chapter as may be required by the Secretary of Agriculture; and (*l*) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by the depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, That the Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

(Aug. 11, 1916, ch. 313, pt. C, §18, 39 Stat. 488; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

AMENDMENTS

1923—Act Feb. 23, 1923, inserted last proviso in cl. (*l*).

1919—Act July 24, 1919, struck out ''if it has plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable'' after ''may be issued'' in cl. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 259 of this title.

§ 261. Issuance of further receipt with original outstanding

While an original receipt issued under this chapter is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 20, 39 Stat. 489.)

§ 262. Delivery of products stored on demand; conditions to delivery

A warehouseman conducting a warehouse licensed under this chapter, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgement that they have been delivered if such signature is requested by the warehouseman.

(Aug. 11, 1916, ch. 313, pt. C, § 21, 39 Stat. 489.)

§ 263. Cancellation of receipt on delivery of product stored

A warehouseman conducting a warehouse licensed under this chapter shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

(Aug. 11, 1916, ch. 313, pt. C, § 22, 39 Stat. 490.)

§ 264. Records; reports to Secretary of Agriculture; compliance with provisions of chapter, rules, and regulations

Every warehouseman conducting a warehouse licensed under this chapter shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this chapter and the rules and regulations made thereunder.

(Aug. 11, 1916, ch. 313, pt. C, § 23, 39 Stat. 490.)

§ 265. Examination of stored products; publication of findings

The Secretary of Agriculture is authorized to cause examination to be made of any agricultural products stored in any warehouse licensed under this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules and regulations made thereunder, the Secretary may publish his findings.

(Aug. 11, 1916, ch. 313, pt. C, § 24, 39 Stat. 490.)

§ 266. Publication of investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses

The Secretary of Agriculture from time to time may publish the results of any investigations made under section 243 of this title; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this chapter and list of all licenses terminated under this chapter and the causes therefor.

(Aug. 11, 1916, ch. 313, pt. C, § 26, 39 Stat. 490.)

§ 267. Examination of books, records, etc., of warehousemen

The Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this chapter and of the warehousemen conducting such warehouses relating thereto.

(Aug. 11, 1916, ch. 313, pt. C, § 27, 39 Stat. 490.)

TRANSFER OF FUNCTIONS

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

§ 268. Rules and regulations

The Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 28, 39 Stat. 490.)

§ 269. Cooperation with State authorities; authority of Secretary; operation of existing laws

In the discretion of the Secretary of Agriculture he is authorized to cooperate with State

officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This chapter shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

(Aug. 11, 1916, ch. 313, pt. C, § 29, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 9, 46 Stat. 1465.)

AMENDMENTS

1931—Act Mar. 2, 1931, struck out first clause which read as follows: ''Nothing in this chapter shall be construed to conflict with, or to authorize any conflict with, or in any way to impair or limit the effect or operation of the laws of any State relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers;'', inserted ''In the discretion of the Secretary of Agriculture'' in first clause of first sentence and ''but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect'' in second clause of first section.

1923—Act of Feb. 23, 1923, included among the objects to which the section applied, ''inspectors, and samplers,'' as well as warehouses, warehousemen, weighers, graders and classifiers as originally specified.

§ 270. Punishment for violations; reimbursement of owner of products converted

Every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this chapter, or who shall violate or fail to comply with any provision of section 250 of this title, or who shall issue or utter a false or fraudulent receipt or certificate, or furnish false or fraudulent information to a central filing system maintained under section 259 of this title, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this chapter or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $10,000, or double the value of the products involved if such double value exceeds $10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture for the value of such products to the extent that such owner has not otherwise been reimbursed. Any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this chapter, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than $500, or imprisoned for not more than six months, or both, in the discretion of the court.

(Aug. 11, 1916, ch. 313, pt. C, § 30, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 10, 46 Stat. 1465; Pub. L. 101–624, title V, § 508(b), Nov. 28, 1990, 104 Stat. 3443.)

AMENDMENTS

1990—Pub. L. 101–624 inserted ''or furnish false or fraudulent information to a central filing system maintained under section 259 of this title,''.

1931—Act Mar. 2, 1931, in first sentence inserted '', or his designated representative,'' after ''Secretary of Agriculture'' and ''or change in any manner an original receipt or certificate subsequently to issuance by licensee'' after ''certificate'', and substituted ''ten'' for ''one''.

1923—Act Feb. 23, 1923, amended section generally.

EFFECTIVE DATE OF 1990 AMENDMENT

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

§ 271. Authorization of appropriations; employment of temporary personnel

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter other than those services for which fees are authorized pursuant to section 251 of this title. Such appropriated funds may be used by the Secretary to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the provisions of this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 31, 39 Stat. 491; Pub. L. 97–35, title I, § 158(a)(2), Aug. 13, 1981, 95 Stat. 376.)

AMENDMENTS

1981—Pub. L. 97–35 inserted provisions respecting authorizing of appropriations.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 158(b) of Pub. L. 97–35, set out as a note under section 251 of this title.

§ 272. Separability

If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Aug. 11, 1916, ch. 313, pt. C, § 32, 39 Stat. 491.)

§ 273. Rights reserved

The right to amend, alter or repeal this chapter is expressly reserved.

(Aug. 11, 1916, ch. 313, pt. C, § 33, 39 Stat. 491.)

CHAPTER 11—HONEYBEES

Sec.

281. Honeybee importation.
(a) In general.
(b) Regulations.
(c) Enforcement.
(d) ''Honeybee'' defined.
282. Punishment for unlawful importation.
283. Propagation of stock and release of germ plasm.
284. Eradication and control of undesirable species and subspecies.
(a) Operations in United States.
(b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State.
(c) Responsibility for authority to carry out operations.
285. Uses of funds.
286. Authorization of appropriations.

§ 281. Honeybee importation

(a) In general

The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

(b) Regulations

The Secretary of Agriculture and the Secretary of the Treasury are each authorized to prescribe such regulations as the respective Secretary determines necessary to carry out this section.

(c) Enforcement

Honeybees or honeybee semen offered for importation into, intercepted entering, or having entered the United States, other than in accordance with regulations promulgated by the Secretary of Agriculture and the Secretary of the Treasury, shall be destroyed or immediately exported.

(d) "Honeybee" defined

As used in this chapter, the term ''honeybee'' means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.

(Aug. 31, 1922, ch. 301, § 1, 42 Stat. 833; Pub. L. 87–539, § 1, July 19, 1962, 76 Stat. 169; Pub. L. 94–319, § 1, June 25, 1976, 90 Stat. 709; Pub. L. 103–182, title III, § 361(d)(2), Dec. 8, 1993, 107 Stat. 2123; Pub. L. 103–465, title IV, § 431(e), Dec. 8, 1994, 108 Stat. 4968.)

AMENDMENTS

1994—Pub. L. 103–465 amended section generally, substituting present provisions for former subsecs. (a) to (e) restricting importation of honeybees and honeybee semen into United States, providing for promulgation of rules and regulations as to such importation, providing for destruction or immediate exportation of nonexcepted honeybees or honeybee semen offered for import or intercepted, and defining ''honeybee''.

1993—Subsec. (a)(3). Pub. L. 103–182, § 361(d)(2)(A), added par. (3).

Subsec. (b). Pub. L. 103–182, § 361(d)(2)(B), inserted ''(1)'' after ''only from'' and added cl. (2).

1976—Pub. L. 94–319 incorporated existing provisions, which related only to honeybees, into subsecs. (a) to (e) relating to honeybees and honeybee semen, making honeybee provisions applicable to all life stages and the germ plasm of honeybees instead of only to honeybees in the adult stage, restating purpose of prohibiting importation of honeybees and restating conditions to be determined by Secretary of Agriculture with respect to countries from which honeybees may be imported.

1962—Pub. L. 87–539 enlarged prohibition against importation of honeybees to include the honeybee of the genus Apis instead of only the honeybee Apis mellifica and restricted permission to import the honeybee to countries which take adequate precautions to prevent importation of honeybees from countries where dangerous diseases exist.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

SHORT TITLE

Act Aug. 31, 1922, as amended, which is classified to this chapter, is popularly known as the ''Honeybee Act''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 282. Punishment for unlawful importation

Any person who violates any provision of section 281 of this title or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(Aug. 31, 1922, ch. 301, § 2, 42 Stat. 834; Pub. L. 94–319, § 2, June 25, 1976, 90 Stat. 709.)

AMENDMENTS

1976—Pub. L. 94–319 inserted reference to regulations, substituted characterization of violation as offense against the United States for characterization as a misdemeanor, increased maximum fine to $1,000 from $500 and struck out provision relating to discretion of the court.

§ 283. Propagation of stock and release of germ plasm

The Secretary of Agriculture may propagate bee-breeding stock and may release bee germ plasm to the public.

(Sept. 21, 1944, ch. 412, title I, § 103, 58 Stat. 735; Oct. 31, 1951, ch. 654, § 3(1), 65 Stat. 708; Pub. L. 97–98, title XI, § 1120, Dec. 22, 1981, 95 Stat. 1273.)

CODIFICATION

This section was not enacted as part of act Aug. 31, 1922, which comprises this chapter.

Provisions similar to this section were contained in the following prior Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 439.
July 12, 1943, ch. 215, 57 Stat. 407.

AMENDMENTS

1981—Pub. L. 97–98 inserted ''and may release bee germ plasm to the public''.

1951—Act Oct. 31, 1951, struck out provisions relating to sale of surplus bee-breeding stock, and the fixing of rates and disposition of proceeds in connection therewith.

EFFECTIVE DATE OF 1981 AMENDMENT

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

§ 284. Eradication and control of undesirable species and subspecies

(a) Operations in United States

The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations and individuals, is authorized to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

(b) Cooperation with certain foreign governments; measure and character; consultation with Secretary of State

The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this chapter, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

(c) Responsibility for authority to carry out operations

In performing the operations or measures authorized in this chapter, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Aug. 31, 1922, ch. 301, § 3, as added Pub. L. 94–319, § 3, June 25, 1976, 90 Stat. 709.)

INDEMNIFICATION FOR BEEKEEPERS

Pub. L. 91–524, title VIII, § 804, Nov. 30, 1970, 84 Stat. 1382, as amended by Pub. L. 93–86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95–113, title II, § 207, Sept. 29, 1977, 91 Stat. 921, provided that:

''(a) The Secretary of Agriculture is authorized to make indemnity payments to beekeepers who through no fault of their own have suffered losses of honey bees after January 1, 1967, as a result of utilization of economic poisons near or adjacent to the property on which the beehives of such beekeepers were located.

''(b) The amount of the indemnity payment in the case of any beekeeper shall be determined on the basis of the net loss sustained by such beekeeper as a result of the loss of his honey bees.

''(c) Indemnity payments shall be made only in cases in which the loss occurred as a result of the use of economic poisons which had been registered and approved for use by the Federal Government.

''(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

''(e) The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this section.

''(f) The provisions of this section shall not be in effect after September 30, 1981.''

§ 285. Uses of funds

Funds appropriated to carry out the provisions of this chapter may also be used for printing and binding without regard to section 501 of title 44 for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

(Aug. 31, 1922, ch. 301, § 4, as added Pub. L. 94–319, § 3, June 25, 1976, 90 Stat. 710.)

§ 286. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Aug. 31, 1922, ch. 301, § 5, as added Pub. L. 94–319, § 3, June 25, 1976, 90 Stat. 710.)

CHAPTER 12—ASSOCIATIONS OF AGRICULTURAL PRODUCTS PRODUCERS

Sec.
291. Authorization of associations; powers.
292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure.

§ 291. Authorization of associations; powers

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided*, *however*, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

(Feb. 18, 1922, ch. 57, § 1, 42 Stat. 388.)

CROSS REFERENCES

Agricultural Fair Practices Act of 1967, association of producers as meaning associations referred to in this section, see section 2302 of this title.

''Cooperative association of producers'' defined, see section 2 of this title.

Cooperative marketing, see sections 451 to 457 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 457, 608c, 2302, 5623 of this title; title 15 section 57b–5.

§ 292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure

If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceedings for such association, and such service shall be binding upon such association, the officers, and members thereof.

(Feb. 18, 1922, ch. 57, § 2, 42 Stat. 388.)

RESTRICTION ON USE OF FUNDS RESPECTING STUDY, INVESTIGATION, OR PROSECUTION OF ANY AGRICULTURAL COOPERATIVE OR STUDY OR INVESTIGATION OF ANY AGRICULTURAL MARKETING ORDERS

For provisions restricting the use of funds authorized to be appropriated to carry out section 41 et seq. of Title 15, Commerce and Trade, for fiscal year 1980, 1981, or 1982, for the purpose of conducting any study, investigation, or prosecution of any provisions of this chapter, see section 20 of Pub. L. 96–252, set out as a note under section 57c of Title 15.

FEDERAL RULES OF CIVIL PROCEDURE

Application of Rules of Civil Procedure, see Rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

Preliminary and permanent injunctions, see Rule 65.

CROSS REFERENCES

''Cooperative association of producers'' defined, see section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 457, 608c of this title; title 15 section 57b–5.

CHAPTER 13—AGRICULTURAL AND MECHANICAL COLLEGES

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

Sec.
301. Land grant aid of colleges.
302. Method of apportionment and selection; issuance of land scrip.
303. Management expenses paid by State.
304. Investment of proceeds of sale of land or scrip.
305. Conditions of grant.
306. Repealed.
307. Fees for locating land scrip.
308. Reports by State governors of sale of scrip.

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

321. Secretary of Agriculture to administer annual college-aid appropriation.
322. Annual appropriation.
323. Racial discrimination by colleges restricted.
324. Time, manner, etc., of annual payments.
325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges.

Sec.
326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress.
326a. Annual appropriations for Puerto Rico, Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau.
327. Repealed.
328. Power to amend, repeal, etc., reserved.
329. Additional appropriation for agricultural colleges.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

331. Retirement of land-grant college employees.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

341. Cooperative extension work by colleges.
342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture.
343. Appropriations; distribution; allotment and apportionment; Secretary of Agriculture; matching funds; cooperative extension activities.
343a to 343g. Repealed or Transferred.
344. Ascertainment of entitlement of State to funds; time and manner of payment; State reporting requirements; plans of work.
(a) Ascertainment of entitlement.
(b) Time and manner of payment; related reports.
(c) Requirements related to plan of work.
(d) Extension protocols.
(e) Treatment of plans of work for other purposes.
345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges.
346, 347. Repealed.
347a. Disadvantaged agricultural areas.
(a) Congressional findings.
(b) Appropriation.
(c) Assistance.
(d) Allocation of funds.
(e) Appropriation as additional; limitation on amount.
348. Rules and regulations.
349. ''State'' defined.

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 322, 323, 329, 331, 341, 343, 361a, 361c, 1926, 2204c, 2662, 2663, 2664, 3103, 3123, 3124a, 3703, 7601 of this title; title 16 sections 551c, 582a–1, 1672; title 20 section 1060; title 22 section 2220a; title 42 sections 1788, 10303.

§ 301. Land grant aid of colleges

There is granted to the several States, for the purposes hereinafter mentioned in this subchapter, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: *Provided*, That no mineral lands shall be selected or purchased under the provisions of said sections.

(July 2, 1862, ch. 130, §1, 12 Stat. 503.)

CODIFICATION

Act July 2, 1862, with the exception of section 7, was not incorporated into the Revised Statutes, probably because the grants made thereby were regarded as executed, and the provisions incidental thereto as temporary. By act Mar. 3, 1883, ch. 102, 22 Stat. 484, however, section 4 of the original act was amended to read as set out under section 304 of this title.

SHORT TITLE

Act July 2, 1862, as amended, which is classified to this subchapter, is popularly known as the ''Morrill Act'' and also as the ''First Morrill Act''.

EQUITY IN EDUCATIONAL LAND GRANT STATUS

Pub. L. 103–382, title V, part C, Oct. 20, 1994, 108 Stat. 4048, as amended by Pub. L. 104–127, title VIII, §882, Apr. 4, 1996, 110 Stat. 1175; Pub. L. 105–185, title II, §251, title III, §301(g), June 23, 1998, 112 Stat. 557, 563; Pub. L. 105–332, §3(d), Oct. 31, 1998, 112 Stat. 3126, provided that:

''SEC. 531. SHORT TITLE.

''This part may be cited as the 'Equity in Educational Land-Grant Status Act of 1994'.

''SEC. 532. DEFINITION.

''As used in this part, the term '1994 Institutions' means any one of the following colleges:

''(1) Bay Mills Community College.
''(2) Blackfeet Community College.
''(3) Cheyenne River Community College.
''(4) D–Q University.
''(5) Dullknife Memorial College.
''(6) Fond Du Lac Community College.
''(7) Fort Belknap Community College.
''(8) Fort Berthold Community College.
''(9) Fort Peck Community College.
''(10) LacCourte Orielles Ojibwa Community College.
''(11) Little Big Horn Community College.
''(12) Little Hoop Community College.
''(13) Nebraska Indian Community College.
''(14) Northwest Indian College.
''(15) Oglala Lakota College.
''(16) Salish Kootenai College.
''(17) Sinte Gleska University.
''(18) Sisseton Wahpeton Community College.
''(19) Standing Rock College.
''(20) Stonechild Community College.
''(21) Turtle Mountain Community College.
''(22) Navajo Community College.
''(23) United Tribes Technical College.
''(24) Southwest Indian Polytechnic Institute.
''(25) Institute of American Indian and Alaska Native Culture and Arts Development.
''(26) Crownpoint Institute of Technology.
''(27) Haskell Indian Junior College.
''(28) Leech Lake Tribal College.
''(29) College of the Menominee Nation.
''(30) Little Priest Tribal College.

''SEC. 533. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

''(a) IN GENERAL.—

''(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act).

''(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

''(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

''(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act [7 U.S.C. 343(b)(3)] (as added by section 534(b)(1) of this part); or

''(iii) the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act).

''(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act), relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

''(3) ACCREDITATION.—To receive funding under sections 534 and 535, a 1994 Institution shall certify to the Secretary that the 1994 Institution—

''(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary, in consultation with the Secretary of Education, to be a reliable authority regarding the quality of training offered; or

''(B) is making progress toward the accreditation, as determined by the nationally recognized accrediting agency or association.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,600,000 for each of fiscal years 1996 through 2002. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

''(c) ENDOWMENT.—

''(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (hereafter in this subsection referred to as the 'endowment fund'). The Secretary may enter into such agreements as are necessary to carry out this subsection.

''(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

''(A) amounts made available by appropriations pursuant to subsection (b) (hereafter in this subsection referred to as the 'endowment fund corpus'); and

''(B) interest earned on the endowment fund corpus.

''(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

''(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

''(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 [Oct. 31, 1998]) for each 1994 Institution for the fiscal year.

''(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

''(d) MEMORANDUM OF AGREEMENT.—Not later than January 6, 1997, the Secretary shall develop and implement a formal memorandum of agreement with the 1994 Institutions to establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources.

''SEC. 534. APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

''(A) $50,000; multiplied by

''(B) the number of 1994 Institutions.

''(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

''(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

''(B) the number of 1994 Institutions.

''(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

''(b) FUNDING.—[Amended section 343 of this title.]

''SEC. 535. INSTITUTIONAL CAPACITY BUILDING GRANTS.

''(a) DEFINITIONS.—As used in this section:

''(1) FEDERAL SHARE.—The term 'Federal share' means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

''(2) NON-FEDERAL SHARE.—The term 'non-Federal share' means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(b) IN GENERAL.—

''(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2002, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct instructional activities more effectively in agriculture and sciences.

''(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

''(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

''(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

''(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

''(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount specified by the Secretary.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2002.

''SEC. 536. RESEARCH GRANTS.

''(a) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make grants under this section, on the basis of a competitive application process (and in accordance with such regulations as the Secretary may promulgate), to a 1994 Institution to assist the Institution to conduct agricultural research that addresses high priority concerns of tribal, national, or multistate significance.

''(b) REQUIREMENTS.—Grant applications submitted under this section shall certify that the research to be conducted will be performed under a cooperative agreement with at least 1 other land-grant college or university (exclusive of another 1994 Institution).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002. Amounts appropriated shall remain available until expended.''

LAND GRANT COLLEGES IN AMERICAN SAMOA, NORTHERN MARIANA ISLANDS, AND TRUST TERRITORY OF THE PACIFIC ISLANDS

Pub. L. 96–374, title XIII, §1361(c), (d), Oct. 3, 1980, 94 Stat. 1502, as amended by Pub. L. 99–396, §9(c), Aug. 27, 1986, 100 Stat. 840, provided that:

''(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) in the same manner and to the same extent.

''(d) Nothing in this section [amending section 326a of this title and provisions set out as a note below] shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4) [48 U.S.C. 1431a].''

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

COLLEGE OF THE VIRGIN ISLANDS, COMMUNITY COLLEGE OF AMERICAN SAMOA, COLLEGE OF MICRONESIA, NORTHERN MARIANAS COLLEGE, AND UNIVERSITY OF GUAM; LAND-GRANT STATUS; AUTHORIZATION OF APPROPRIATIONS

Section 506(a), (b) of Pub. L. 92–318, title V, June 23, 1972, 86 Stat. 350, as amended by Pub. L. 96–374, title XIII, §1361(a), Oct. 3, 1980, 94 Stat. 1501; Pub. L. 99–396, §9(a), Aug. 27, 1986, 100 Stat. 840, as amended by Pub. L. 102–247, title III, §305, Feb. 24, 1992, 106 Stat. 39, provided that:

''(a) The College of the Virgin Islands, the Community College of American Samoa, the College of Micronesia[,] the Northern Marianas College, and the University of Guam shall be considered land-grant colleges established for the benefit or agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

''(b) In lieu of extending to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges or the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam and an equal amount to American Samoa, Micronesia, and to the Northern Mariana Islands. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip.''

EXCHANGE OF LAND IN MISSOURI

Pub. L. 85–282, Sept. 4, 1957, 71 Stat. 607, provided: ''That, notwithstanding the provisions of the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts', approved July 2, 1862 (7 U.S.C. secs. 301–308), the State of Missouri is authorized to convey to the United States all right, title, and interest of such State in and to any land granted to such State under authority of such Act of July 2, 1862, which is located within the exterior boundaries of the national forests situated within such State, and, in exchange therefor, the Secretary of Agriculture is authorized to convey to the State of Missouri all right, title, and interest of the United States in and to not to exceed an equal value of national forest lands (as determined by the Secretary) situated within such State.

''SEC. 2. Any exchange authorized by the first section of this Act shall be made in accordance with the applicable provisions of section 7 of the Act of March 1, 1911, commonly referred to as the Weeks Law (16 U.S.C., sec. 516), and the applicable provisions of the Act entitled 'An Act to consolidate national forest lands', approved March 20, 1922 (16 U.S.C., secs. 485 and 486).

''SEC. 3. Any land conveyed to the State of Missouri under authority of this Act shall, upon acceptance of such conveyance by such State, be held and considered to be granted to such State subject to the provisions of the Act of July 2, 1862, referred to in the first section of this Act.''

COOPERATION IN PLACEMENT OF DOMESTIC FARM LABOR

Section 2(b) of act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided: ''The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295).''

ADMISSION OF ALASKA AS STATE; GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions as being in lieu of grant of acreage under sections 301 to 305, 307, 308 of this title (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Agricultural extension work appropriation, see sections 341 to 343, 344 to 346, and 348 of this title.

College-aid annual appropriation, see sections 321 to 326 and 328 of this title.

Research and study grants to land-grant colleges for farm housing research, see note set out under section 1476 of Title 42, The Public Health and Welfare.

Water resources research and technology institutes, establishment at colleges or universities founded in accordance with this subchapter, see section 10303(a) of Title 42.

§ 302. Method of apportionment and selection; issuance of land scrip

The land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and whenever there are public lands in a State subject to sale at private entry at $1.25 per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State, and the Secretary of the Interior is directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at $1.25 per acre, to which said State may be entitled under the provisions of

this subchapter, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in said sections, and for no other use or purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at $1.25, or less, per acre: *And provided further*, That not more than one million acres shall be located by such assignees in any one of the States: *And provided further*, That no such location shall be made before July 2, 1863.

(July 2, 1862, ch. 130, § 2, 12 Stat. 503.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 303. Management expenses paid by State

All the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes in sections 304, 305, 307 and 308 of this title mentioned.

(July 2, 1862, ch. 130, § 3, 12 Stat. 504.)

§ 304. Investment of proceeds of sale of land or scrip

All moneys derived from the sale of lands as provided in section 302 of this title by the States to which lands are apportioned and from the sales of land scrip provided for in said section shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds, in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided*, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 305 of this title), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this subchapter, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(July 2, 1862, ch. 130, § 4, 12 Stat. 504; Mar. 3, 1883, ch. 102, 22 Stat. 484; Apr. 13, 1926, ch. 130, 44 Stat. 247.)

AMENDMENTS

1926—Act Apr. 13, 1926, substituted ''bonds'' for ''stocks'' and ''a fair and reasonable rate of return, to be fixed by the State Legislatures'' for ''not less than 5 per centum upon the amount so invested'', before proviso.

1883—Act Mar. 3, 1883, inserted ''or the same may be invested by the States having no State stocks, in any other manner after the legislatures of such States shall have assented thereto, and engaged that such funds shall'' after ''other safe stocks'' and substituted ''yield'' for ''yielding'', ''principal'' for ''capital'' and ''unimpaired'' for ''undiminished''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Conditions of grant

The grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions contained in said sections, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by section 304 of this title, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in section 304 of this title, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this subchapter, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this subchapter shall provide, within five years from the time of its acceptance as provided in subdivision seven of this section, at least not less than one college, as described in section 304 of this title, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail, by each, to all the other colleges which may be endowed under the provisions of this subchapter, and also one copy to the Secretary of the Interior.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they

shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Sixth. No State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefit of the provisions of this subchapter.

Seventh. No State shall be entitled to the benefits of the provisions of this subchapter unless it shall express its acceptance thereof by its legislature within three years from July 23, 1866: *Provided*, That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the provisions of said sections, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as heretofore prescribed in this chapter.

(July 2, 1862, ch. 130, § 5, 12 Stat. 504; July 23, 1866, ch. 209, 14 Stat. 208; Mar. 3, 1873, ch. 231, § 3, 17 Stat. 559.)

REPEALS

Subd. fourth was repealed in part by act March 3, 1873, which provided in part: ''That all laws and parts of laws permitting the transmission by mail of any free matter whatever be, and the same are hereby, repealed from and after June thirtieth, eighteen hundred and seventy-three.''

Subd. seventh formerly contained a proviso which read as follows: ''*Provided further*, That any State which has prior to July 23, 1866, expressed its acceptance of the foregoing provisions of this chapter shall have the period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing said college, according to the act of July second, eighteen hundred and sixty-two shall have expired.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 304 of this title.

§ 306. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section, act July 2, 1862, ch. 130, § 6, 12 Stat. 505, related to time of location of land scrip.

§ 307. Fees for locating land scrip

The land officers shall receive the same fees for locating land scrip issued under the provisions of this subchapter as was on July 2, 1862, allowed for the location of military bounty land warrants under laws existing at that time: *Provided*, That their maximum compensation shall not be thereby increased.

(July 2, 1862, ch. 130, § 7, 12 Stat. 505.)

§ 308. Reports by State governors of sale of scrip

The governors of the several States to which scrip shall be issued under the provisions of this subchapter shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(July 2, 1862, ch. 130, § 8, 12 Stat. 505.)

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 331, 341, 343, 450i, 1358c, 1926, 2204c, 2206a, 2662, 2663, 2664, 3103, 3123, 3124a, 3221, 3222, 3222b, 3222c, 3222d, 3223, 3703, 7601 of this title; title 16 sections 551c, 1672, 1673; title 20 section 3441; title 22 section 2220a; title 42 section 1788.

§ 321. Secretary of Agriculture to administer annual college-aid appropriation

The Secretary of Agriculture is charged with the proper administration of this subchapter.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. 1, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, § 301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97–98, title XIV, § 1419, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 326 of this title.

SHORT TITLE

Act Aug. 30, 1890, as amended, which is classified to this subchapter, is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act''.

TRANSFER OF FUNCTIONS

Functions and duties of Secretary of Education under this subchapter transferred to Secretary of Agriculture by section 1419 of Pub. L. 97–98.

Functions of Secretary of Health, Education, and Welfare under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96–88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of 1953 Reorg. Plan No. 1.

Prior to July 1, 1939, functions of Secretary of the Interior under this subchapter were carried out through Office of Education of Department of the Interior. Office of Education and its functions transferred to Federal Security Administrator by section 204 of 1939 Reorg. Plan No. 1, set out in the Appendix to Title 5.

RECLAMATION FUND

Moneys received from the sale and disposal of public lands in certain States and Territories were appropriated to a ''reclamation fund'', for the reclamation of arid and semi-arid lands, by the Reclamation Act of June 17, 1902, ch. 1093, § 1, 32 Stat. 388, and, by a proviso annexed to that section, in case the receipts from the sale and disposal of other public lands are insufficient to meet the requirements for the support of agricultural colleges under this act, the sum necessary is to be provided from any moneys in the Treasury not otherwise appropriated. See section 391 et seq. of Title 43, Public Lands.

CROSS REFERENCES

Additional aid for agricultural college extension work, see sections 341 to 343, 344 to 346, and 347a to 349 of this title.

College land-aid appropriation, see sections 301 to 305, 307, and 308 of this title.

§ 322. Annual appropriation

There is annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as provided in section 324 of this title, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts established in accordance with the provisions of subchapter I of this chapter, $50,000 to be applied only to instruction in food and agricultural sciences, and to the facilities for such instruction: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of food and agricultural sciences.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; Mar. 4, 1907, ch. 2907, 34 Stat. 1281, 1282; Pub. L. 97–98, title XIV, §1421, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section is based on a part of section 1 of act Aug. 30, 1890, and the tenth and eleventh pars. under the heading ''Emergency Appropriations'' of act Mar. 4, 1907. Remainder of section 1 of act Aug. 30, 1890, is classified to section 323 of this title.

AMENDMENTS

1981—Pub. L. 97–98 substituted ''food and agricultural sciences'' for ''agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life'' and ''the elements of food and agricultural sciences'' for ''the elements of agriculture and the mechanic arts''.

1907—Act Mar. 4, 1907, substituted ''$50,000'' for ''$25,000'', and inserted proviso.

EFFECTIVE DATE OF 1981 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

AVAILABILITY OF FUNDS FOR PAYMENTS UNDER THIS SUBCHAPTER

Pub. L. 103–330, title VII, §724, Sept. 30, 1994, 108 Stat. 2469, provided that: ''No funds shall be available in fiscal year 1995 and thereafter for payments under the Act of August 30, 1890 and the tenth and eleventh paragraphs under the heading 'Emergency Appropriations' of the Act of March 4, 1907 (7 U.S.C. 321 et seq.).''

CROSS REFERENCES

Additional appropriation for agricultural colleges, see section 329 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 326a of this title; title 16 section 4741.

§ 323. Racial discrimination by colleges restricted

No money shall be paid out under this subchapter to any State or Territory for the support or maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said sections if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of subchapter I of this chapter, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890, aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under said subchapter I, the legislature of such State may propose and report to the Secretary of Agriculture a just and equitable division of the fund to be received under this subchapter between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of said sections and subject to their provisions, as much as it would have been if it had been included under subchapter I of this chapter, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; 1939 Reorg. Plan No. 1, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, §301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97–98, title XIV, §1419, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 1 of act Aug. 30, 1890. Remainder of section 1 is classified to section 322 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

§ 324. Time, manner, etc., of annual payments

The sums appropriated by this subchapter to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the 31st day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Agriculture, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture, on or before the 1st day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this subchapter are

made subject to the legislative assent of the several States and Territories to the purpose of said grants.

(Aug. 30, 1890, ch. 841, § 2, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 94–273, § 9(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 96–88, title III, § 301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97–98, title XIV, § 1419, Dec. 22, 1981, 95 Stat. 1306.)

AMENDMENTS

1976—Pub. L. 94–273 substituted ''October'' for ''July'' and ''December'' for ''September''.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96–88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

§ 325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges

If any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this subchapter, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their cost and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this subchapter.

(Aug. 30, 1890, ch. 841, § 3, 26 Stat. 418; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, § 301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97–98, title XIV, § 1419, Dec. 22, 1981, 95 Stat. 1306.)

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96–88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

CROSS REFERENCES

Misapplication of funds received for support and maintenance of cooperative agricultural extension work, see section 345 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Penalty mail service, reimbursement for, see section 3206 of Title 39.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3202.

§ 326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress

On or before the 1st day of October in each year, the Secretary of Agriculture shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this subchapter, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Agriculture shall withhold a certificate from any State or Territory of its appropriation the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid it shall be covered into the Treasury.

(Aug. 30, 1890, ch. 841, § 4, 26 Stat. 419; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 94–273, § 3(1), Apr. 21, 1976, 90 Stat. 376; Pub. L. 96–88, title III, § 301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97–97, title XIV, § 1419, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 321 of this title.

AMENDMENTS

1976—Pub. L. 94–273 substituted ''October'' for ''July''.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96–88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

§ 326a. Annual appropriations for Puerto Rico, Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau

There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau the amount they would be entitled to receive under this subchapter if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 322 of this title.

(Aug. 30, 1890, ch. 841, § 5, as added Pub. L. 92–318, title V, § 506(c), June 23, 1972, 86 Stat. 350; amended Pub. L. 96–374, title XIII, § 1361(b), Oct. 3, 1980, 94 Stat. 1502; Pub. L. 99–396, § 9(b), Aug. 27, 1986, 100 Stat. 840; Pub. L. 100–339, § 2, June 17, 1988, 102 Stat. 620; Pub. L. 103–382, title III, § 352, Oct. 20, 1994, 108 Stat. 3966.)

CODIFICATION

''Appropriated by section 322 of this title'' substituted in text for ''appropriated by the first sentence of section 1''. The first sentence of section 1 of act Aug. 30, 1890, is classified to sections 322 and 323 of this title, but section 322 only contains the appropriation provision.

AMENDMENTS

1994—Pub. L. 103–382 substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau'' for ''and the Trust Territory of the Pacific Islands or its successor governments''.

1988—Pub. L. 100–339 amended section generally. Prior to amendment, section read as follows: ''There is authorized to be appropriated annually for payment to the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) the amount they would receive under this subchapter if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by section 322 of this title.''

1986—Pub. L. 99–396 substituted ''Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)'' for ''and Micronesia, and Guam''.

1980—Pub. L. 96–374 inserted references to American Samoa and Micronesia.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3 of Pub. L. 100–339 provided that: ''This Act [amending this section] shall take effect on October 1, 1987.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE

Section 506(n) of Pub. L. 92–318 provided that: ''The amendments made by this section [enacting this section, amending sections 329, 331, 343, 349, 361a, 361c, and 1626 of this title and sections 582a–3 and 582a–7 of Title 16, and enacting provisions set out as notes under this section and section 301 of this title] shall be effective after June 30, 1970.''

STATE CONSENT

Section 506(m) of Pub. L. 92–318 provided that: ''With respect to the Virgin Islands and Guam, the enactment of this section [see Effective Date note above] shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section.''

§ 327. Repealed. May 29, 1928, ch. 901, § 1(74), 45 Stat. 991

Section, act Aug. 30, 1890, ch. 841, § 5, 26 Stat. 419, related to reports by Secretary of the Interior of disbursements and certificates withheld.

§ 328. Power to amend, repeal, etc., reserved

Congress may at any time amend, suspend, or repeal any or all of the provisions of this subchapter.

(Aug. 30, 1890, ch. 841, § 6, 26 Stat. 419.)

§ 329. Additional appropriation for agricultural colleges

In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands entitled to the benefits of this subchapter and subchapter I of this title, there are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) for the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,250,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $4,380,000.

The sums appropriated in pursuance of paragraph (a) of this section shall be paid annually to the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in equal shares. The sums appropriated in pursuance of paragraph (b) of this section shall be in addition to sums appropriated in pursuance of paragraph (a) of this section and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in the proportion to which the total population of each State, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands bears to the total population of all the States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under this subchapter and subchapter I of this title, and shall be applied only for the purposes of the colleges defined in such subchapters. The provisions of law applicable to the use and payment of sums under this subchapter shall apply to the use and payment of sums appropriated in pursuance of this section.

(June 29, 1935, ch. 338, title II, § 22, 49 Stat. 439; June 12, 1952, ch. 419, §§ 1–4, 66 Stat. 135, 136; Pub.

L. 86–658, July 14, 1960, 74 Stat. 525; Pub. L. 89–791, title I, §108(a), Nov. 7, 1966, as added Pub. L. 90–354, §1, June 20, 1968, 82 Stat. 241; Pub. L. 92–318, title V, §506(d), June 23, 1972, 86 Stat. 350; Pub. L. 99–396, §9(d), Aug. 27, 1986, 100 Stat. 840.)

REFERENCES IN TEXT

The words ''date of enactment of this Act'' appear in par. (a) of section 22 of act June 29, 1935, which was approved on June 29, 1935, and also in pars. (a) and (b) of section 22 of act June 29, 1935, as amended by Pub. L. 86–658, which was approved on July 14, 1960.

CODIFICATION

Section was not enacted as part of the act Aug. 30, 1890, which comprises this subchapter.

Section was formerly classified to section 343d of this title.

AMENDMENTS

1986—Pub. L. 99–396 substituted ''Guam, and the Northern Mariana Islands'' for ''and Guam'' in five places, ''$8,250,000'' for ''$8,100,000'', and ''$4,380,000'' for ''$4,360,000''.

1972—Pub. L. 92–318 inserted references to Virgin Islands and Guam, and substituted ''$8,100,000'' and ''$4,360,000'' for ''$7,800,000'' and ''$4,320,000'', respectively.

1968—Pub. L. 89–791, as added by Pub. L. 90–354, increased authorization for annual appropriations for Federal grants to States for support of resident teaching in land-grant colleges and universities from an authorization of $7,650,000 to $7,800,000, allocated equally among the States, and from an authorization of $4,300,000, allotted on basis of relative State population, to $4,320,000.

1960—Pub. L. 86–658 increased authorization for annual appropriations for Federal grants to States for support of resident teaching in land-grant colleges and universities from an authorization of $1,000,000, allocated equally among the States, to $7,650,000, and from an authorization of $1,501,500, allotted on basis of relative State population, to $4,300,000, struck out references to Territories of Alaska and Hawaii as now included in term ''States'' and included Puerto Rico in provisions of section.

1952—Opening par. Act June 12, 1952, §1, made section applicable to Alaska.

Par. (a). Act June 12, 1952, §2, increased allotment from $980,000 to $1,000,000.

Par. (b). Act June 12, 1952, §§3, 4, increased additional allotment of $1,500,000 to $1,501,500, and made said par. applicable to Alaska.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 5 of act June 12, 1952, provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the first fiscal year beginning on or after the date of enactment of this Act [June 12, 1952].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3124a, 3152 of this title.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees

Pursuant to the recognized obligations of governments to guarantee the social security of their employees and in order to provide for the retirement on an annuity, or otherwise, of all persons being paid salaries in whole or in part from grants of Federal funds to the several States, Puerto Rico, the Virgin Islands, and Guam pursuant to the terms of the Act approved July 2, 1862, for the endowment and support of colleges of agriculture and mechanic arts [7 U.S.C. 301 et seq.], and Acts supplementary thereto providing for instruction in agriculture and mechanic arts, for the establishment of agricultural experiment stations, and for cooperative extension work in agriculture and home economics, all States, Puerto Rico, the Virgin Islands, and Guam are after March 4, 1940, authorized, notwithstanding any contrary provisions in said Acts, to withhold from expenditure, from Federal funds advanced under the terms of said Acts, amounts designated as employer contributions to be made by the States, Puerto Rico, the Virgin Islands, or Guam to retirement systems established in accordance with the laws of such States, Puerto Rico, the Virgin Islands, or Guam, or established by the governing boards of colleges of agriculture and mechanic arts in accordance with the authority vested in them, and to deposit such amounts to the credit of such retirement systems for subsequent disbursement in accordance with the terms of the retirement systems in effect in the respective States, Puerto Rico, the Virgin Islands, and Guam: *Provided*, That there shall not be deducted from Federal funds and deposited to the credit of retirement accounts as employer contributions, amounts in excess of 5 per centum of that portion of the salaries of employees paid from such Federal funds: *Provided further*, That, for the purpose of making deposits and contributions in retirement systems in favor of any employee, in no event shall the deductions from any Federal fund advanced pursuant to the foregoing Acts be in greater proportion to the total deductions for such employee than the salary received under such Federal funds bears to the total salary from Federal sources: *Provided further*, That the deposits and contributions from funds of Federal origin to any retirement system established by a State, Puerto Rico, the Virgin Islands, or Guam or a land-grant college must be at least equaled by the total contributions thereto on the part of the individuals concerned, the State, Puerto Rico, the Virgin Islands, or Guam, and the counties: *And provided further*, That no deductions for the foregoing purposes shall be made from Federal funds in support of employees appointed pursuant to the terms of the foregoing Acts, whose salaries are paid wholly by the States, Puerto Rico, the Virgin Islands, or Guam: *Provided further*, That the provisions of this section shall not apply to any employee paid in whole or in part from Federal funds who may be subject to subchapter III of chapter 83 of title 5.

(Mar. 4, 1940, ch. 38, 54 Stat. 39; Pub. L. 92–318, title V, §506(e), June 23, 1972, 86 Stat. 351.)

REFERENCES IN TEXT

The Act approved July 2, 1862, referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, known as the ''Morrill Act'' and also known as the ''First Morrill Act'', which is classified generally to subchapter I (§301 et seq.) of this chapter. ''Acts supplementary

thereto'' include act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890, and also known as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of this chapter. For complete classification of these Acts to the Code, see Short Title notes set out under sections 301 and 321 of this title and Tables.

CODIFICATION

''Subchapter III of chapter 83 of title 5'' substituted in text for ''United States Civil Service Retirement Act, as amended'' on authority of Pub. L. 89–544, § 7(b), Sept. 6, 1966, 80 Stat. 631, 632, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Pub. L. 92–318 substituted '', Puerto Rico, the Virgin Islands, and Guam'' and '', Puerto Rico, the Virgin Islands, or Guam'' for ''and Territories'' and ''or Territories'', respectively, wherever appearing and inserted in third proviso reference to Puerto Rico, Virgin Islands, and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361d, 3195, 3221, 3222 of this title.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 418, 1358b, 3103, 3124a, 3221, 7672 of this title; title 39 section 3202; title 40 section 483.

§ 341. Cooperative extension work by colleges

In order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture, uses of solar energy with respect to agriculture, home economics, and rural energy, and to encourage the application of the same, there may be continued or inaugurated in connection with the college or colleges in each State, Territory, or possession, now receiving, or which may hereafter receive, the benefits of subchapters I and II of this chapter, agricultural extension work which shall be carried on in cooperation with the United States Department of Agriculture: *Provided*, That in any State, Territory, or possession in which two or more such colleges have been or hereafter may be established, the appropriations hereinafter made to such State, Territory, or possession shall be administered by such college or colleges as the legislature of such State, Territory, or possession may direct. For the purposes of this subchapter, the term ''solar energy'' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear[1] Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(May 8, 1914, ch. 79, § 1, 38 Stat. 372; June 26, 1953, ch. 157, § 1, 67 Stat. 83; Pub. L. 95–113, title XIV, § 1447(1), (2), Sept. 29, 1977, 91 Stat. 1011; Pub. L. 96–294, title II, § 256(1), June 30, 1980, 94 Stat. 708.)

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

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

CODIFICATION

Another section 1447 of Pub. L. 95–113 is classified to section 3222b of this title.

AMENDMENTS

1980—Pub. L. 96–294 inserted reference to rural energy.

1977—Pub. L. 95–113 inserted reference to the uses of solar energy with respect to agriculture and inserted definition of ''solar energy''.

1953—Act June 26, 1953, inserted ''continued or'' before ''inaugurated'' near beginning of section, inserted references to ''territory, or possession'' after ''State,'' wherever the latter term appeared, and struck out a second proviso which continued farm management work and farmers' cooperative demonstration work as conducted May 8, 1914, pending inauguration and development of cooperative extension work under sections 341–343 and 344–348 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SHORT TITLE

Act May 8, 1914, ch. 79, § 11, as added by Pub. L. 105–185, § 3(a), June 23, 1998, 112 Stat. 525, provided that: ''This Act [enacting this subchapter] may be cited as the 'Smith-Lever Act'.''

Act May 8, 1914, as amended, is also popularly known as the ''Agricultural Extension Work Act''.

TRANSFER OF FUNCTIONS

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

DONATION OF SURPLUS PROPERTY TO STATE AGRICULTURAL EXTENSION AGENCIES

Transfer of office equipment, materials, books and other supplies to State or county agencies engaged in cooperative agricultural extension work, see note set out under section 484 of Title 40, Public Buildings, Property, and Works.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 8852.

§ 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture

Cooperative agricultural extension work shall consist of the development of practical applications of research knowledge and giving of instruction and practical demonstrations of existing or improved practices or technologies in agriculture, uses of solar energy with respect to agriculture, home economics, and rural energy

and subjects relating thereto to persons not attending or resident in said colleges in the several communities, and imparting information on said subjects through demonstrations, publications, and otherwise and for the necessary printing and distribution of information in connection with the foregoing; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State agricultural college or colleges or Territory or possession receiving the benefits of this subchapter.

(May 8, 1914, ch. 79, § 2, 38 Stat. 373; June 26, 1953, ch. 157, § 1, 67 Stat. 84; Pub. L. 87–749, § 1(a), Oct. 5, 1962, 76 Stat. 745; Pub. L. 95–113, title XIV, § 1447(3), Sept. 29, 1977, 91 Stat. 1011; Pub. L. 96–294, title II, § 256(2), June 30, 1980, 94 Stat. 708; Pub. L. 99–198, title XIV, § 1435(a), Dec. 23, 1985, 99 Stat. 1557.)

CODIFICATION

Another section 1447 of Pub. L. 95–113 is classified to section 3222b of this title.

AMENDMENTS

1985—Pub. L. 99–198 substituted ''shall consist of the development of practical applications of research knowledge and giving of instruction and practical demonstrations of existing or improved practices or technologies'' for ''shall consist of the giving of instructions and practical demonstrations''.

1980—Pub. L. 96–294 inserted reference to rural energy.

1977—Pub. L. 95–113 inserted reference to uses of solar energy with respect to agriculture.

1962—Pub. L. 87–749 inserted ''or Territory or possession'' after ''college or colleges''.

1953—Act June 26, 1953, inserted ''and subjects relating thereto'' after ''agriculture and home economics'' near beginning of section, and inserted reference to necessary printing and distribution of information.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Oct. 1, 1985, see section 1435(d) of Pub. L. 99–198, set out as a note under section 343 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

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

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 347a of this title; title 42 section 8852.

§ 343. Appropriations; distribution; allotment and apportionment; Secretary of Agriculture; matching funds; cooperative extension activities

(a) There are authorized to be appropriated for the purposes of this subchapter such sums as Congress may from time to time determine to be necessary.

(b)(1) Out of such sums, each State and the Secretary of Agriculture shall be entitled to receive annually a sum of money equal to the sums available from Federal cooperative extension funds for the fiscal year 1962, and subject to the same requirements as to furnishing of equivalent sums by the State, except that amounts heretofore made available to the Secretary for allotment on the basis of special needs shall continue available for use on the same basis.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands, Guam, and the Northern Mariana Islands, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this subchapter, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this subchapter.

(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 342 of this title. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to 1994 Institutions (in accordance with regulations that the Secretary may promulgate) and may be administered by the 1994 Institutions through cooperative agreements with colleges and universities eligible to receive funds under subchapters I and II of this chapter, including Tuskegee University, located in any State.

(c) Any sums made available by the Congress for further development of cooperative extension work in addition to those referred to in subsection (b) of this section shall be distributed as follows:

(1) Four per centum of the sum so appropriated for each fiscal year shall be allotted to the Secretary of Agriculture for administrative, technical, and other services, and for coordinating the extension work of the Department and the several States, Territories, and possessions.

(2) Of the remainder so appropriated for each fiscal year 20 per centum shall be paid to the several States in equal proportions, 40 per centum shall be paid to the several States in the proportion that the rural population of each bears to the total rural population of the several States as determined by the census, and the balance shall be paid to the several States in the proportion that the farm population of each bears to the total farm population of the several States as determined by the census. Any appropriation made hereunder shall be allotted in the first and succeeding years on the basis of the decennial census current at the time such appropriation is first made, and as to any increase, on the basis of decennial cen-

sus current at the time such increase is first appropriated.

(d) The Secretary of Agriculture shall receive such additional amounts as Congress shall determine for administration, technical, and other services and for coordinating the extension work of the Department and the several States, Territories, and possessions. A college or university eligible to receive funds under subchapter II of this chapter, including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—

(1) amounts made available under this subsection after September 30, 1995, to carry out programs or initiatives for which no funds were made available under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary; and

(2) amounts made available after September 30, 1995, to carry out programs or initiatives funded under this subsection prior to that date that are in excess of the highest amount made available for the programs or initiatives under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary.

(e) MATCHING FUNDS.—

(1) REQUIREMENT.—Except as provided in paragraph (4) and subsection (f) of this section, no allotment shall be made to a State under subsection (b) or (c) of this section, and no payments from the allotment shall be made to a State, in excess of the amount that the State makes available out of non-Federal funds for cooperative extension work.

(2) FAILURE TO PROVIDE MATCHING FUNDS.—If a State fails to comply with the requirement to provide matching funds for a fiscal year under paragraph (1), the Secretary of Agriculture shall withhold from payment to the State for that fiscal year an amount equal to the difference between—

(A) the amount that would be allotted and paid to the State under subsections (b) and (c) of this section (if the full amount of matching funds were provided by the State); and

(B) the amount of matching funds actually provided by the State.

(3) REAPPORTIONMENT.—

(A) IN GENERAL.—The Secretary of Agriculture shall reapportion amounts withheld under paragraph (2) for a fiscal year among the States satisfying the matching requirement for that fiscal year.

(B) MATCHING REQUIREMENT.—Any reapportionment of funds under this paragraph shall be subject to the matching requirement specified in paragraph (1).

(4) TERRITORIES.—In lieu of the matching funds requirement of paragraph (1), the Commonwealth of Puerto Rico, the Virgin Islands, and Guam shall be subject to the same matching funds requirements as those applicable to an eligible institution under section 3222d of this title.

(f) MATCHING FUNDS EXCEPTION FOR 1994 INSTITUTIONS.—There shall be no matching requirement for funds made available to a 1994 Institution pursuant to subsection (b)(3) of this section.

(g)(1) The Secretary of Agriculture may conduct educational, instructional, demonstration, and publication distribution programs and enter into cooperative agreements with private nonprofit and profit organizations and individuals to share the cost of such programs through contributions from private sources as provided in this subsection.

(2) The Secretary may receive contributions under this subsection from private sources for the purposes described in paragraph (1) and provide matching funds in an amount not greater than 50 percent of such contributions.

(h) MULTISTATE COOPERATIVE EXTENSION ACTIVITIES.—

(1) IN GENERAL.—Not less than the applicable percentage specified under paragraph (2) of the amounts that are paid to a State under subsections (b) and (c) of this section during a fiscal year shall be expended by States for cooperative extension activities in which 2 or more States cooperate to solve problems that concern more than 1 State (referred to in this subsection as ''multistate activities'').

(2) APPLICABLE PERCENTAGES.—

(A) 1997 EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that were paid to each State for fiscal year 1997 under subsections (b) and (c) of this section, the Secretary of Agriculture shall determine the percentage that the State expended for multistate activities.

(B) REQUIRED EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that are paid to each State for fiscal year 2000 and each subsequent fiscal year under subsections (b) and (c) of this section, the State shall expend for the fiscal year for multistate activities a percentage that is at least equal to the lesser of—

(i) 25 percent; or

(ii) twice the percentage for the State determined under subparagraph (A).

(C) REDUCTION BY SECRETARY.—The Secretary may reduce the minimum percentage required to be expended for multistate activities under subparagraph (B) by a State in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

(D) PLAN OF WORK.—The State shall include in the plan of work of the State required under section 344 of this title a description of the manner in which the State will meet the requirements of this paragraph.

(3) APPLICABILITY.—This subsection does not apply to funds provided—

(A) by a State or local government pursuant to a matching requirement;

(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)); or

(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(i) MERIT REVIEW.—

(1) REVIEW REQUIRED.—Effective October 1, 1999, extension activity carried out under subsection (h) of this section shall be subject to merit review.

(2) OTHER REQUIREMENTS.—An extension activity for which merit review is conducted under paragraph (1) shall be considered to have satisfied the requirements for review under section 7613 of this title.

(j) INTEGRATION OF RESEARCH AND EXTENSION.—Section 361c(i) of this title shall apply to amounts made available to carry out this subchapter.

(May 8, 1914, ch. 79, §3, 38 Stat. 373; June 26, 1953, ch. 157, §1, 67 Stat. 84; Pub. L. 87–749, §1(b)–(e), Oct. 5, 1962, 76 Stat. 745; Pub. L. 92–318, title V, §506(g), June 23, 1972, 86 Stat. 351; Pub. L. 95–113, title XIV, §1465, Sept. 29, 1977, 91 Stat. 1018; Pub. L. 99–198, title XIV, §1435(b), Dec. 23, 1985, 99 Stat. 1557; Pub. L. 99–396, §9(e), Aug. 27, 1986, 100 Stat. 840; Pub. L. 103–382, title V, §534(b), Oct. 20, 1994, 108 Stat. 4050; Pub. L. 104–127, title VIII, §883(a), Apr. 4, 1996, 110 Stat. 1176; Pub. L. 105–185, title I, §105, title II, §§201, 203(b), (c)(2), 204(b), June 23, 1998, 112 Stat. 529, 531, 534, 536; Pub. L. 105–277, div. A, §101(a) [title VII, §753(e)], Oct. 21, 1998, 112 Stat. 2681, 2681–33.)

REFERENCES IN TEXT

Section 532 of the Equity in Educational Land-Grant Status Act of 1994, referred to in subsec. (b)(3), is section 532 of Pub. L. 103–382, which is set out as a note under section 301 of this title.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–185, §203(c)(2)(A), substituted ''Secretary of Agriculture'' for ''Federal Extension Service''.

Subsec. (b)(3). Pub. L. 105–185, §201, substituted ''1994 Institutions (in accordance with regulations that the Secretary may promulgate) and may be administered by the 1994 Institutions through cooperative agreements with colleges and universities eligible to receive funds under subchapters I and II of this chapter, including Tuskegee University, located in any State.'' for ''State institutions established in accordance with the provisions of subchapter I of this chapter (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.''

Subsec. (c)(1). Pub. L. 105–185, §203(b)(1)(A), (c)(2)(A), redesignated par. 1 as (1) and substituted ''Secretary of Agriculture'' for ''Federal Extension Service''.

Subsec. (c)(2). Pub. L. 105–185, §203(b)(1), redesignated par. 2 as (2) and substituted ''census. Any'' for ''census: *Provided*, That payments out of the additional appropriations for further development of extension work authorized herein may be made subject to the making available of such sums of public funds by the States from non-Federal funds for the maintenance of cooperative agricultural extension work provided for in this subchapter, as may be provided by the Congress at the time such additional appropriations are made: *Provided further*, That any''.

Subsec. (d). Pub. L. 105–185, §203(c)(2)(A), substituted ''Secretary of Agriculture'' for ''Federal Extension Service''.

Subsec. (e). Pub. L. 105–185, §203(b)(2), added subsec. (e) and struck out former subsec. (e) which read as follows: ''Insofar as the provisions of subsections (b) and (c) of this section, which require or permit Congress to require matching of Federal funds, apply to the Virgin Islands of the United States and Guam, such provisions shall be deemed to have been satisfied, for the fiscal years ending September 30, 1978, and September 30, 1979, only, if the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in such years equal the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in the fiscal year ending September 30, 1977.''

Subsec. (e)(1). Pub. L. 105–277, §101(a) [title VII, §753(e)(1)], inserted ''paragraph (4) and'' after ''provided in''.

Subsec. (e)(4). Pub. L. 105–277, §101(a) [title VII, §753(e)(2)], added par. (4).

Subsec. (f). Pub. L. 105–185, §203(b)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: ''There shall be no matching requirement for funds made available pursuant to subsection (b)(3) of this section.''

Subsec. (g)(1). Pub. L. 105–185, §203(c)(2)(B), struck out ''through the Federal Extension Service'' after ''distribution programs''.

Subsecs. (h), (i). Pub. L. 105–185, §105, added subsecs. (h) and (i).

Subsec. (j). Pub. L. 105–185, §204(b), added subsec. (j).

1996—Subsec. (d). Pub. L. 104–127 inserted at end ''A college or university eligible to receive funds under subchapter II of this chapter, including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—'' and added pars. (1) and (2).

1994—Subsec. (b)(3). Pub. L. 103–382, §534(b)(1), added par. (3).

Subsecs. (f), (g). Pub. L. 103–382, §534(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsec. (b)(2). Pub. L. 99–396 substituted ''Guam, and the Northern Mariana Islands'' for ''and Guam'' in provision authorizing an appropriation each fiscal year for the payment of $100,000 in addition to the sums appropriated for the States and Puerto Rico.

1985—Subsec. (f). Pub. L. 99–198 added subsec. (f).

1977—Subsec. (e). Pub. L. 95–113 added subsec. (e).

1972—Subsec. (b). Pub. L. 92–318 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (b). Pub. L. 87–749, §1(b), substituted ''sums available'' for ''sums received'', and ''1962'' for ''1953'', and struck out '', Alaska, Hawaii, Puerto Rico,'' before ''and the Federal Extension Service'', ''such sums shall be'' before ''subject to the same requirement'', '', Alaska, Hawaii, and Puerto Rico as existed immediately prior to June 26, 1953'' before ''except that amounts heretofore'', and proviso which authorized Puerto Rico to receive the total initial amount set by Act Oct. 26, 1949, which amount was to be increased yearly until the total sum equalled the maximum amount set by such Act, and to receive such amount annually thereafter.

Subsec. (c)1. Pub. L. 87–749, §1(c), provided that the allotment shall be to the Federal Extension Service for various services and for coordinating the extension work of the Department, States, Territories and Possessions, and struck out provisions which required the Secretary to allot the funds among the States, Alaska, Hawaii, and Puerto Rico according to special needs.

Subsec. (c)2. Pub. L. 87–749, §1(d), substituted provisions authorizing 20 per centum of the remainder of the appropriated funds to be paid to the States in equal proportions, 40 per centum of such funds to be paid to the States in the proportion that the rural population of each bears to the total rural population of the States, and the balance to be paid the States in the proportion that the farm population of each bears to the total farm population of the States, for provisions paying 50 per centum of the remaining sum to the States, Alaska, Hawaii and Puerto Rico in the proportion that the rural population of each had to the total rural population of all, and the balance in the proportion that the farm population of each had to the farm population of all, and struck out '', Alaska, Hawaii, and Puerto Rico'' from first proviso.

Subsec. (d). Pub. L. 87–749, §1(e), inserted ''additional'' after ''receive such''.

1953—Act June 26, 1953, amended section generally, and, among other changes: (1) divided section into subsections; (2) substituted general authorization for appropriations for former authorization for specific annual appropriations; (3) inserted references to Alaska,

Hawaii, and Puerto Rico; and (4) substituted provisions relating to allotment and apportionment of appropriations for former provisions for such apportionment on basis of rural population, and farm population, as determined by latest census.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(a) [title VII, § 753(f)], Oct. 21, 1998, 112 Stat. 2681, 2681–33, provided that: ''The amendments made by this section [amending this section, sections 361c, 2204f, 4606, and 7621 of this title, and section 1642 of Title 16, Conservation] shall take effect on the date of enactment of the Agricultural Research, Extension, and Education Reform Act of 1998 [June 23, 1998].''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1435(d) of Pub. L. 99–198 provided that: ''This section and the amendments made by this section [amending this section and section 342 of this title] shall become effective on October 1, 1985.''

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of this title.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 2020, 3175, 3221 of this title.

§§ 343a to 343c–1. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 85, 86

Section 343a, acts May 22, 1928, ch. 687, § 1, 45 Stat. 711; Mar. 10, 1930, ch. 73, 46 Stat. 83, authorized additional annual appropriations of $980,000, and $500,000, further to develop cooperative agricultural extension work under sections 341 to 343, 344 to 346, and 347a to 349 of this title, provided for the disposition of such sums, and extended the system to Hawaii.

Section 343b, act May 22, 1928, ch. 687, § 2, 45 Stat. 712, provided that the sums appropriated under said section 343a should be in addition to sums appropriated under section 343 of this title, or sums otherwise annually appropriated for cooperative agricultural extension work.

Section 343c, acts June 29, 1935, ch. 338, title II, § 21, 49 Stat. 438; June 6, 1945, ch. 175, § 2, 59 Stat. 233, authorized further additional appropriations on an ascending scale until they amounted to $12,000,000 annually, further to develop the cooperative agricultural system inaugurated under sections 341 to 343, 344 to 346, 347a to 349 of this title, and provided for their disposition.

Section 343c–1, acts Apr. 24, 1939, ch. 85, 53 Stat. 589; Sept. 21, 1944, ch. 412, title VII, § 707, 58 Stat. 742, authorized additional appropriations of $555,000 annually, for the purpose of paying the expenses of cooperative extension work in agriculture and home economics, and provided for their disposition.

The provisions that were contained in all of the above repealed sections are covered generally by sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343d. Transferred

CODIFICATION

Section, act June 29, 1935, ch. 338, title II, § 22, 49 Stat. 439, as amended, which related to additional appropriations for agricultural colleges, was transferred to section 329 of this title.

§§ 343d–1 to 343d–5. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Section 343d–1, act June 29, 1935, ch. 338, title II, § 23, as added June 6, 1945, ch. 175, § 1, 59 Stat. 231, authorized further additional appropriations, commencing with the fiscal year ended June 30, 1946 and continuing on an ascending scale until they amounted to $12,500,000 for the fiscal year ended June 30, 1948 and each subsequent fiscal year, further to develop the cooperative agricultural extension system inaugurated under sections 341 to 343, 344 to 346, and 347a to 349 of this title, and provided for their disposition.

Sections 343d–2 and 343d–3, act Oct. 26, 1949, ch. 753, §§ 1, 2, 63 Stat. 926, extended the provisions of former section 343d–1 of this title to Puerto Rico and for such purposes, authorized additional appropriations on an ascending scale until they should amount to $401,090 annually.

Sections 343d–4 and 343d–5, act Oct. 27, 1949, ch. 768, §§ 1, 2, 63 Stat. 939, extended the provisions of former sections 343a, 343b, 343c and 343d–1 of this title to Alaska, and, for such purpose, authorized annual appropriations in amounts to be computed on the same basis as computations of appropriations to States, subject to annual estimates as to funds and amounts by the Secretary of Agriculture.

See, generally, sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 343e. Repealed. Oct. 27, 1949, ch. 768, § 3, 63 Stat. 940

Section, act June 20, 1936, ch. 631, §§ 1, 3, 49 Stat. 1553, 1554, related to extension of benefits of former sections 343a and 343b of this title to Alaska. See notes thereunder.

§§ 343f, 343g. Repealed. June 26, 1953, ch. 157, § 2, 67 Stat. 86

Sections, act Aug. 28, 1937, ch. 878, §§ 1, 2, 50 Stat. 881, extended benefits of former section 343c of this title to Puerto Rico, and for such purpose, authorized appropriations, commencing with initial authorization of $88,000 for the fiscal year beginning after August 28, 1937, and on an ascending scale thereafter, until they amounted to $408,000 annually. See sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 344. Ascertainment of entitlement of State to funds; time and manner of payment; State reporting requirements; plans of work

(a) Ascertainment of entitlement

On or about the first day of October in each year after June 26, 1953, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriation for cooperative agricultural extension work under this subchapter and the amount which it is entitled to receive. Before the funds herein provided shall become available to any college for any fiscal year, plans for the work to be carried on under this subchapter shall be submitted by the proper officials of each college and approved by the Secretary of Agriculture. The Secretary shall ensure that each college seeking to receive funds under this subchapter has in place appropriate guidelines, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds.

(b) Time and manner of payment; related reports

The amount to which a State is entitled shall be paid in equal quarterly payments in or about

July, October, January, and April of each year to the treasurer or other officer of the State duly authorized by the laws of the State to receive the same, and such officer shall be required to report to the Secretary of Agriculture on or about the first day of April of each year, a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary of Agriculture.

(c) Requirements related to plan of work

Each extension plan of work for a State required under subsection (a) of this section shall contain descriptions of the following:

(1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned extension programs and projects targeted to address the issues.

(2) The process established to consult with extension users regarding the identification of critical agricultural issues in the State and the development of extension programs and projects targeted to address the issues.

(3) The efforts made to identify and collaborate with other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional efforts) to work with those other institutions.

(4) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

(5) The education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research results.

(d) Extension protocols

(1) Development

The Secretary of Agriculture shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary extension activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under subsection (a) of this section.

(2) Consultation

The Secretary of Agriculture shall develop the protocols in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 3123 of this title and landgrant colleges and universities.

(e) Treatment of plans of work for other purposes

To the maximum extent practicable, the Secretary shall consider a plan of work submitted under subsection (a) of this section to satisfy other appropriate Federal reporting requirements.

(May 8, 1914, ch. 79, § 4, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Pub. L. 87–749, § 1(f), Oct. 5, 1962, 76 Stat. 745; Pub. L. 94–273, § 15, Apr. 21, 1976, 90 Stat. 379; Pub. L. 101–624, title XVI, § 1617, Nov. 28, 1990, 104 Stat. 3732; Pub. L. 105–185, title II, § 202(a), June 23, 1998, 112 Stat. 531.)

AMENDMENTS

1998—Pub. L. 105–185 inserted section catchline, designated existing provisions as subsecs. (a) and (b), inserted subsec. headings, in subsec. (b) substituted ''The amount to which a State is entitled'' for ''Such sums'', and added subsecs. (c) to (e).

1990—Pub. L. 101–624 inserted after second sentence ''The Secretary shall ensure that each college seeking to receive funds under this subchapter has in place appropriate guidelines, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds.''

1976—Pub. L. 94–273 substituted ''of October'' for ''of July'' and ''of April'' for ''of January''.

1962—Pub. L. 87–749 substituted ''quarterly payments in or about July, October, January, and April'' for ''semiannual payments on the first day of January and July'', and struck out '', Territory or possession'' wherever appearing.

1953—Act June 26, 1953, among other changes, inserted first two sentences, inserted references to ''Territory, or possession'' after references to ''State,'' in sentence commencing ''Such sums'', and in such sentence, struck out reference to payment by the Secretary of the Treasury upon warrant of the Secretary of Agriculture, and substituted ''January'' for ''September'' with respect to submission of annual detailed statements.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–185, title II, § 202(c), June 23, 1998, 112 Stat. 533, provided that: ''The amendments made by this section [amending this section and section 361g of this title] take effect on October 1, 1999.''

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 361c of this title.

§ 345. Replacement of diminished, lost or misapplied funds; restrictions on use; reports of colleges

If any portion of the moneys received by the designated officer of any State for the support and maintenance of cooperative agricultural extension work, as provided in this subchapter, shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by said State and until so replaced no subsequent appropriation shall be apportioned or paid to said State. No portion of said moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college-course teaching, lectures in college, or any other purpose not specified in this subchapter. It shall be the duty of said colleges, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed

report of its operations in extension work as defined in this subchapter, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary of Agriculture.

(May 8, 1914, ch. 79, § 5, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Pub. L. 87–749, § 1(g), Oct. 5, 1962, 76 Stat. 745.)

AMENDMENTS

1962—Pub. L. 87–749 struck out references to territories and possessions wherever appearing.

1953—Act June 26, 1953, among other changes, inserted ''Territory, or possession'' after ''State,'' wherever latter term appeared, struck out provision that not more than five per centum of each annual appropriation should be applied to the printing and distribution of publications, and struck out the provision that copies of the required reports should be sent to the Secretary of the Treasury.

CROSS REFERENCES

Misapplication of funds received for endowment of institutions for colored students, see section 325 of this title.

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 346. Repealed. Pub. L. 105–185, title I, § 103(f)(1), June 23, 1998, 112 Stat. 528

Section, acts May 8, 1914, ch. 79, § 6, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; Pub. L. 87–749, § 1(g), Oct. 5, 1962, 76 Stat. 745, related to report of nonentitlement to President, retention of amount involved in Treasury, appeal from determination, and disposition of sum.

§ 347. Repealed. Pub. L. 86–533, § 1(21), June 29, 1960, 74 Stat. 249

Section, acts May 8, 1914, ch. 79, § 7, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85, required Secretary of Agriculture to report to Congress receipts, expenditures, and results of cooperative agriculture extension work in all States, Territories, or possessions receiving benefits of sections 341 to 343, 344 to 346, and 347a to 349 of this title.

§ 347a. Disadvantaged agricultural areas

(a) Congressional findings

The Congress finds that there exists special circumstances in certain agricultural areas which cause such areas to be at a disadvantage insofar as agricultural development is concerned, which circumstances include the following: (1) There is concentration of farm families on farms either too small or too unproductive or both; (2) such farm operators because of limited productivity are unable to make adjustments and investments required to establish profitable operations; (3) the productive capacity of the existing farm unit does not permit profitable employment of available labor; (4) because of limited resources, many of these farm families are not able to make full use of current extension programs designed for families operating economic units nor are extension facilities adequate to provide the assistance needed to produce desirable results.

(b) Appropriation

In order to further the purposes of section 342 of this title in such areas and to encourage complementary development essential to the welfare of such areas, there are authorized to be appropriated such sums as the Congress from time to time shall determine to be necessary for payments to the States on the basis of special needs in such areas as determined by the Secretary of Agriculture.

(c) Assistance

In determining that the area has such special need, the Secretary shall find that it has a substantial number of disadvantaged farms or farm families for one or more of the reasons heretofore enumerated. The Secretary shall make provisions for the assistance to be extended to include one or more of the following: (1) Intensive on-the-farm educational assistance to the farm family in appraising and resolving its problems; (2) assistance and counseling to local groups in appraising resources for capability of improvement in agriculture or introduction of industry designed to supplement farm income; (3) cooperation with other agencies and groups in furnishing all possible information as to existing employment opportunities, particularly to farm families having under-employed workers; and (4) in cases where the farm family, after analysis of its opportunities and existing resources, finds it advisable to seek a new farming venture, the providing of information, advice, and counsel in connection with making such change.

(d) Allocation of funds

No more than 10 per centum of the sums available under this section shall be allotted to any one State. The Secretary shall use project proposals and plans of work submitted by the State Extension directors as a basis for determining the allocation of funds appropriated pursuant to this section.

(e) Appropriation as additional; limitation on amount

Sums appropriated pursuant to this section shall be in addition to, and not in substitution for, appropriations otherwise available under this subchapter. The amounts authorized to be appropriated pursuant to this section shall not exceed a sum in any year equal to 10 per centum of sums otherwise appropriated pursuant to this subchapter.

(May 8, 1914, ch. 79, § 8, as added Aug. 11, 1955, ch. 798, § 1(a), 69 Stat. 683; amended Pub. L. 87–749, § 1(h), Oct. 5, 1962, 76 Stat. 745.)

PRIOR PROVISIONS

A prior section 8 of act May 8, 1914, was renumbered section 9 and is classified to section 348 of this title.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–749 struck out '', Alaska, Hawaii, and Puerto Rico'' before ''on the basis of''.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 348. Rules and regulations

The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary for carrying out the provisions of this subchapter.

(May 8, 1914, ch. 79, § 9, formerly § 8, 38 Stat. 374; June 26, 1953, ch. 157, § 1, 67 Stat. 85; renumbered § 9, Aug. 11, 1955, ch. 798, § 1(b), 69 Stat. 684.)

AMENDMENTS

1953—Act June 26, 1953, substituted provisions for rules and regulations for provisions empowering Congress to alter, amend, or repeal sections 341 to 343 and 344 to 348 of this title at any time.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

§ 349. "State" defined

The term ''State'' means the States of the Union, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.

(May 8, 1914, ch. 79, § 10, as added Pub. L. 87–749, § 1(i), Oct. 5, 1962, 76 Stat. 745; amended Pub. L. 92–318, title V, § 506(h), June 23, 1972, 86 Stat. 351; Pub. L. 99–396, § 9(f), Aug. 27, 1986, 100 Stat. 840.)

AMENDMENTS

1986—Pub. L. 99–396 amended section generally, expanding definition of ''State'' to include the Northern Mariana Islands.

1972—Pub. L. 92–318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

CHAPTER 14—AGRICULTURAL EXPERIMENT STATIONS

SUBCHAPTER I—GENERAL PROVISIONS

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SUBCHAPTER I—GENERAL PROVISIONS

ACT REFERRED TO IN OTHER SECTIONS

Sections 361a to 361i, commonly known as the Hatch Act of 1887, are referred to in sections 384, 418, 450i, 3103, 3124a, 3311, 7672 of this title; title 16 section 582a–1; title 40 section 483.

§ 361. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 4, 34 Stat. 64; Feb. 24, 1925, ch. 308, § 4, 43 Stat. 971, provided for the administration of the agricultural experiment station program. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Section 2 of act Aug. 11, 1955, which repealed sections 361, 364, 366, 369, 369a, 371 to 376, 380, 382, 383, 386 to 386f, 427a to 427h, and 427j of this title, provided in part that any rights or liabilities existing under such repealed sections or parts of sections should not be affected by their repeal.

§ 361a. Congressional declaration of purpose; definitions

It is the policy of Congress to continue the agricultural research at State agricultural experiment stations which has been encouraged and supported by the Hatch Act of 1887 [7 U.S.C. 361a et seq.], the Adams Act of 1906, the Purnell Act of 1925, the Bankhead-Jones Act of 1935, and title I, section 9, of that Act as added by the Act of August 14, 1946, and Acts amendatory and supplementary thereto, and to promote the efficiency of such research by a codification and simplification of such laws. As used in this Act [7 U.S.C. 361a et seq.], the terms ''State'' or ''States'' are defined to include the several States (including the District of Columbia), Puerto Rico, Guam and the Virgin Islands. As used in this Act [7 U.S.C. 361a et seq.], the term ''State agricultural experiment station'' means a department which shall have been established, under direction of the college or university or agricultural departments of the college or university in each State in accordance with an Act approved July 2, 1862, (12 Stat. 503), entitled ''An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts'' [7 U.S.C. 301 et seq.]; or such other substantially equivalent arrangements as any State shall determine.

(Mar. 2, 1887, ch. 314, §1, 24 Stat. 440; Aug. 11, 1955, ch. 790, §1, 69 Stat. 671; Pub. L. 92–318, title V, §506(k), June 23, 1972, 86 Stat. 351; Pub. L. 93–471, title II, §208(e), Oct. 26, 1974, 88 Stat. 1429; Pub. L. 105–185, title II, §203(c)(1), June 23, 1998, 112 Stat. 534.)

References in Text

The Hatch Act of 1887, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, which is classified generally to sections 361a to 361i of this title. For complete classification of this act to the Code, see Short Title note set out below, and Tables.

The Adams Act of 1906, referred to in text, is act Mar. 16, 1906, ch. 951, 34 Stat. 63, as amended, which was classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, §2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

The Purnell Act of 1925, referred to in text, is act Feb. 24, 1925, ch. 308, 43 Stat. 970, as amended, which was classified to sections 361, 366, 370, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, §2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

The Bankhead-Jones Act of 1935, referred to in text, is act June 29, 1935, ch. 338, 49 Stat. 436, as amended, which was classified principally to sections 329 and 427 to 427j of this title, and was repealed by act Aug. 11, 1966, ch. 790, §2, 69 Stat. 674, except for sections 1, 10, and 22 of the Act, which are classified to sections 427, 427i, and 329 of this title, respectively. For complete classification of this Act to the Code, see Tables.

Title I, section 9, of that Act, referred to in text, was classified to section 427h of this title prior to repeal.

The Act approved July 2, 1862 (12 Stat. 503), referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the ''Morrill Act'' and also as the ''First Morrill Act'', which is classified generally to subchapter I of chapter 13 (§301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this Act and Tables.

Codification

Section 208 of Pub. L. 93–471, cited as a credit to this section, was renumbered section ''209'' by D.C. Law 1–36, §4, Nov. 1, 1975, 22 DCR 2911.

Section was formerly classified to section 362 of this title.

Amendments

1998—Pub. L. 105–185 struck out ''Alaska, Hawaii,'' before ''Puerto Rico'' in second sentence.

1974—Pub. L. 93–471 defined ''State'' to include the District of Columbia.

1972—Pub. L. 92–318 defined ''State'' to include Guam and the Virgin Islands.

1955—Act Aug. 11, 1955, amended section generally to continue agricultural research at the agricultural experiment stations, to restate the declaration of purpose, and to insert definitions of ''State'' and ''State agricultural experiment station.'' Former provisions which required division of appropriations between colleges of same state are now contained in section 361h of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–471 effective July 1, 1975, unless Pub. L. 93–471 repealed by District of Columbia Council after Jan. 2, 1975, and prior to July 1, 1975; or such amendment by Pub. L. 93–471, as amended by the District Council, also effective July 1, 1975, or some other date prescribed by the Council as authorized under provisions of section 407 of Pub. L. 93–471.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of this title.

Short Title

Act Mar. 2, 1887, ch. 314, §10, as added by Pub. L. 105–185, §3(b), June 23, 1998, 112 Stat. 526, provided that: ''This Act [enacting sections 361a to 361i of this title] may be cited as the 'Hatch Act of 1887'.''

Arlington Estate

Besides the provisions establishing agricultural experiment stations, contained in act Mar. 2, 1887, a portion of the Arlington estate in the State of Virginia was set apart for experimental agricultural purposes by act April 18, 1900, ch. 243, 31 Stat. 135, and provisions for establishing and maintaining a general experimental farm and agricultural station thereon were made by the subsequent agricultural appropriation acts.

Admission of Alaska and Hawaii to Statehood

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

Cross References

Exemption of experiment stations from penalties under Agricultural Adjustment Act of 1938, see section 1372 of this title.

Increased annual appropriations for the endowment and maintenance of agricultural colleges, see sections 321 to 326 and 328 of this title.

Section Referred to in Other Sections

This section is referred to in sections 361c, 361d, 361e, 361g, 361h, 361i, 418, 2664 of this title; title 16 section 582a–1.

§ 361b. Congressional statement of policy; researches, investigations and experiments

It is further the policy of the Congress to promote the efficient production, marketing, distribution, and utilization of products of the farm as essential to the health and welfare of our peoples and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity and security. It is also the intent of Congress to assure agriculture a position in research equal to that of industry, which will aid in maintaining an equitable balance between agriculture and other segments of our economy. It shall be the object and duty of the State agricultural experiment stations through the expenditure of the appropriations hereinafter authorized to conduct original and other researches, investigations, and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry of the United States, including researches basic to the problems of agriculture in its broadest aspects, and such investigations as have for their purpose the development and improvement of the rural home and rural life and the maximum contribution by agriculture to the welfare of the consumer, as may be deemed advisable, having due regard to the varying conditions and needs of the respective States.

(Mar. 2, 1887, ch. 314, § 2, 24 Stat. 440; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 671.)

CODIFICATION

Section was formerly classified to section 363 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to restate the policy of Congress.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 361d of this title.

§ 361c. Authorization of appropriations and allotments of grants

(a) Authorization

There are authorized to be appropriated for the purposes of sections 361a to 361i of this title such sums as Congress may from time to time determine to be necessary.

(b) Allotments to States; authorization of appropriations for Virgin Islands and Guam; limitation

(1) Out of such sums each State shall be entitled to receive annually a sum of money equal to and subject to the same requirement as to use for marketing research projects as the sums received from Federal appropriations for State agricultural experiment stations for the fiscal year 1955, except that amounts heretofore made available from the fund known as the ''Regional research fund, Office of Experiment Stations'' shall continue to be available for the support of cooperative regional projects as defined in subsection (c)(3) of this section, and the said fund shall be designated ''Regional research fund, State agricultural experiment stations,'' and the Secretary of Agriculture shall be entitled to receive annually for the administration of sections 361a to 361i of this title, a sum not less than that available for this purpose for the fiscal year ending June 30, 1955: *Provided*, That if the appropriations hereunder available for distribution in any fiscal year are less than those for the fiscal year 1955 the allotment to each State and the amounts for Federal administration and the regional research fund shall be reduced in proportion to the amount of such reduction.

(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to sections 361a to 361i of this title, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of such sections.

(c) Allotment of additional sums

Any sums made available by the Congress in addition to those provided for in subsection (b) of this section for State agricultural experiment station work shall be distributed as follows:

(1) Twenty per centum shall be allotted equally to each State;

(2) Not less than 52 per centum of such sums shall be allotted to each State, as follows: One-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States as determined by the last preceding decennial census current at the time such additional sum is first appropriated;

(3) Not less than 25 percent shall be allotted to the States for cooperative research employing multidisciplinary approaches in which a State agricultural experiment station, working with another State agricultural experiment station, the Agricultural Research Service, or a college or university, cooperates to solve problems that concern more than 1 State. The funds available under this paragraph, together with the funds available under subsection (b) of this section for a similar purpose, shall be designated as the ''Multistate Research Fund, State Agricultural Experiment Stations''.

(4) Three per centum shall be available to the Secretary of Agriculture for administra-

tion of sections 361a to 361i of this title. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

(d) Matching funds

(1) Requirement

Except as provided in paragraph (4), no allotment shall be made to a State under subsection (b) or (c) of this section, and no payments from the allotment shall be made to a State, in excess of the amount that the State makes available out of non-Federal funds for agricultural research and for the establishment and maintenance of facilities for the performance of the research.

(2) Failure to provide matching funds

If a State fails to comply with the requirement to provide matching funds for a fiscal year under paragraph (1), the Secretary of Agriculture shall withhold from payment to the State for that fiscal year an amount equal to the difference between—

(A) the amount that would be allotted and paid to the State under subsections (b) and (c) of this section (if the full amount of matching funds were provided by the State); and

(B) the amount of matching funds actually provided by the State.

(3) Reapportionment

(A) In general

The Secretary of Agriculture shall reapportion amounts withheld under paragraph (2) for a fiscal year among the States satisfying the matching requirement for that fiscal year.

(B) Matching requirement

Any reapportionment of funds under this paragraph shall be subject to the matching requirement specified in paragraph (1).

(4) Territories

In lieu of the matching funds requirement of paragraph (1), the Commonwealth of Puerto Rico, the Virgin Islands, and Guam shall be subject to the same matching funds requirements as those applicable to an eligible institution under section 3222d of this title.

(e) "Administration" defined

''Administration'' as used in this section shall include participation in planning and coordinating cooperative regional research as defined in subsection (c)(3) of this section.

(f) Adjustment of payments

In making payments to States, the Secretary of Agriculture is authorized to adjust any such payment to the nearest dollar.

(g) Reductions and reapportionments

If in any year the amount made available by a State from its own funds (including any revenue-sharing funds) to a State agricultural experiment station is reduced because of an increase in the allotment made available under sections 361a to 361i of this title, the allotment to the State agricultural experiment station from the appropriation in the next succeeding fiscal year shall be reduced in an equivalent amount. The Secretary shall reapportion the amount of such reduction to other States for use by their agricultural experiment stations.

(h) Peer review and plan of work

(1) Peer review

Research carried out under subsection (c)(3) of this section shall be subject to scientific peer review. The review of a project conducted under this paragraph shall be considered to satisfy the merit review requirements of section 7613(e) of this title.

(2) Plan of work

The State shall include in the plan of work of the State required under section 361g of this title a description of the manner in which the State will meet the requirements of subsection (c)(3) of this section.

(i) Integration of research and extension

(1) In general

Not less than the applicable percentage specified under paragraph (2) of the Federal formula funds that are paid under sections 361a to 361i of this title and subsections (b) and (c) of section 343 of this title to colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.), during a fiscal year shall be expended for activities that integrate cooperative research and extension (referred to in this subsection as ''integrated activities'').

(2) Applicable percentages

(A) 1997 expenditures on multistate activities

Of the Federal formula funds that were paid to each State for fiscal year 1997 under sections 361a to 361i of this title and subsections (b) and (c) of section 343 of this title, the Secretary of Agriculture shall determine the percentage that the State expended for integrated activities.

(B) Required expenditures on multistate activities

Of the Federal formula funds that are paid to each State for fiscal year 2000 and each subsequent fiscal year under sections 361a to 361i of this title and subsections (b) and (c) of section 343 of this title, the State shall expend for the fiscal year for integrated activities a percentage that is at least equal to the lesser of—

(i) 25 percent; or

(ii) twice the percentage for the State determined under subparagraph (A).

(C) Reduction by Secretary

The Secretary of Agriculture may reduce the minimum percentage required to be expended by a State for integrated activities under subparagraph (B) in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

(D) Plan of work

The State shall include in the plan of work of the State required under section 361g of

this title or section 344 of this title, as applicable, a description of the manner in which the State will meet the requirements of this paragraph.

(3) Applicability

This subsection does not apply to funds provided—

(A) by a State or local government pursuant to a matching requirement;

(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)); or

(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) Relationship to other requirements

Federal formula funds described in paragraph (1) that are used by a State for a fiscal year for integrated activities in accordance with paragraph (2)(B) may also be used to satisfy the multistate activities requirements of subsection (c)(3) of this section and section 343(h) of this title for the same fiscal year.

(Mar. 2, 1887, ch. 314, §3, 24 Stat. 441; Aug. 11, 1955, ch. 790, §1, 69 Stat. 671; Pub. L. 92–318, title V, §506(*l*), June 23, 1972, 86 Stat. 351; Pub. L. 95–113, title XIV, §1466, Sept. 29, 1977, 91 Stat. 1018; Pub. L. 97–98, title XIV, §1442(a), Dec. 22, 1981, 95 Stat. 1321; Pub. L. 101–624, title XVI, §1618(a), Nov. 28, 1990, 104 Stat. 3733; Pub. L. 104–127, title VIII, §869, Apr. 4, 1996, 110 Stat. 1175; Pub. L. 105–185, title I, §104, title II, §§203(a), 204(a), June 23, 1998, 112 Stat. 529, 533, 535; Pub. L. 105–277, div. A, §101(a) [title VII, §753(d)], Oct. 21, 1998, 112 Stat. 2681, 2681–33.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (i)(1), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

CODIFICATION

Section is based on first sentence of section 3 of act Mar. 2, 1887, which was formerly classified to section 368 of this title. See section 361g of this title. The second sentence of said section 3 was reenacted in act Feb. 24, 1925, ch. 308, §3, 43 Stat. 971, and was classified to former section 366 of this title which was repealed by act Aug. 11, 1955, ch. 790, §2, 69 Stat. 674.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–185, §104(b)(1), made technical amendment to reference in original act which appears in text as reference to subsection (c)(3) of this section.

Subsec. (c)(1), (2). Pub. L. 105–185, §104(a)(1)(A), redesignated pars. 1 and 2 as (1) and (2), respectively.

Subsec. (c)(3). Pub. L. 105–185, §104(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''Not more than 25 per centum shall be allotted to the States for cooperative research in which two or more State agricultural experiment stations are cooperating to solve problems that concern the agriculture of more than one State. The funds available for such purposes, together with funds available pursuant to subsection (b) of this section for like purpose shall be designated as the 'Regional research fund, State agricultural experiment stations';''.

Pub. L. 105–185, §104(a)(1)(A), redesignated par. 3 as (3).

Subsec. (c)(4), (5). Pub. L. 105–185, §104(a)(1)(A), redesignated par. 5 as (4).

Subsec. (d). Pub. L. 105–185, §203(a), added subsec. (d) and struck out former subsec. (d) which read as follows: ''Of any amount in excess of $90,000 available under sections 361a to 361i of this title for allotment to any State, exclusive of the regional research fund, State agricultural experiment stations, no allotment and no payments thereof shall be made in excess of the amount which the State makes available out of its own funds for research and for the establishment and maintenance of facilities necessary for the prosecution of such research: *And provided further*, That if any State fails to make available for such research purposes for any fiscal year a sum equal to the amount in excess of $90,000 to which it may be entitled for such year, the remainder of such amount shall be withheld by the Secretary of Agriculture and reapportioned among the States.''

Subsec. (d)(1). Pub. L. 105–277, §101(a) [title VII, §753(d)(1)], substituted ''Except as provided in paragraph (4), no'' for ''No''.

Subsec. (d)(4). Pub. L. 105–277, §101(a) [title VII, §753(d)(2)], added par. (4).

Subsec. (e). Pub. L. 105–185, §104(b)(2), substituted ''subsection (c)(3)'' for ''subsection (c)3''.

Subsec. (h). Pub. L. 105–185, §104(a)(2), added subsec. (h).

Subsec. (i). Pub. L. 105–185, §204(a), added subsec. (i).

1996—Subsec. (c)(3). Pub. L. 104–127 struck out '', and shall be used only for such cooperative regional projects as are recommended by a committee of nine persons elected by and representing the directors of the State agricultural experiment stations, and approved by the Secretary of Agriculture. The necessary travel expenses of the committee of nine persons in performance of their duties may be paid from the fund established by this paragraph'' before semicolon at end.

1990—Subsec. (d). Pub. L. 101–624 inserted before period at end ''and reapportioned among the States''.

1981—Subsec. (g). Pub. L. 97–98 added subsec. (g).

1977—Subsec. (c)(4). Pub. L. 95–113, §1466(a), struck out par. (4) which provided that not less than 20 per centum of any sums appropriated pursuant to subsec. (c) for distribution to States be used for conducting marketing research projects approved by the Department of Agriculture.

Subsec. (c)(5). Pub. L. 95–113, §1466(b), inserted provision authorizing the use of administrative funds for the transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

1972—Subsec. (b). Pub. L. 92–318 designated existing provisions as par. (1) and added par. (2).

1955—Act Aug. 11, 1955, amended section generally to authorize appropriations and to provide for allotment of grants. For provisions which related to advice and assistance by the Secretary of Agriculture, see section 361g of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective June 23, 1998, see section 101(a) [title VII, §753(f)] of Pub. L. 105–277, set out as a note under section 343 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as an Effective Date note under section 326a of this title.

CROSS REFERENCES

Additional appropriations for research work, see section 427i of this title.

Annual appropriations for agricultural colleges, see section 322 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 3222 of this title.

§ 361d. Use of funds

Moneys appropriated pursuant to sections 361a to 361i of this title shall also be available, in addition to meeting expenses for research and investigations conducted under authority of section 361b of this title, for printing and disseminating the results of such research, retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and for the purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. The State agricultural experiment stations are authorized to plan and conduct any research authorized under section 361b of this title in cooperation with each other and such other agencies and individuals as may contribute to the solution of the agricultural problems involved, and moneys appropriated pursuant to sections 361a to 361i of this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 672.)

CODIFICATION

Section was formerly classified to section 365 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide for printing and disseminating the results of research, retirement of employees, administrative planning and direction, purchase and rental of land, and the construction, acquisition, alteration, or repair of buildings necessary for conducting research. Former provisions which related to issuance and free mailing of publications are now contained in section 361f of this title.

§ 361e. Payment of allotments to State agricultural experiment stations; directors and treasurers or other officers; accounting; reports to Secretary; replacement by States of diminished, lost or misapplied allotments; subsequent allotments or payments contingent on such replacement

Sums available for allotment to the States under the terms of sections 361a to 361i of this title, excluding the Multistate Research Fund, State Agricultural Experiment Stations, shall be paid to each State agricultural experiment station in equal quarterly payments beginning on the first day of October of each fiscal year upon vouchers approved by the Secretary of Agriculture. Each such station authorized to receive allotted funds shall have a chief administrative officer known as a director, and a treasurer or other officer appointed by the governing board of the station. Such treasurer or other officer shall receive and account for all funds allotted to the State under the provisions of sections 361a to 361i of this title and shall report, with the approval of the director, to the Secretary of Agriculture on or before the first day of December of each year a detailed statement of the amount received under provisions of said sections during the preceding fiscal year, and of its disbursement on schedules prescribed by the Secretary of Agriculture. If any portion of the allotted moneys received by the authorized receiving officer of any State agricultural experiment station shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to such State.

(Mar. 2, 1887, ch. 314, § 5, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Pub. L. 94–273, § 9(2), Apr. 21, 1976, 90 Stat. 378; Pub. L. 105–185, title II, § 203(c)(3), June 23, 1998, 112 Stat. 535.)

CODIFICATION

Section was formerly classified to section 368a of this title. See sections 361c and 361d of this title.

AMENDMENTS

1998—Pub. L. 105–185, § 203(c)(3), substituted ''Multistate Research Fund, State Agricultural Experiment Stations'' for ''regional research fund authorized by section 361c(c)(3) of this title'' in first sentence.

1976—Pub. L. 94–273 substituted ''October'' for ''July'' and ''December'' for ''September''.

1955—Act Aug. 11, 1955, amended section generally to provide for quarterly payment of allotments, to require annual report of allotments and disbursements, and to provide for replacement of funds diminished, lost, or misapplied. For provisions which authorized appropriations for investigations and experiments, see sections 361c and 361d of this title.

§ 361f. Publications of experiment stations; free mailing

Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of the researches and experiments, including lists of publications available for distribution by the experiment stations, shall be transmitted in the mails of the United States under penalty indicia: *Provided, however*, That each publication shall bear such indicia as are prescribed by the United States Postal Service and shall be mailed under such regulations as the United States Postal Service may from time to time prescribe. Such publications may be mailed from the principal place of business of the station or from an established subunit of said station.

(Mar. 2, 1887, ch. 314, § 6, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773.)

CODIFICATION

Section was formerly classified to section 377 of this title. See section 361g of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to authorize free mailing of publications by the agricultural experiment stations. For provisions which related to the unexpended balance of annual appropriation, see section 361g of this title.

TRANSFER OF FUNCTIONS

''United States Postal Service'' substituted in text for ''Postmaster General'' pursuant to Pub. L. 91–375,

§ 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

CROSS REFERENCES

Penalty mail, authorization to use, see section 3202 of Title 39, Postal Service.

Preparation and printing of annual report of experiment stations, see section 418 of this title.

Sale of card index of literature prepared in connection with the administration of sections 361a to 361i of this title, see section 384 of this title.

§ 361g. Duties of Secretary; ascertainment of entitlement of State to funds; plans of work

(a) Duties of Secretary

The Secretary of Agriculture is charged with the responsibility for the proper administration of sections 361a to 361i of this title, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of said sections, including participation in coordination of research initiated under said sections by the State agricultural experiment stations, from time to time to indicate such lines of inquiry as to him seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several State agricultural experiment stations, and between the stations and the United States Department of Agriculture.

(b) Ascertainment of entitlement

On or before the first day of October in each year after the passage of sections 361a to 361i of this title, the Secretary of Agriculture shall ascertain as to each State whether it is entitled to receive its share of the annual appropriations for agricultural experiment stations under said sections and the amount which thereupon each is entitled, respectively, to receive.

(c) Effect of failure to expend full allotment

Whenever it shall appear to the Secretary of Agriculture from the annual statement of receipts and expenditures of funds by any State agricultural experiment station that any portion of the preceding annual appropriation allotted to that station under sections 361a to 361i of this title remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the State concerned.

(d) Plan of work required

Before funds may be provided to a State under sections 361a to 361i of this title for any fiscal year, a plan of work to be carried out under sections 361a to 361i of this title shall be submitted by the proper officials of the State and shall be approved by the Secretary of Agriculture.

(e) Requirements related to plan of work

Each plan of work for a State required under subsection (d) of this section shall contain descriptions of the following:

(1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned research programs and projects targeted to address the issues.

(2) The process established to consult with users of agricultural research regarding the identification of critical agricultural issues in the State and the development of research programs and projects targeted to address the issues.

(3) The efforts made to identify and collaborate with other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional efforts) to work with those other institutions.

(4) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

(f) Research protocols

(1) Development

The Secretary of Agriculture shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary research activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under subsection (d) of this section.

(2) Consultation

The Secretary of Agriculture shall develop the protocols in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 3123 of this title and land-grant colleges and universities.

(g) Treatment of plans of work for other purposes

To the maximum extent practicable, the Secretary shall consider a plan of work submitted under subsection (d) of this section to satisfy other appropriate Federal reporting requirements.

(Mar. 2, 1887, ch. 314, § 7, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 673; Pub. L. 86–533, § 1(22), June 29, 1960, 74 Stat. 249; Pub. L. 94–273, § 3(2), Apr. 21, 1976, 90 Stat. 376; Pub. L. 105–185, title I, § 103(f)(2), title II, § 202(b), June 23, 1998, 112 Stat. 528, 532.)

CODIFICATION

Section was formerly classified to section 379 of this title. See section 361h of this title.

AMENDMENTS

1998—Pub. L. 105–185, § 202(b), inserted section catchline, designated existing provisions as subsecs. (a) to (c), inserted subsec. headings, and added subsecs. (d) to (g).

Pub. L. 105–185, § 103(f)(2), struck out at end ''If the Secretary of Agriculture shall withhold from any State any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept

separate in the Treasury until the close of the next Congress. If the next Congress shall not direct such sum to be paid, it shall be carried to surplus.''

1976—Pub. L. 94–273 substituted ''October'' for ''July'' in second par.

1960—Pub. L. 86–533 repealed provisions which required the Secretary of Agriculture to make a report to the Congress of the receipts, expenditures and work of the agricultural experiment stations in all the States under the provisions of sections 361a to 361i of this title.

1955—Act Aug. 11, 1955, amended section generally to prescribe the powers and duties of the Secretary of Agriculture, to provide for the determination of the amount of entitlement, to authorize deduction of unexpended balances, and to require reports. For provisions which stated that the relation of the college to the State was unaffected, see section 361h of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 202(b) of Pub. L. 105–185 effective Oct. 1, 1999, see section 202(c) of Pub. L. 105–185, set out as a note under section 344 of this title.

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 361c of this title.

§ 361h. Relation of college or university to State unaffected; division of appropriations

Nothing in sections 361a to 361i of this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction State agricultural experiment stations have been established and the government of the States in which they are respectively located. States having agricultural experiment stations separate from such colleges or universities and established by law, shall be authorized to apply such benefits to research at stations so established by such States: *Provided*, That in any State in which more than one such college, university, or agricultural experiment station has been established the appropriations made pursuant to sections 361a to 361i of this title for such State shall be divided between such institutions as the legislature of such State shall direct.

(Mar. 2, 1887, ch. 314, § 8, 24 Stat. 441; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 378 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to provide that the relation between the college and the State is to be unaffected, and to require division of appropriations.

§ 361i. Power to amend, repeal, etc., reserved

The Congress may at any time, amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title.

(Mar. 2, 1887, ch. 314, § 9, 24 Stat. 442; Aug. 11, 1955, ch. 790, § 1, 69 Stat. 674.)

CODIFICATION

Section was formerly classified to section 368b of this title. The provisions of section 368b were eliminated from section 361i of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, amended section generally to reserve the right to Congress to amend, suspend, or repeal any or all of the provisions of sections 361a to 361i of this title, and to strike out provisions which subjected grants of moneys to the legislative assent of the several States and Territories.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361c, 361d, 361e, 361g, 361h of this title.

§§ 362, 363. Transferred

CODIFICATION

Sections, act Mar. 2, 1887, ch. 314, §§ 1, 2, 24 Stat. 440, as amended, were transferred to sections 361a and 361b, respectively, of this title.

§ 364. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 675

Section, act Mar. 2, 1889, ch. 373, 25 Stat. 840, required all agricultural experiment stations to devote a portion of their work to the examination and classification of the soils of their respective States and Territories.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 365. Transferred

CODIFICATION

Section, act Mar. 2, 1887, ch. 314, § 4, 24 Stat. 441, as amended, was transferred to section 361d of this title. For provisions of section 365 of this title which related to issuance and free mailing by stations of bulletins or reports, see section 361f of this title.

§ 366. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, § 3, 34 Stat. 63; Feb. 24, 1925, ch. 308, § 3, 43 Stat. 971, provided for annual reports by agricultural experiment stations to governors.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under section 361 of this title.

§ 367. Omitted

CODIFICATION

Section was from act July 28, 1953, ch. 251, title I, 67 Stat. 207, the Department of Agriculture Appropriation Act, 1954, and authorized the Secretary of Agriculture to prescribe the form of the annual financial statement required from the agricultural experiment stations. See section 361e of this title. Similar provisions were contained in the following prior appropriation acts:

July 5, 1952, ch. 574, title I, 66 Stat. 337.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 228.
Sept. 6, 1950, ch. 896, ch. VI, title I, 64 Stat. 660.
June 29, 1949, ch. 280, title I, 63 Stat. 330.
June 19, 1948, ch. 543, title I, 62 Stat. 514.
July 30, 1947, ch. 356, title I, 61 Stat. 530.
June 22, 1946, ch. 445, 60 Stat. 277.
May 5, 1945, ch. 109, 59 Stat. 143.
June 28, 1944, ch. 296, 58 Stat. 432.
July 12, 1943, ch. 215, 57 Stat. 400.

July 22, 1942, ch. 516, 56 Stat. 670.
July 1, 1941, ch. 267, 55 Stat. 412.
June 25, 1940, ch. 421, 54 Stat. 536.
June 30, 1939, ch. 253, title I, 53 Stat. 944.
June 16, 1938, ch. 464, title I, 52 Stat. 715.
June 29, 1937, ch. 404, 50 Stat. 399.
June 4, 1936, ch. 489, 49 Stat. 1425.
May 17, 1935, ch. 131, title I, 49 Stat. 251.
Mar. 26, 1934, ch. 89, 48 Stat. 471.
Mar. 3, 1933, ch. 203, 47 Stat. 1435.
July 7, 1932, ch. 443, 47 Stat. 613.
Feb. 23, 1931, ch. 278, 46 Stat. 1246.
May 27, 1930, ch. 341, 46 Stat. 396.
Feb. 16, 1929, ch. 227, 45 Stat. 1192.
May 16, 1928, ch. 572, 45 Stat. 542.
Jan. 18, 1927, ch. 39, 44 Stat. 979.
May 11, 1926, ch. 286, 44 Stat. 502.
Feb. 10, 1925, ch. 200, 43 Stat. 824.

§§ 368 to 368b. Transferred

CODIFICATION

Section 368, act Mar. 2, 1887, ch. 314, §3, 24 Stat. 441, as amended, was transferred to section 361c of this title. For provisions of section 368 which provided for assistance and advice by the Secretary of Agriculture, see section 361g of this title.

Section 368a, act Mar. 2, 1887, ch. 314, §5, 24 Stat. 441, as amended, was transferred to section 361e of this title. For provisions of section 368a which authorized appropriations for investigations and experiments, see sections 361c and 361d of this title.

Section 368b, act Mar. 8, 1887, ch. 314, §9, 24 Stat, 442, as amended, was transferred to section 361i of this title. Former provisions of section 368b making grants of money authorized by section 368a of this title subject to the legislative assent of the States and Territories were eliminated from section 361i.

§ 368c. Omitted

CODIFICATION

Section, act Mar. 2, 1887, ch. 314, §10, 24 Stat. 442, which was not reenacted by act Aug. 11, 1955, ch. 790, 69 Stat. 671, reserved the right to Congress to amend, suspend, or repeal any or all of the provisions of act Mar. 2, 1887. See section 361i of this title.

§§ 369 to 376. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section 369, act Mar. 16, 1906, ch. 951, §1, 34 Stat. 63, authorized annual appropriations for agricultural experiment stations. See section 361c of this title.

Section 369a, acts June 20, 1936, ch. 631, §§1, 2, 49 Stat. 1553, 1554; Aug. 29, 1950, ch. 820, 64 Stat. 563, extended provisions of former sections 343a, 343b, 361, 366, 369, 370, 371, 373 to 376, 380, and 382 of this title to Alaska. See section 361a of this title.

Section 370, act Feb. 24, 1925, ch. 308, §1, 43 Stat. 970, authorized an additional appropriation of $60,000 for each fiscal year. See section 361c of this title.

Section 371, acts Mar. 16, 1906, ch. 951, §2, 34 Stat. 63; Feb. 24, 1925, ch. 308, §2, 43 Stat. 971, made grants of money authorized for agricultural experiment stations subject to the legislative assent of the several States and Territories.

Section 372, act June 7, 1888, ch. 373, 25 Stat. 176, provided for assent to installments of appropriations when the legislature is not in session.

Section 373, acts Mar. 16, 1906, ch. 951, §2, 34 Stat. 63; Feb. 24, 1925, ch. 308, §2, 43 Stat. 971, prescribed the time and manner of payments to agricultural experiment stations and required a report of expenditures to the Secretary of Agriculture. See sections 361c and 361e of this title.

Section 374, acts Mar. 16, 1906, ch. 951, §3, 34 Stat. 63; Feb. 24, 1925, ch. 308, §3, 43 Stat. 971, required the State to replace moneys misapplied. See section 361e of this title.

Section 375, acts Mar. 16, 1906, ch. 951, §3, 34 Stat. 63; Feb. 24, 1925, ch. 308, §3, 43 Stat. 971, permitted use of funds for purchase, repairs, etc., of buildings, or for purchase or rental of lands. See section 361d of this title.

Section 376, acts Mar. 16, 1906, ch. 951, §4, 34 Stat. 64; Feb. 24, 1925, ch. 308, §4, 43 Stat. 971, provided for certification of amounts due States for agricultural experiment stations, for withholding certificate, and for redress by Congress. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 369 to 376 as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§§ 377 to 379. Transferred

CODIFICATION

Section 377, act Mar. 2, 1887, ch. 314, §6, 24 Stat. 441, as amended, was transferred to section 361f of this title. For provisions of section 377 which related to unexpended part of annual appropriations, see section 361g of this title.

Section 378, act Mar. 2, 1887, ch. 314, §8, 24 Stat. 441, as amended, was transferred to section 361h of this title.

Section 379, act Mar. 2, 1887, ch. 314, §7, 24 Stat. 441, as amended, was transferred to section 361g of this title. For provisions of section 379 which provided that the relation of the college to the State was unaffected, see section 361h of this title.

§ 380. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, acts Mar. 16, 1906, ch. 951, §5, 34 Stat. 64; Feb. 24, 1925, ch. 308, §5, 43 Stat. 972, provided for an annual report to Congress. See section 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 381. Omitted

CODIFICATION

Section was from act Mar. 2, 1901, ch. 805, 31 Stat. 935, the Agricultural Appropriation Act, 1902, and authorized the Secretary of Agriculture to employ personnel and to incur administrative expenses in carrying out the objects of the agricultural experiment station program. See section 361g of this title. Similar provisions were contained in several prior appropriation acts.

§§ 382, 383. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674, 675

Section 382, acts Mar. 16, 1906, ch. 951, §6, 34 Stat. 64; Feb. 24, 1925, ch. 308, §6, 43 Stat. 972, reserved the right to Congress to amend, suspend or repeal any and all of the provisions of act Mar. 16, 1906. See section 361i of this title.

Section 383, act Oct. 1, 1918, ch. 178, 40 Stat. 998, authorized appropriations for the Georgia Experiment Station. See section 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under these sections as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 384. Card index of agricultural literature; copies to be furnished by Secretary

The Secretary of Agriculture may furnish to such institutions or individuals as may care to

buy them copies of the card index of agricultural literature prepared by the Department of Agriculture in connection with its administration of the Act of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], and the Act of March sixteenth, nineteen hundred and six, and the Acts amendatory of and supplementary thereto, and charge for the same a price covering the additional expenses involved in the preparation of these copies, the money received from such sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1109.)

REFERENCES IN TEXT

The Act of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of March sixteenth, nineteen hundred and six, referred to in text, means act Mar. 16, 1906, ch. 951, 34 Stat. 63, as amended, known as the Adams Act of 1906, which was classified to sections 361, 366, 369, 371, 373 to 376, 380, and 382 of this title, and was repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. For complete classification of this Act to the Code prior to repeal, see Tables.

TRANSFER OF FUNCTIONS

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

§ 385. South Carolina Experiment Station; cooperation by Secretary of Agriculture; lump sum appropriation

There is authorized to be appropriated the sum of $50,000 to enable the Secretary of Agriculture to cooperate with the South Carolina Agricultural Experiment Station and/or other agencies in making investigations and experiments in dairying and livestock industries and of the problems pertaining to the establishment and development of such industries, including cropping systems, soil improvement, and farm organization studies of such industries, and for demonstration, assistance, and service in developing the agriculture of the Sand Hill region of the Southeast.

(Mar. 3, 1927, ch. 367, § 1, 44 Stat. 1397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 385a of this title.

§ 385a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the cooperative experiments contemplated by section 385 of this title.

(Mar. 3, 1927, ch. 367, § 2, as added Feb. 4, 1928, ch. 24, 45 Stat. 57.)

§§ 386 to 386f. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 386 to 386b, act May 16, 1928, ch. 575, §§ 1–3, 45 Stat. 571, 572, provided for establishment of an experiment station in Hawaii, authorized appropriations and an increase in permanent annual appropriations. See sections 361a and 361c of this title.

Section 386c, act Feb. 23, 1929, ch. 299, 45 Stat. 1256, extended provisions of agricultural experiment station program to Alaska. See section 361a of this title.

Sections 386d to 386f, acts Mar. 4, 1931, ch. 499, §§ 1–3, 46 Stat. 1520, 1521; May 17, 1932, ch. 190, 47 Stat. 158, provided for establishment of an experiment station in Puerto Rico, authorized appropriations and an increase in permanent annual appropriations. See sections 361a and 361c of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 386 to 386f as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 386g. Repealed. Oct. 31, 1951, ch. 654, § 1(10), 65 Stat. 701

Section, act July 7, 1932, ch. 443, § 1, 47 Stat. 614, related to transfer or sale of property of Alaska, Guam, and Virgin Islands stations.

SUBCHAPTER II—EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES

§ 387. Station for semi-arid or dry-land regions; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, vines, and vegetables as are adapted to the conditions and needs of the semi-arid or dry-land regions of the United States, to be propagated at an experiment station of the Department of Agriculture to be established at or near Cheyenne, Wyoming, and seedlings, and cuttings and seeds of such trees, shrubs, vines, and vegetables to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within the semi-arid or dry-land regions of the United States.

(Mar. 19, 1928, ch. 228, § 1, 45 Stat. 323.)

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 387a of this title.

§ 387a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 387 of this title.

(Mar. 19, 1928, ch. 228, § 3, 45 Stat. 323.)

§ 388. Station for southern Great Plains area; establishment

The Secretary of Agriculture is authorized and directed to cause such shade, ornamental, fruit, and shelter-belt trees, shrubs, and vines as are adapted to the conditions and needs of the

southern Great Plains area, comprised of those parts of the States of Colorado, Nebraska, Kansas, Texas, Oklahoma, and New Mexico lying west of the ninety-eighth meridian and east of the five thousand-foot contour line, to be propagated at one of the existing field stations of the Department of Agriculture in such area, and seedlings and cuttings and seeds of such trees, shrubs, and vines to be distributed free of charge under such regulations as he may prescribe for experimental and demonstration purposes within such area.

(Apr. 16, 1928, ch. 377, § 1, 45 Stat. 430.)

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 388a of this title.

§ 388a. Authorization of appropriations

There is authorized to be appropriated each fiscal year necessary appropriations to enable the Secretary of Agriculture to carry on the experiments contemplated by section 388 of this title.

(Apr. 16, 1928, ch. 377, § 3, 45 Stat. 431.)

§ 389. Transfer of certain dry land and irrigation field stations to States

The Secretary of Agriculture is authorized, at such times as he deems appropriate, to convey by appropriate conveyances, without consideration, the interest of the United States in the lands, including water rights, buildings, and improvements presently comprising or appurtenant to the following dry land and irrigation field stations, to the States in which such stations are located, when, in the opinion of the Secretary of Agriculture, the transfer of any such station will result in establishing a more effective program in the cooperative agricultural experimental work of the Department of Agriculture and the respective State and the furtherance of agricultural experimental work on a national or regional basis will be better served by such transfer: Huntley, Montana; Mitchell, Nebraska; Fallon, Nevada; Tucumcari, New Mexico; Hermiston, Oregon; Sheridan, Wyoming: *Provided*, That when any or all of the land, including water rights, comprising any such station is public-domain land, only the Secretary of the Interior may by patent or other appropriate conveyance transfer such lands to the respective States: *Provided further*, That when any easement necessary to a station conveyed or patented hereunder is on public-domain lands, only the Secretary of the Interior may grant such easements to the State to which the station has been conveyed.

(Sept. 23, 1950, ch. 1005, § 1, 64 Stat. 981.)

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 389a of this title.

§ 389a. Conditions of transfer of dry land and irrigation field stations; reservation of mineral rights

Conveyances or patents under this section and section 389 of this title shall be upon such conditions as in the opinion of the Secretary of Agriculture will assure the use of such station in the cooperative agricultural experimental work of the Department of Agriculture and the respective State. Any such conveyances of the land shall contain a reservation to the United States of all the minerals in the land together with the right to prospect for, mine, and remove the same under such regulations as the Secretary of the Interior may prescribe.

(Sept. 23, 1950, ch. 1005, § 2, 64 Stat. 982.)

TRANSFER OF FUNCTIONS

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

SUBCHAPTER III—RESEARCH FACILITIES

§ 390. Definitions

In this subchapter:

(1) Agricultural research facility

The term ''agricultural research facility'' means a proposed facility for research in food and agricultural sciences for which Federal funds are requested by a college, university, or nonprofit institution to assist in the construction, alteration, acquisition, modernization, renovation, or remodeling of the facility.

(2) Congressional agriculture committees

The term ''congressional agriculture committees'' means the Committee on Appropriations and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(3) Food and agricultural sciences

The term ''food and agricultural sciences'' means—

(A) agriculture, including soil and water conservation and use, the use of organic materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

(B) the processing, distribution, marketing, and utilization of food and agricultural products;

(C) forestry, including range management, production of forest and range products, multiple use of forests and rangelands, and urban forestry;

(D) aquaculture (as defined in section 3103(3) of this title);

(E) human nutrition;

(F) production inputs, such as energy, to improve productivity; and

(G) germ plasm collection and preservation.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(5) Task force

The term ''task force'' means the Strategic Planning Task Force established under section 390b of this title.

(Pub. L. 88–74, § 2, as added Pub. L. 104–127, title VIII, § 884(a), Apr. 4, 1996, 110 Stat. 1176.)

PRIOR PROVISIONS

A prior section 390, Pub. L. 88–74, § 1, July 22, 1963, 77 Stat. 90; Pub. L. 95–113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996; Pub. L. 99–198, title XIV, § 1411(a), Dec. 23, 1985, 99 Stat. 1547, related to congressional declaration of policy, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 2 of Pub. L. 88–74 was classified to section 390a of this title prior to the general amendment of this subchapter by Pub. L. 104–127.

EFFECTIVE DATE

Section 884(b) of Pub. L. 104–127 provided that: ''The amendment made by subsection (a) [enacting this subchapter], other than section 4 of the Research Facilities Act [section 390b of this title] (as amended by subsection (a)), shall not apply to any project for an agricultural research facility for which funds have been made available for a feasibility study or for any phase of the project prior to October 1, 1995.''

SHORT TITLE

Section 1 of Pub. L. 88–74, as added by Pub. L. 104–127, title VIII, § 884(a), Apr. 4, 1996, 110 Stat. 1176, provided that: ''This Act [enacting this subchapter] may be cited as the 'Research Facilities Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390b of this title.

§ 390a. Review process

(a) Submission to Secretary

Each proposal for an agricultural research facility shall be submitted to the Secretary for review. The Secretary shall review the proposals in the order in which the proposals are received.

(b) Application process

In consultation with the congressional agriculture committees, the Secretary shall establish an application process for the submission of proposals for agricultural research facilities.

(c) Criteria for approval

(1) Determination by Secretary

With respect to each proposal for an agricultural research facility submitted under subsection (a) of this section, the Secretary shall determine whether the proposal meets the criteria set forth in paragraph (2).

(2) Criteria

A proposal for an agricultural research facility shall meet the following criteria:

(A) Non-Federal share

The proposal shall certify the availability of at least a 50 percent non-Federal share of the cost of the facility. The non-Federal share shall be paid in cash and may include funding from private sources or from units of State or local government.

(B) Nonduplication of facilities

The proposal shall demonstrate how the agricultural research facility would be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region.

(C) National research priorities

The proposal shall demonstrate how the agricultural research facility would serve—

(i) 1 or more of the national research policies and priorities set forth in section 3101 of this title; and

(ii) national or multistate needs.

(D) Long-term support

The proposal shall demonstrate that the recipient college, university, or nonprofit institution has the ability and commitment to support the long-term, ongoing operating costs of—

(i) the agricultural research facility after the facility is completed; and

(ii) each program to be based at the facility.

(d) Evaluation of proposals

Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) evaluate and assess the merits of the proposal, including the extent to which the proposal meets the criteria set forth in subsection (c) of this section; and

(2) report to the congressional agriculture committees on the results of the evaluation and assessment.

(e) National or multistate needs served by ARS facilities

The Secretary shall ensure that each research activity conducted by a facility of the Agricultural Research Service serves a national or multistate need.

(Pub. L. 88–74, § 3, as added Pub. L. 104–127, title VIII, § 884(a), Apr. 4, 1996, 110 Stat. 1177; amended Pub. L. 105–185, title I, § 106(a), (b), June 23, 1998, 112 Stat. 530.)

PRIOR PROVISIONS

A prior section 390a, Pub. L. 88–74, § 2, July 22, 1963, 77 Stat. 90; Pub. L. 95–113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996; Pub. L. 99–198, title XIV, § 1411(b), Dec. 23, 1985, 99 Stat. 1547, related to congressional declaration of purpose, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 3 of Pub. L. 88–74 was classified to section 390b of this title prior to the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

1998—Subsec. (c)(2)(C)(ii). Pub. L. 105–185, § 106(a), substituted ''national or multistate needs'' for ''regional needs''.

Subsec. (e). Pub. L. 105–185, § 106(b), added subsec. (e).

§ 390b. Task force on 10-year strategic plan for agricultural research facilities

(a) Establishment

Not later than 6 months after April 4, 1996, the Secretary shall establish a task force, to be

known as the ''Strategic Planning Task Force''. The task force shall be comprised of 15 members.

(b) Composition

The Secretary shall select the members of the task force from a list of individuals recommended by the Advisory Board established under section 3123 of this title. In submitting the list to the Secretary, the Board may recommend for selection individuals (including members of the Advisory Board) who have expertise in facilities development, modernization, construction, consolidation, and closure.

(c) Duties

The task force shall review all currently operating agricultural research facilities constructed in whole or in part with Federal funds, and all planned agricultural research facilities proposed to be constructed with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

(d) 10-year strategic plan

Not later than 2 years after the task force is established, the task force shall prepare and submit to the Secretary and the congressional agriculture committees a 10-year strategic plan, reflecting both national and multistate perspectives, for development, modernization, construction, consolidation, and closure of Federal agricultural research facilities and agricultural research facilities proposed to be constructed with Federal funds.

(e) Applicability of Federal Advisory Committee Act

(1) Public meetings

All meetings of the task force shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of the task force shall be kept and made available to the public on request.

(2) Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the task force.

(f) "Agricultural research facility" defined

Notwithstanding section 390(1) of this title, in this section the term ''agricultural research facility'' means a facility for research in food and agricultural sciences.

(g) Comprehensive research capacity

After submission of the 10-year strategic plan required under subsection (d) of this section, the Secretary shall continue to review periodically each operating agricultural research facility constructed in whole or in part with Federal funds, and each planned agricultural research facility proposed to be constructed in whole or in part with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

(Pub. L. 88–74, §4, as added Pub. L. 104–127, title VIII, §884(a), Apr. 4, 1996, 110 Stat. 1178; amended Pub. L. 105–185, title I, §106(c), (d), June 23, 1998, 112 Stat. 530.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Food and Agriculture Act of 1977, referred to in subsec. (e)(2), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XVIII of the Act is classified generally to chapter 55A (§2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

PRIOR PROVISIONS

A prior section 390b, Pub. L. 88–74, §3, July 22, 1963, 77 Stat. 90; Pub. L. 95–113, title XIV, §1416(1), Sept. 29, 1977, 91 Stat. 994; Pub. L. 99–198, title XIV, §1411(c), Dec. 23, 1985, 99 Stat. 1547, related to definitions, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 4 of Pub. L. 88–74 was classified to section 390c of this title prior to the general amendment of this subchapter by Pub. L. 104–127.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185, §106(c), substituted ''multistate'' for ''regional''.

Subsec. (g). Pub. L. 105–185, §106(d), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390 of this title.

§ 390c. Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subchapter.

(Pub. L. 88–74, §5, as added Pub. L. 104–127, title VIII, §884(a), Apr. 4, 1996, 110 Stat. 1179.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Food and Agriculture Act of 1977, referred to in text, is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XVIII of the Act is classified generally to chapter 55A (§2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

PRIOR PROVISIONS

A prior section 390c, Pub. L. 88–74, §4, July 22, 1963, 77 Stat. 91; Pub. L. 95–113, title XIV, §1416(2), Sept. 29, 1977, 91 Stat. 994; Pub. L. 97–98, title XIV, §1416, Dec. 22, 1981, 95 Stat. 1304; Pub. L. 99–198, title XIV, §1411(d), Dec. 23, 1985, 99 Stat. 1548; Pub. L. 101–624, title XVI, §1601(a), Nov. 28, 1990, 104 Stat. 3703, related to appropriations and administrative authority, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 5 of Pub. L. 88–74 was classified to section 390d of this title prior to the general amendment of this subchapter by Pub. L. 104–127.

§ 390d. Authorization of appropriations

(a) In general

Subject to subsection (b) of this section, there are authorized to be appropriated such sums as are necessary for each of fiscal years 1996

through 2002 for the study, plan, design, structure, and related costs of agricultural research facilities under this subchapter.

(b) Allowable administrative costs

Not more than 3 percent of the funds made available for any project for an agricultural research facility shall be available for administration of the project.

(Pub. L. 88–74, § 6, as added Pub. L. 104–127, title VIII, § 884(a), Apr. 4, 1996, 110 Stat. 1179; amended Pub. L. 105–185, title III, § 301(d), June 23, 1998, 112 Stat. 563.)

PRIOR PROVISIONS

A prior section 390d, Pub. L. 88–74, § 5, July 22, 1963, 77 Stat. 91; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; Pub. L. 99–198, title XIV, § 1411(e), Dec. 23, 1985, 99 Stat. 1548, related to payment eligibility and facility proposals, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 6 of Pub. L. 88–74 was classified to section 390f of this title prior to the general amendment of this subchapter by Pub. L. 104–127.

Another prior section 6 of Pub. L. 88–74 was classified to section 390e of this title prior to repeal by Pub. L. 99–198.

A prior section 390e, Pub. L. 88–74, § 6, July 22, 1963, 77 Stat. 91; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995, related to continuing availability of unused allotments to eligible institutions for a period of five fiscal years following the fiscal year of initial availability thereof, prior to repeal by Pub. L. 99–198, title XIV, § 1411(f), Dec. 23, 1985, 99 Stat. 1548.

A prior section 390f, Pub. L. 88–74, § 6, formerly § 7, July 22, 1963, 77 Stat. 91; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 6 and amended Pub. L. 99–198, title XIV, § 1411(g), (k), Dec. 23, 1985, 99 Stat. 1548, related to fund support basis for multiple-purpose equipment and physical facilities, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 390g, Pub. L. 88–74, § 8, July 22, 1963, 77 Stat. 91; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995, related to ascertainment of the amount of the allocation to which each institution was entitled and written notification to each such institution, prior to repeal by Pub. L. 99–198, title XIV, § 1411(h), Dec. 23, 1985, 99 Stat. 1548.

A prior section 390h, Pub. L. 88–74, § 7, formerly § 9, July 22, 1963, 77 Stat. 91; Pub. L. 94–273, § 7(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 7 and amended Pub. L. 99–198, title XIV, § 1411(i), (k), Dec. 23, 1985, 99 Stat. 1548, related to fiscal accountability, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 390i, Pub. L. 88–74, § 8, formerly § 10, July 22, 1963, 77 Stat. 92; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 8 and amended Pub. L. 99–198, title XIV, § 1411(j), (k), Dec. 23, 1985, 99 Stat. 1548, directed Secretary to submit annual reports to Congress with respect to research facility payments, prior to repeal by Pub. L. 104–66, title I, § 1011(w), Dec. 21, 1995, 109 Stat. 711.

A prior section 8 of Pub. L. 88–74 was classified to section 390g of this title prior to repeal by Pub. L. 99–198.

A prior section 390j, Pub. L. 88–74, § 9, formerly § 11, July 22, 1963, 77 Stat. 92; Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995; renumbered § 9, Pub. L. 99–198, title XIV, § 1411(k), Dec. 23, 1985, 99 Stat. 1548, related to availability of appropriated funds for administration, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 9 of Pub. L. 88–74 was renumbered section 7 and was classified to section 390h of this title, prior to the general amendment of this subchapter by Pub. L. 104–127.

A prior section 390k, Pub. L. 88–74, § 12, July 22, 1963, 77 Stat. 92, authorized appropriation of such sums as might be necessary for proper administration of this subchapter, prior to repeal by Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994, effective Oct. 1, 1977.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185 substituted ''each of fiscal years 1996 through 2002'' for ''fiscal years 1996 and 1997''.

CHAPTER 15—BUREAU OF ANIMAL INDUSTRY

Sec.

391. Establishment of bureau; appointment of chief; duties.
392. Repealed.
393. Sale of pathological and zoological specimens; disposition of moneys.
394. Overtime of employees engaged in enforcement of Meat Inspection Act.
394a. Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products.
395. Fees for rabies diagnoses; disposition of moneys.
396. Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds.
397. Omitted.

CROSS REFERENCES

Animals, meats, and meat and dairy products, see section 603 et seq. of Title 21, Food and Drugs.

Packers and stockyards, see section 181 et seq. of this title.

§ 391. Establishment of bureau; appointment of chief; duties

There shall be in the Department of Agriculture a Bureau of Animal Industry. The Secretary of Agriculture is authorized to appoint a chief thereof, who shall be a competent veterinary surgeon, and whose duty it shall be to investigate and report upon the condition of the domestic animals and live poultry of the United States, their protection and use, and also inquire into and report the causes of contagious, infectious, and communicable diseases among them, and the means for the prevention and cure of the same, and to collect such information on these subjects as shall be valuable to the agricultural and commercial interests of the country.

(May 29, 1884, ch. 60, § 1, 23 Stat. 31; July 14, 1890, ch. 707, 26 Stat. 288; Feb. 7, 1928, ch. 30, 45 Stat. 59.)

CODIFICATION

Section is composed of part of section 1 of act May 29, 1884.

Section 1 of that act as originally enacted contained this further provision: ''And the Commissioner of Agriculture is hereby authorized to employ a force sufficient for the purpose, not to exceed 20 persons at any one time.'' This provision was practically superseded by subsequent appropriations for an enlarged force.

Section 1 also contained a provision as to salary of the Chief of the Bureau and a clerk for said bureau, that has been omitted as obsolete. The salaries are now fixed under chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

AMENDMENTS

1928—Joint Res. Feb. 7, 1928, inserted ''and live poultry'' after ''domestic animals''.

TRANSFER OF FUNCTIONS

Section 301 of 1947 Reorg. Plan No. 1, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, provided: ''The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate.'' For provisions concerning transfer of records, property, personnel, and funds, see full text of this Plan, set out in the Appendix to Title 5, Government Organization and Employees.

The President's message, set out in the Appendix to Title 5, Government Organization and Employees, transmitting this Reorg. Plan to Congress pointed out that the Plan would make it possible to continue the consolidation of the agencies concerned in the Agricultural Research Administration which was affected on a temporary wartime basis by Ex. Ord. No. 9069, Feb. 23, 1942, 7 F.R. 1409, and to make further adjustments in the organization of agricultural research activities.

Functions of Bureau of Animal Industry which were transferred to Secretary of Agriculture were transferred to Agricultural Research Service under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

As of July 1, 1927, by order of the Secretary of Agriculture, the Packers and Stockyards administration was abolished, and the enforcement of the Packers and Stockyards Act of 1921, sections 181 to 229 of this title, put under the control of the chief of the Bureau of Animal Industry.

Authority formerly granted to Commissioner of Agriculture by section 1 of act of May 29, 1884, vested in Secretary of Agriculture by act July 14, 1890. See also sections 2202 and 2205 of this title.

Functions of Bureau of Animal Industry of Agricultural Research Administration concerned primarily with regulatory activities consolidated with other agencies into Food Distribution Administration, which was consolidated into War Food Administration, which was terminated and its functions transferred to Secretary of Agriculture, by Ex. Ord. No. 9577.

CROSS REFERENCES

Importation of cattle and quarantine, see section 101 et seq. of Title 21, Food and Drugs.

Improvement in the breeding of horses suitable to needs of United States, see section 437 of this title.

Leave of absence of employees of the Bureau of Animal Industry, see section 6301 et seq. of Title 5, Government Organization and Employees.

Penalty for interference with an officer or employee of the Bureau of Animal Industry in the execution of his duties, see section 111 of Title 18, Crimes and Criminal Procedure.

Prevention of introduction and spread of contagion among livestock, see section 111 et seq. of Title 21.

§ 392. Repealed. Oct. 31, 1951, ch. 654, § 1(11), 65 Stat. 701

Section, act Aug. 10, 1912, ch. 284, 37 Stat. 274, related to sale or exchange of animals not needed. See section 484 of Title 40, Public Buildings, Property, and Works.

§ 393. Sale of pathological and zoological specimens; disposition of moneys

The Secretary of Agriculture is authorized to prepare and sell at cost such pathological and zoological specimens as he may deem of scientific or educational value to scientists or others engaged in the work of hygiene and sanitation: *Provided*, That all moneys received from the sale of such specimens shall be deposited in the Treasury as miscellaneous receipts.

(Mar. 4, 1913, ch. 145, § 1 [part], 37 Stat. 833.)

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 394. Overtime of employees engaged in enforcement of Meat Inspection Act

The Secretary of Agriculture is authorized, in his discretion, to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of the Meat Inspection Act of June 30, 1906, for all overtime work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(July 24, 1919, ch. 26, 41 Stat. 241.)

REFERENCES IN TEXT

Act of June 30, 1906, referred to in text, is act June 30, 1906, ch. 3913, 34 Stat. 670, which generally made appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907. The meat inspection provisions of that Act were not classified to the Code. For the ''Meat Inspection Act'', see subchapters I to IV (§ 601 et seq.) of chapter 12 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CROSS REFERENCES

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5549; title 21 section 695.

§ 394a. Overtime of employees working at establishments which prepare virus, serum, toxin, and analogous products

The Secretary of Agriculture is authorized to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of section 157 of title 21, for all overtime, night, or holiday work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursement for any sums paid out by him for such overtime work.

(Aug. 4, 1949, ch. 392, 63 Stat. 495.)

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 395. Fees for rabies diagnoses; disposition of moneys

Fees shall be charged for all diagnoses in connection with rabies, except those performed for agencies of the United States Government, in such amounts as the Secretary shall prescribe, and such fees shall be covered into the Treasury as miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title I, § 101(e), 58 Stat. 734.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, 58 Stat. 433.
July 12, 1943, ch. 215, 57 Stat. 401.
July 22, 1942, ch. 516, 56 Stat. 674.

APPROPRIATIONS

Section 101(g) of act Sept. 21, 1944, provided that Congress may appropriate such funds as are necessary to accomplish the purpose of this section.

§ 396. Inspection of livestock, hides, animal products, etc.; place; charges; disposition of funds

The Secretary of Agriculture upon application of any exporter, importer, packer, or owner of, or the agent thereof, or dealer in, livestock, hides, skins, meat, or other animal products may, in his discretion, cause to be made inspections and examinations at places other than the headquarters of inspectors for the convenience of said applicants, who may be charged for the expenses of travel and subsistence incurred for such inspections and examinations, the funds derived from such charges to be deposited in the Treasury of the United States to the credit of the appropriation from which the expenses are paid.

(Sept. 21, 1944, ch. 412, title I, § 101(c), 58 Stat. 734.)

CODIFICATION

Section was formerly classified to section 228a of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were carried in the following prior Department of Agriculture Appropriation Acts:
June 28, 1944, ch. 296, 58 Stat. 433.
July 12, 1943, ch. 215, 57 Stat. 400.
July 22, 1942, ch. 516, 56 Stat. 673.
July 1, 1941, ch. 267, 55 Stat. 415.
June 25, 1940, ch. 421, 54 Stat. 539.
June 30, 1939, ch. 253, title I, 53 Stat. 948.
June 16, 1938, ch. 464, title I, 52 Stat. 719.
June 29, 1937, ch. 404, 50 Stat. 403.
June 4, 1936, ch. 489, 49 Stat. 1429.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 397. Omitted

CODIFICATION

Section, acts Aug. 28, 1954, ch. 1041, title II, § 204(e), 68 Stat. 900; Apr. 2, 1956, ch. 159, § 2, 70 Stat. 87, authorized transfer of Commodity Credit Corporation funds not to exceed $17,000,000 for fiscal year ending June 30, 1956 and not to exceed $20,000,000 for each of fiscal years 1957 and 1958 for brucellosis eradication, indemnification for destroyed cattle and administrative expenses and authorized appropriations to reimburse the Commodity Credit Corporation for the expenditures.

CHAPTER 16—BUREAU OF DAIRY INDUSTRY

Sec.
401. Establishment of bureau.
402. Chief of bureau; appointment and duties.
403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.
404. Authorization of appropriations.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 401. Establishment of bureau

There is established in the Department of Agriculture a bureau to be known as the ''Bureau of Dairy Industry.''

(May 29, 1924, ch. 208, § 1, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME

''Bureau of Dairying'' established by act May 29, 1924, designated ''Bureau of Dairy Industry'' by act May 11, 1926.
Bureau of Dairy Industry consolidated with other agencies into Agricultural Research Administration for duration of World War II by Ex. Ord. No. 9069.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 402. Chief of bureau; appointment and duties

A Chief of the Bureau of Dairy Industry shall be appointed by the Secretary of Agriculture, who shall be subject to the general direction of the Secretary of Agriculture. He shall devote his time to the investigation of the dairy industry, and the dissemination of information for the promotion of the dairy industry.

(May 29, 1924, ch. 208, § 2, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CROSS REFERENCES

Filled milk, regulation of, see section 61 et seq. of Title 21, Food and Drugs.

§ 403. Transfer of activities of Department of Agriculture to bureau; employment of clerks, etc.

For the purpose of enabling the Secretary of Agriculture and the Chief of the Bureau of Dairy Industry to carry out the purposes of this chap-

ter, the Secretary of Agriculture is authorized to transfer to the Bureau of Dairy Industry such activities of the Department of Agriculture as he may designate which relate primarily to the dairy industry, and to employ such additional persons in the city of Washington and elsewhere, as may be necessary.

(May 29, 1924, ch. 208, §3, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 of this title.

TRANSFER OF FUNCTIONS

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

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

§ 404. Authorization of appropriations

For the purpose of carrying out the provisions of this chapter and the activities of the Bureau of Dairy Industry, such sums of money as Congress may deem necessary are authorized to be appropriated.

(May 29, 1924, ch. 208, §4, 43 Stat. 243; May 11, 1926, ch. 286, 44 Stat. 499.)

CHANGE OF NAME; TEMPORARY CONSOLIDATION

Change of name of Bureau and temporary wartime consolidation into Agricultural Research Administration, see notes set out under section 401 of this title.

TRANSFER OF FUNCTIONS

Functions of Bureau of Dairy Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, §301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

CHAPTER 17—MISCELLANEOUS MATTERS

Sec.

411. Omitted.
411a. Repealed.
411b. Estimates of apple production.
412 to 414. Transferred or Repealed.
414a. Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes.
415. Purchase of seeds and plants for distribution.
415a. Omitted.
415b. Wool standards; appropriation of certain funds.
415c. Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool.
415d. Rules and regulations for wool standards; deposit of receipts in the Treasury.
415e. Farm or food products; sale of samples, practical forms, etc.
416. Letting contract for packeting, etc., of seeds, etc., for distribution.
417. Distribution of farmers' bulletins.
418. Annual report on work of agricultural experiment stations and of college extension work; publication and distribution.
419. Repealed.
420. Power to administer oaths, examine witnesses, or require production of books, etc.

Sec.

421. Dairying and livestock experiment station, Mandan, North Dakota.
421a. Omitted.
422. Dairying and livestock experiment station, Lewisburg, Tennessee.
422a. Omitted.
423. Cotton; investigation of new uses; cooperation with State and other agencies.
424. Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies.
425. Authorization of appropriations for cotton ginning studies.
426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies.
426a. Omitted.
426b. Authorization of expenditures for the eradication and control of predatory and other wild animals.
426c. Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception.
427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities.
427a to 427h. Repealed.
427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund.
427j, 428. Repealed or Omitted.
428a. Acquisition of land; options.
428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations.
428c. Rice research.
(a) Regional and national research programs; rules; purposes.
(b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration.
(c) Authorization of appropriations; use restriction.
429. Improvement of poultry, poultry products, and hatcheries.
430. Purchase and testing of serums or analogous products; dissemination of test results.
431. Purchase of tags, labels, stamps, and certificates.
432. Purchase of cultures for soil and fertilizer investigations.
433. Domestic raising of fur-bearing animals; classification.
434. Transfer of functions, appropriations, records and property to Secretary of Agriculture.
435. Omitted.
436. Transfer of Army Remount Service to Department of Agriculture; effective date.
437. Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations.
438. Repealed.
439. Operation of Government-owned alcohol plants; location; transfer of plants.
439a. Powers and duties of Secretary of Agriculture.
439b. Recommendations to Congress for discontinuance of plants.
439c. Construction of additional facilities; acquisition of property; incurment of expenses; rules and regulations.
439d. Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant.
439e. Authorization of appropriations; availability of other appropriations.

Sec.
440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge.
441. Repealed.
442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges.
443. Requisition of grain to prevent crop depredation by migratory waterfowl.
444. Reimbursement of packaging and transporting expenses.
445. Authorization of appropriations for mitigating losses caused by waterfowl depredation.
446. Repealed.
447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting.
448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting.
449. Authorization of appropriations for reimbursement of Commodity Credit Corporation.
450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws.
450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies.
450b. Cooperation with State and other agencies; expenditures.
450c. Delegation of regulatory functions of Secretary of Agriculture; definitions.
450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation.
450e. Authority of designated employees; retroactive revocation of delegation.
450f. Delegation of functions under other laws as unaffected.
450g. Authorization of appropriations for cooperative research projects.
450h. Transferred.
450i. Competitive, special, and facilities research grants.
(a) Establishment of grant program.
(b) Competitive grants.
(c) Special grants.
(d) Facilities grants.
(e) Inter-Regional Research Project Number 4.
(f) Record keeping.
(g) Limits on overhead costs.
(h) Authorization of appropriations.
(i) Rules.
(j) Application of other laws.
(k) Emphasis on sustainable agriculture.
450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse.
450k. Authorization of appropriations for dairy farmer indemnities.
450*l*. Expiration of dairy farmer indemnity program.

§ 411. Omitted

CODIFICATION

Section, act May 11, 1922, ch. 185, 42 Stat. 532, which provided that powers conferred prior to May 11, 1922, and the duties imposed by law on the Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farms Economics of the Department of Agriculture shall be exercised and performed by the Bureau of Agricultural Economics, was omitted from the Code as executed and obsolete.

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

Functions of the Bureau of Agricultural Economics were transferred to other units of the Department of Agriculture by Secretary's memorandum of November 2, 1953.

Agricultural Statistics Division of the Agricultural Marketing Service and its functions, personnel, property, etc., transferred to Bureau of Agricultural Economics for duration of World War II, see Ex. Ord. No. 9069.

The functions, personnel and property of the Division of Farm Management and Costs of the Bureau of Agricultural Economics concerned primarily with the planning of current agricultural production were consolidated with other agencies into the Food Production Administration, which was consolidated into the War Food Administration, which was terminated and its functions transferred to the Secretary of Agriculture by Ex. Ord. No. 9577.

§ 411a. Repealed. Pub. L. 101–624, title XXV, § 2514(d), Nov. 28, 1990, 104 Stat. 4075

Section, acts Mar. 4, 1909, ch. 301, 35 Stat. 1053; Mar. 4, 1917, ch. 179, 39 Stat. 1157, related to contents, issuance, and approval by Secretary of Agriculture of monthly crop report.

§ 411b. Estimates of apple production

On and after October 18, 1986, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop.

(Pub. L. 99–500, § 101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783–3, and Pub. L. 99–591, § 101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341–3.)

CODIFICATION

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

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 99–190, § 101(a) [H.R. 3037, title I], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, § 101(a) [H.R. 5743, title I], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, § 101(d) [H.R. 3223, title I], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title I, Dec. 18, 1982, 96 Stat. 1794.
Pub. L. 97–103, title I, Dec. 23, 1981, 95 Stat. 1473.
Pub. L. 96–528, title I, Dec. 15, 1980, 95 Stat. 3101.
Pub. L. 96–108, title I, Nov. 9, 1979, 93 Stat. 827.
Pub. L. 95–448, title I, Oct. 11, 1978, 92 Stat. 1079.
Pub. L. 95–97, title I, Aug. 12, 1977, 91 Stat. 815.
Pub. L. 94–351, title I, July 12, 1976, 90 Stat. 855.
Pub. L. 94–122, title I, Oct. 21, 1975, 89 Stat. 648.
Pub. L. 93–563, title I, Dec. 31, 1974, 88 Stat. 1826.
Pub. L. 93–135, title I, Oct. 24, 1973, 87 Stat. 474.
Pub. L. 92–399, title I, Aug. 22, 1972, 86 Stat. 596.
Pub. L. 92–73, title I, Aug. 10, 1971, 85 Stat. 187.
Pub. L. 91–566, title I, Dec. 22, 1970, 84 Stat. 1487.
Pub. L. 91–127, title I, Nov. 26, 1969, 83 Stat. 250.
Pub. L. 90–463, title I, Aug. 8, 1968, 82 Stat. 644.
Pub. L. 90–113, title I, Oct. 24, 1967, 81 Stat. 325.
Pub. L. 89–556, title I, Sept. 7, 1966, 80 Stat 694.
Pub. L. 89–316, title I, Nov. 2, 1965, 79 Stat. 1170.
Pub. L. 88–573, title I, Sept. 2, 1964, 78 Stat. 867.

Pub. L. 88–250, title I, Dec. 30, 1963, 77 Stat. 825.
Pub. L. 87–879, title I, Oct. 24, 1962, 76 Stat. 1208.
Pub. L. 87–112, title I, July 26, 1961, 75 Stat. 231.
Pub. L. 86–532, title I, June 29, 1960, 74 Stat. 237.
Pub. L. 86–80, title I, July 8, 1959, 73 Stat. 172.
Pub. L. 85–459, title I, June 13, 1958, 72 Stat. 193.
Pub. L. 85–118, title I, Aug. 2, 1957, 71 Stat. 331.
June 4, 1956, ch. 355, title I, 70 Stat. 234.
May 23, 1955, ch. 43, title I, 69 Stat. 57.
June 29, 1954, ch. 409, title I, 68 Stat. 313.
July 28, 1953, ch. 251, title I, 67 Stat. 206.
July 5, 1952, ch. 574, title I, 66 Stat. 336.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 226.
Sept. 6, 1950, ch. 896, ch. VI, title I, 64 Stat. 658.
June 29, 1949, ch. 280, title I, 63 Stat. 328.
June 19, 1948, ch. 543, title I, 62 Stat. 512.
July 30, 1947, ch. 356, title I, 61 Stat. 527.
June 22, 1946, ch. 445, 60 Stat. 274.
May 5, 1945, ch. 109, 59 Stat. 140.
June 28, 1944, ch. 296, 58 Stat. 430.
July 12, 1943, ch. 215, 57 Stat. 398.
July 22, 1942, ch. 516, 56 Stat. 687.
July 1, 1941, ch. 267, 55 Stat. 430.
June 25, 1940, ch. 421, 54 Stat. 555.
June 30, 1939, ch. 253, title I, 53 Stat. 968.

§§ 412, 413. Transferred

CODIFICATION

Section 412, act May 27, 1912, ch. 135, § 1, 37 Stat. 118, which related to acreage cotton crop report, was transferred to section 476 of this title.

Section 413, act May 3, 1924, ch. 149, § 1, 43 Stat. 115, which related to cotton crop reports, was transferred to section 475 of this title and subsequently repealed by Pub. L. 104–127, title VIII, § 870, Apr. 4, 1996, 110 Stat. 1175.

§ 414. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act July 28, 1953, ch. 251, title I, 67 Stat. 217, related to investigation and certification of any agricultural commodity or food product offered for interstate shipment. See section 1622(h) of this title. Similar provisions were contained in the following prior appropriation acts:
July 5, 1952, ch. 574, title I, 66 Stat. 348.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 238.
Sept. 6, 1950, ch. 896, Ch. VI, 64 Stat. 672.
June 29, 1949, ch. 280, title I, 63 Stat. 343.
June 19, 1948, ch. 543, title I, 62 Stat. 527.
July 30, 1947, ch. 356, title I, 61 Stat. 543.
June 22, 1946, ch. 445, 60 Stat. 290.
May 5, 1945, ch. 109, 59 Stat. 158.
June 28, 1944, ch. 296, 58 Stat. 453.
July 12, 1943, ch. 215, 57 Stat. 421.
July 22, 1942, ch. 516, 56 Stat. 687.
July 1, 1941, ch. 267, 55 Stat. 431.
June 25, 1940, ch. 421, 54 Stat. 555.
June 30, 1939, ch. 253, title I, 53 Stat. 968.
June 16, 1938, ch. 464, title I, 52 Stat. 740.
June 29, 1937, ch. 404, title I, 50 Stat. 425.
June 4, 1936, ch. 489, title I, 49 Stat. 1450.
May 17, 1935, ch. 131, title I, 49 Stat. 275.
Mar. 26, 1934, ch. 89, 48 Stat. 493.
Mar. 3, 1933, ch. 203, 47 Stat. 1459.
July 7, 1932, ch. 443, 47 Stat. 637.
Feb. 23, 1931, ch. 278, 46 Stat. 1268.
May 27, 1930, ch. 341, 46 Stat. 418.
Feb. 16, 1929, ch. 227, 45 Stat. 1212.
May 16, 1928, ch. 572, 45 Stat. 561.
Jan. 18, 1927, ch. 39, 44 Stat. 998.
May 11, 1926, ch. 286, 44 Stat. 523.
Feb. 10, 1925, ch. 200, 43 Stat. 844.

§ 414a. Transfer of nonadministrative funds of Commodity Credit Corporation for classing and grading purposes

On and after August 31, 1951, there may be transferred to appropriations available for classing or grading any agricultural commodity without charge to the producers thereof such sums from nonadministrative funds of the Commodity Credit Corporation as may be necessary in addition to other funds available for these purposes, such transfers to be reimbursed from subsequent appropriations therefor.

(Aug. 31, 1951, ch. 374, title I, 65 Stat. 239.)

§ 415. Purchase of seeds and plants for distribution

Purchase and distribution of vegetable, field, and flower seeds, plants, shrubs, vines, bulbs, and cuttings shall be of the freshest and best obtainable varieties and adapted to general cultivation.

(R.S. § 527; Apr. 25, 1896, ch. 140, 29 Stat. 106.)

AMENDMENTS

1896—Act Apr. 25, 1896, struck out ''by the Department of Agriculture'' and ''trees'', and inserted ''vegetable, field, and flower seeds'' and ''bulbs''.

CROSS REFERENCES

Collection, testing, propagation, and distribution of seeds by Secretary of Agriculture, see section 2204 of this title.

Letting contract for seeds and plants, see section 416 of this title.

§ 415a. Omitted

CODIFICATION

Section was from act June 16, 1938, ch. 464, title I, 52 Stat. 739, the Department of Agriculture Appropriation Act, 1939, and related to sale of practical forms of grades of wool and mohair. See section 415e of this title. Similar provisions were contained in the following prior appropriation acts:
June 29, 1937, ch. 404, title I, 50 Stat. 424.
June 4, 1936, ch. 489, title I, 49 Stat. 1450.
May 17, 1935, ch. 131, title I, 49 Stat. 275.
Mar. 26, 1934, ch. 89, 48 Stat. 493.
Mar. 3, 1933, ch. 203, 47 Stat. 1458.
July 7, 1932, ch. 443, 47 Stat. 636.
Feb. 23, 1931, ch. 278, 46 Stat. 1268.
May 27, 1930, ch. 341, 46 Stat. 418.
Feb. 16, 1929, ch. 227, 45 Stat. 1212.
May 16, 1928, ch. 572, 45 Stat. 561.
Jan. 18, 1927, ch. 39, 44 Stat. 997.

§ 415b. Wool standards; appropriation of certain funds

There is authorized to be appropriated for expenditure by the Secretary of Agriculture, for the purposes stated in section 415c of this title, all funds prior to or after May 17, 1928, collected by suit, or otherwise, pursuant to appropriations for the completion of the work of the domestic wool section of the War Industries Board, and for enforcing Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the Bureau of Markets, now a part of the Bureau of Agricultural Economics of the Department of Agriculture, and for continuing as far as practicable the distribution among the growers of the wool clip of 1918 of all sums prior to or after May 17, 1928, collected or recovered with or without suit by the Government from all persons, firms, or corporations which

handled any part of the wool clip of 1918, which he finds it impracticable to distribute among said growers, provided that not to exceed $50,000 may be expended in any fiscal year.

(May 17, 1928, ch. 602, § 1, 45 Stat. 593.)

TRANSFER OF FUNCTIONS

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415c, 415d of this title.

§ 415c. Use of funds for dissemination of information relating to standardization, grading, etc., of wool; charge for grading wool

The funds referred to in section 415b of this title may be used for the purpose of acquiring and diffusing among the people of the United States useful information relative to the standardization, grading, preparation for market, marketing, utilization, transportation, handling, and distribution of wool, and of approved methods and practices relative thereto, including the demonstration and promotion of the use of grades for wool in accordance with standards therefor which the Secretary of Agriculture is authorized to establish. Said funds may be used for the grading of wool, and for such grading or other service rendered under sections 415b to 415d of this title reasonable fees may be charged, and provided further that after May 17, 1928, reasonable charges may be made for practical forms of grades for wool.

(May 17, 1928, ch. 602, § 2, 45 Stat. 593.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415b, 415d of this title.

§ 415d. Rules and regulations for wool standards; deposit of receipts in the Treasury

The Secretary of Agriculture may make such rules and regulations as he deems advisable for carrying out any of the provisions of sections 415b and 415c of this title. All receipts under sections 415b to 415d of this title shall be deposited in the Treasury to the credit of miscellaneous receipts.

(May 17, 1928, ch. 602, § 3, 45 Stat. 594.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415c of this title.

§ 415e. Farm or food products; sale of samples, practical forms, etc.

The Secretary of Agriculture is authorized to sell samples, illustrations, practical forms, or sets of the grades recommended or promulgated by him for farm or food products, under such rules and regulations as he may prescribe, and the receipts therefrom shall be deposited in the Treasury to the credit of miscellaneous receipts.

(Sept. 21, 1944, ch. 412, title IV, § 401(a), 58 Stat. 738.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following Department of Agriculture appropriation acts:
June 28, 1944, ch. 296, 58 Stat. 454.
July 12, 1943, ch. 215, 57 Stat. 421.
July 22, 1942, ch. 516, 56 Stat. 688.
July 1, 1941, ch. 267, 55 Stat. 431.
June 25, 1940, ch. 421, 54 Stat. 555.
June 30, 1939, ch. 253, title I, 53 Stat. 968.

§ 416. Letting contract for packeting, etc., of seeds, etc., for distribution

The Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the seeds, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States.

(May 11, 1922, ch. 185, 42 Stat. 517.)

CODIFICATION

Section is from the Agriculture Department Appropriation Act, 1923.

CROSS REFERENCES

Purchase of seeds and plants for distribution, see section 415 of this title.

§ 417. Distribution of farmers' bulletins

In the distribution of farmers' bulletins, which shall be adapted to the interests of the people of the different sections of the country, an equal proportion of four-fifths shall be delivered to or sent out under the addressed franks furnished by Senators, Representatives, and Delegates in Congress, as such Senators, Representatives, or Delegates shall direct: *Provided*, That the Secretary of Agriculture shall notify Senators, Representatives, and Delegates in Congress of the title and character of each such bulletin, with the total number to which each Senator, Representative, and Delegate may be entitled for such distribution; and on the face of the envelope inclosing said bulletins shall be printed the title of each bulletin contained therein.

(June 30, 1906, ch. 3913, 34 Stat. 690.)

CODIFICATION

Section is derived from an Appropriation Act for the Department of Agriculture, 1907. The last proviso of section relating to farmers' bulletins not called for in quotas of Senators and Representatives was omitted from the Code as obsolete in view of Attorney General's opinion, 27 Op. Atty. Gen. 288.

§ 418. Annual report on work of agricultural experiment stations and of college extension work; publication and distribution

There shall be prepared by the Department of Agriculture an annual report on the work and expenditures of the agricultural experiment stations established under the Act of Congress of March second, eighteen hundred and eighty-seven [7 U.S.C. 361a et seq.], on the work and ex-

penditures of the Department of Agriculture in connection therewith, and on the cooperative agricultural extension work and expenditures of the Department of Agriculture and of agricultural colleges under the Act of May eighth, nineteen hundred and fourteen [7 U.S.C. 341 et seq.], and there shall be printed annually eight thousand copies of said report, of which one thousand copies shall be for the use of the Senate, two thousand copies for the use of the House of Representatives, and five thousand copies for the use of the Department of Agriculture.

(Mar. 4, 1915, ch. 144, 38 Stat. 1110.)

REFERENCES IN TEXT

The Act of Congress of March second, eighteen hundred and eighty-seven, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of May eighth, nineteen hundred and fourteen, referred to in text, is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, known as the ''Smith-Lever Act'', and also known as the ''Agricultural Work Extension Act'', which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Secretary of Agriculture as required to prescribe form of financial statement for agricultural experiment stations, see section 361e of this title.

§ 419. Repealed. Oct. 31, 1951, ch. 654, § 1(12), 65 Stat. 701

Section, act May 5, 1945, ch. 109, 59 Stat. 143, related to sale by Secretary of Agriculture of products of agricultural experiment station in Puerto Rico, and disposition of moneys derived therefrom. See section 484 of Title 40, Public Buildings, Property, and Works. Similar provisions had been carried in prior Department of Agriculture appropriation acts back to and including that for the fiscal year ending June 30, 1919 (40 Stat. 1000). Similar provisions were contained in the following prior appropriation acts:

June 28, 1944, ch. 296, 58 Stat. 432.
July 12, 1943, ch. 215, 57 Stat. 400.
July 22, 1942, ch. 516, 56 Stat. 670.
July 1, 1941, ch. 267, 55 Stat. 413.
June 25, 1940, ch. 421, 54 Stat. 536.
June 30, 1939, ch. 253, title I, 53 Stat. 944.
June 16, 1938, ch. 464, title I, 52 Stat. 715.
June 29, 1937, ch. 404, 50 Stat. 399.
June 4, 1936, ch. 489, 49 Stat. 1425.
May 17, 1935, ch. 131, title I, 49 Stat. 251.
Mar. 26, 1934, ch. 89, 48 Stat. 471.
Mar. 3, 1933, ch. 203, 47 Stat. 1436.
July 7, 1932, ch. 443, 47 Stat. 614.
May 17, 1932, ch. 190, 47 Stat. 158.
Feb. 23, 1931, ch. 278, 46 Stat. 1246.
May 27, 1930, ch. 341, 46 Stat. 396.
Feb. 16, 1929, ch. 227, 45 Stat. 1192.
May 16, 1928, ch. 572, 45 Stat. 542.
Jan. 18, 1927, ch. 39, 44 Stat. 979.
May 11, 1926, ch. 286, 44 Stat. 502.
Feb. 10, 1925, ch. 200, 43 Stat. 824.

§ 420. Power to administer oaths, examine witnesses, or require production of books, etc.

In the performance of the duties required of the Bureau of Agricultural Economics in the administration or enforcement of provisions of Acts (United States Cotton Futures Act, Thirty-ninth Statutes at Large, page 476; United States Grain Standards Act, Thirty-ninth Statutes at Large, page 482 [7 U.S.C. 71 et seq.], United States Warehouse Act, Thirty-ninth Statutes at Large, page 486 [7 U.S.C. 241 et seq.]; Standard Container Act, Thirty-ninth Statutes at Large, page 673; and the Acts making annual appropriations for the Department of Agriculture) relating to the Department of Agriculture, the Secretary of Agriculture, or any representative specifically authorized in writing by him for the purpose, shall have power to administer oaths, examine witnesses, and call for the production of books and papers.

(July 24, 1919, ch. 26, 41 Stat. 267; May 11, 1922, ch. 185, 42 Stat. 532.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, as amended, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

The United States Grain Standards Act, referred to in text, is part B of act Aug. 11, 1916, ch. 313, 39 Stat. 482, as amended, which is classified generally to chapter 3 (§ 71 et seq.) of this title. For complete classification of this Act to the Code, see section 71 of this title and Tables.

The United States Warehouse Act, referred to in text, is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§ 241 et seq.) of this title. For complete classification of this Act to the Code, see section 241 of this title and Tables.

The Standard Container Act, referred to in text, is act Aug. 31, 1916, ch. 426, 39 Stat. 673, as amended, which was classified generally to subchapter VII (§ 251 et seq.) of chapter 6 of Title 15, Commerce and Trade, and was repealed by Pub. L. 90–628, § 1(a), Oct. 22, 1968, 82 Stat. 1320. For complete classification of this Act to the Code prior to its repeal, see Tables.

TRANSFER OF FUNCTIONS

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

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

Act May 11, 1922, transferred powers of former ''Bureau of Markets, Bureau of Markets and Crop Estimates, and the Office of Farm Management and Farm Economics'' to ''Bureau of Agricultural Economics''.

CROSS REFERENCES

Oaths, affirmations, and affidavits by officers, agents, or employees of Department of Agriculture generally, see section 2217 of this title.

§ 421. Dairying and livestock experiment station, Mandan, North Dakota

The Secretary of Agriculture is authorized and directed to establish at Mandan, North Dakota,

a dairying and livestock experiment station, in connection with the Great Plains Experiment Station, for investigations and experiments in the dairy and livestock industries and the problems pertaining to the establishment and development of such industries, and for demonstrations, assistance, and service in livestock breeding, growing, and feeding.

(July 3, 1926, ch. 769, § 1, 44 Stat. 840.)

§ 421a. Omitted

CODIFICATION

Section, act July 3, 1926, ch. 769, § 2, 44 Stat. 840, appropriated $25,000 to effectuate the purposes of section 421 of this title.

§ 422. Dairying and livestock experiment station, Lewisburg, Tennessee

The Secretary of Agriculture is authorized and directed to establish at or near Lewisburg, Tennessee, a dairying station for investigations, experiments, and demonstrations in the dairy industry, and the problems pertaining to the development of such industry in the South, and for investigations, demonstrations, assistance, and service in dairy livestock breeding, growing, and feeding, and dairy products manufacture.

(May 29, 1928, ch. 892, § 1, 45 Stat. 981.)

§ 422a. Omitted

CODIFICATION

Section, act May 29, 1928, ch. 892, § 2, 45 Stat. 981, appropriated $50,000 for the purposes of section 422 of this title.

§ 423. Cotton; investigation of new uses; cooperation with State and other agencies

The Secretary of Agriculture and the Secretary of Commerce are authorized to engage in technical and scientific research in American-grown cotton and its byproducts and their present and potential uses, including new and additional commercial and scientific uses for cotton and its byproducts, and to diffuse such information among the people of the United States; and the Secretary of Agriculture and the Secretary of Commerce or their duly authorized representatives may cooperate with any department or agency of the Government, any State, Territory, District, or possession or department, agency, or political subdivision thereof, or any person in carrying out the purposes of this section in the District of Columbia and elsewhere.

(Apr. 12, 1928, ch. 362, 45 Stat. 426.)

§ 424. Cotton ginning investigations; publication of results; cooperation with Federal and State departments and agencies

The Secretary of Agriculture is authorized to investigate the ginning of cotton; to establish and maintain experimental ginning plants and laboratories; and to make such tests, demonstrations, and experiments, and such technical and scientific studies in relation to cotton ginning as he shall deem necessary and to publish the results thereof, with a view to developing improved ginning equipment and encouraging the use of improved methods, and he may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary.

(Apr. 19, 1930, ch. 203, § 1, 46 Stat. 248.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 425 of this title.

§ 425. Authorization of appropriations for cotton ginning studies

For the purposes of section 424 of this title there is authorized to be appropriated, after June 30, 1931, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary.

(Apr. 19, 1930, ch. 203, § 2, 46 Stat. 248.)

§ 426. Predatory and other wild animals; eradication and control; investigations, experiments, and tests by Secretary of Agriculture; cooperation with other agencies

The Secretary of Agriculture is authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, brown tree snakes, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur-bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: *Provided*, That in carrying out the provisions of this section the Secretary of Agriculture may cooperate with States, individuals, and public and private agencies, organizations, and institutions.

(Mar. 2, 1931, ch. 370, § 1, 46 Stat. 1468; Pub. L. 102–237, title X, § 1013(d), Dec. 13, 1991, 105 Stat. 1901.)

AMENDMENTS

1991—Pub. L. 102–237 inserted ''brown tree snakes,'' after ''rabbits,''.

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

Pub. L. 99–190, § 101(a) [H.R. 3037, title I, § 101], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100–202, § 106, Dec. 22, 1987, 101 Stat. 1329–433, provided in part: ''That effective upon the date of enactment of this Act [Dec. 19, 1985] and notwithstanding any other provision of law, the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b), (trans-

ferred to the Secretary of the Interior pursuant to section 4(f) of 1939 Reorganization Plan No. II) and all personnel, property, records, unexpended balances of appropriations, allocations and other funds of the Fish and Wildlife Service, United States Department of the Interior used, held, available or to be made available in connection with the administration of such Act, are hereby transferred from the Secretary of the Interior to the Secretary of Agriculture, and this appropriation shall be available to carry out such authorities.''

PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM

Section 1013(a)–(c) of Pub. L. 102–237, as amended by Pub. L. 105–277, div. A, §101(a) [title VII, §743], Oct. 21, 1998, 112 Stat. 2681, 2681–31, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

''(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

''(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).''

Pub. L. 102–190, div. A, title III, §348, Dec. 5, 1991, 105 Stat. 1348, provided that: ''The Secretary of Defense shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes from Guam to Hawaii in aircraft and vessels transporting personnel or cargo for the Department of Defense. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventive processes or devices at aircraft and vessel loading facilities in Guam or Hawaii or at intermediate transit points for personnel or cargo transported between Guam and Hawaii.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426b of this title; title 16 section 2909.

§ 426a. Omitted

CODIFICATION

Section, act Mar. 2, 1931, ch. 370, §2, 46 Stat. 1469, authorized $1,000,000 per year for fiscal years 1932 to 1941, inclusive.

§ 426b. Authorization of expenditures for the eradication and control of predatory and other wild animals

The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 426 of this title.

(Mar. 2, 1931, ch. 370, §3, 46 Stat. 1469.)

TRANSFER OF FUNCTIONS

See note under section 426 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 2909.

§ 426c. Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception

On and after December 22, 1987, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

(Pub. L. 100–202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331.)

§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities

It is declared to be the policy of the Congress to promote the efficient production and utilization of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural commodities and byproducts as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural

manpower, soils, plants, animals, and equipment than those to which they are now, or may hereafter be, devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more efficient and satisfactory use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation); applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use; research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the type of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemd[1] advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States, and Territories. In effectuating the purposes of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable). For purposes of sections 427 to 427j of this title, the term ''solar energy'' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear[2] Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(June 29, 1935, ch. 338, title I, § 1, 49 Stat. 436; Aug. 14, 1946, ch. 966, title I, § 101(1), 60 Stat. 1082; Pub. L. 95–113, title XIV, § 1446, Sept. 29, 1977, 91 Stat. 1011; Pub. L. 96–294, title II, § 253, June 30, 1980, 94 Stat. 707.)

REFERENCES IN TEXT

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. See sections 361a to 361i of this title.

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

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

[2] So in original. Probably should be ''Nonnuclear''.

CODIFICATION

Another section 1446 of Pub. L. 95–113 is classified to section 3222a of this title.

AMENDMENTS

1980—Pub. L. 96–294 inserted provisions relating to applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use.

1977—Pub. L. 95–113 inserted reference to research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation) and inserted definition of ''solar energy''.

1946—Act Aug. 14, 1946, amended section generally to provide for a greatly augmented research program in order to enable agriculture to attain a position in research comparable to that of other industries.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SHORT TITLE

Act June 29, 1935, as amended, which enacted sections 329, 343, 343d–1, and 427–427j of this title, is popularly known as the ''Agricultural Research Act'' and also as the ''Bankhead-Jones Act''.

TRANSFER OF FUNCTIONS

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

MINIMUM SUM FOR CONTRACTING

Minimum of $1,500,000 of appropriations of Department of Agriculture for research and service work authorized by this section and section 1621 et seq. of this title as available for contracting in accordance therewith, see section 1623a of this title.

EX. ORD. NO. 9310. TRANSFERRING NUTRITION FUNCTIONS OF OFFICE OF DEFENSE HEALTH AND WELFARE SERVICES TO DEPARTMENT OF AGRICULTURE

Ex. Ord. No. 9310, Mar. 6, 1943, 8 F.R. 2913, provided:

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941 [former sections 601 to 605 of Appendix to Title 50, War and National Defense], as President of the United States, and in order to enable the Secretary of Agriculture more effectively to carry out his responsibilities with respect to the Nation's food program, it is hereby ordered:

1. The functions, powers, and duties, with respect to nutrition, (a) of the Office of Defense Health and Welfare Services in the Office for Emergency Management of the Executive Office of the President (including all functions, powers, and duties of the Nutrition Division of the Office of Defense Health and Welfare Services), and (b) of the Director of the Office of Defense Health and Welfare Services, are transferred to the Department of Agriculture and shall be administered under the supervision and direction of the Secretary of Agriculture through such agency or agencies in the Department as the Secretary shall designate.

2. The personnel, property, and records used primarily in the administration of the functions, powers, and duties transferred by this Order are transferred to the Department of Agriculture. So much of the unexpended balances of appropriations, allocations, and other funds available for the use of the Office of Defense Health and Welfare Services in discharging the functions, powers, and duties transferred by this Order, as the Director of the Bureau of the Budget shall determine, shall be transferred to the Department of Agri-

culture for use in connection with the exercise of the functions, powers, and duties so transferred. In determining the amounts to be transferred hereunder, allowance shall be made for the liquidation of obligations previously incurred against such appropriations, allocations, or other funds.

FRANKLIN D. ROOSEVELT.

CROSS REFERENCES

Appropriations for cooperative research with State agricultural experiment stations and other appropriate agencies, see section 427i of this title.

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

Research to discover new uses and markets for commodities, see section 1292 of this title.

Similar provisions authorizing agricultural research and investigations, see sections 361b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427i, 1623a, 1629, 3152 of this title; title 42 section 8852.

§§ 427a to 427h. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Sections 427a to 427c, act June 29, 1935, ch. 338, title I, §§ 2–4, 49 Stat. 437, authorized research by experiment stations, appropriations, and allocation of appropriations. See sections 361a to 361c of this title.

Section 427d, acts June 29, 1935, ch. 338, title I, § 5, 49 Stat. 437; Sept. 21, 1944, ch. 412, title I, § 105, 58 Stat. 735, related to allocation of appropriations. See section 361c of this title.

Sections 427e to 427g, act June 29, 1935, ch. 338, title I, §§ 6–8, 49 Stat. 438, defined ''Territory'', authorized Secretary of Agriculture to prescribe rules and regulations, and reserved the right to Congress to amend, suspend, or repeal act June 29, 1935. See sections 361a, 361g, and 361i, respectively, of this title.

Section 427h, act June 29, 1935, ch. 338, title I, § 9, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1083, authorized appropriations for agricultural experiment stations, provided for availability of funds and unexpended balances, and prescribed allotments for the experiment stations. See sections 361c, 361d, and 361g of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under sections 427a to 427h as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under former section 361 of this title.

§ 427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund

(a) In order to carry out further research on utilization and associated problems in connection with the development and application of present, new, and extended uses of agricultural commodities and products thereof authorized by section 427 of this title, and to disseminate information relative thereto, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated the following sums:

(1) $3,000,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $3,000,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $3,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $3,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional $3,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

The Secretary of Agriculture, in accordance with such regulations as he deems necessary, and when in his judgment the work to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture, may enter into contracts with such public or private organizations or individuals as he may find qualified to carry on work under this section without regard to the provisions of section 5 of title 41, and with respect to such contracts he may make advance progress or other payments without regard to the provisions of section 3324(a) and (b) of title 31. Contracts under this section may be made for work to continue not more than four years from the date of any such contract. Notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C. 713), any unexpended balances of appropriations properly obligated by contracting with an organization as provided in this subsection may remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Research authorized under this subsection shall be conducted so far as practicable at laboratories of the Department of Agriculture. Projects conducted under contract with public and private agencies shall be supplemental to and coordinated with research of these laboratories. Any contracts made pursuant to this authority shall contain requirements making the results of research and investigations available to the public through dedication, assignment to the Government, or such other means as the Secretary shall determine.

(b) In order to carry out further the purposes of section 427 of this title, other than research on utilization of agricultural commodities and the products thereof, and in addition to all other appropriations authorized by sections 427 to 427j of this title, there is authorized to be appropriated for cooperative research with the State agricultural experiment stations and such other appropriate agencies as may be mutually agreeable to the Department of Agriculture and the experiment stations concerned, the following sums:

(1) $1,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $1,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $1,500,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $1,500,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) In addition to the foregoing such additional funds beginning with the fiscal year ending June 30, 1951, and thereafter, as the Congress may deem necessary.

(c) The Secretary may incur necessary administrative expenses not to exceed 3 per centum of the amount appropriated in any fiscal year in carrying out this section, including the specific objects of expense enumerated in section 427b of this title.

(d) The ''Special research fund, Department of Agriculture,'' provided by section 427c of this title, shall continue to be available solely for research into laws and principles underlying basic problems of agriculture in its broadest aspects; research relating to the improvement of the quality of, and the development of, new and improved methods of production of, distribution of, and new and extended uses and markets for, agricultural commodities and byproducts and manufactures thereof; and research relating to the conservation, development, and use of land and water resources for agricultural purposes. Such research shall be in addition to research provided for under other law (but both activities shall be coordinated so far as practicable) and shall be conducted by such agencies of the Department of Agriculture as the Secretary of Agriculture may designate or establish.

(e) Appropriations for research work in the Department of Agriculture shall be available for accomplishing such purposes by contract through the means provided in subsection (a) of this section.

(June 29, 1935, ch. 338, title I, § 10, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1083; amended July 28, 1954, ch. 591, 68 Stat. 574.)

REFERENCES IN TEXT

Section 5 of the Act of June 20, 1874, as amended (31 U.S.C. 713), referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674. See sections 361a to 361i of this title.

CODIFICATION

In subsec. (a), closing par., ''section 3324(a) and (b) of title 31'' substituted for ''section 3648, Revised Statutes [31 U.S.C. 529]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1954—Subsec. (e). Act July 23, 1954, added subsec. (e).

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427, 1629, 3152 of this title; title 21 section 113a; title 35 section 210.

§ 427j. Repealed. Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674

Section, act June 29, 1935, ch. 338, title I, § 11, as added Aug. 14, 1946, ch. 966, title I, § 101(2), 60 Stat. 1086; amended July 31, 1947, ch. 412, 61 Stat. 694; Aug. 30, 1954, ch. 1076, § 1(7), 68 Stat. 966, authorized use of funds appropriated for agricultural research program for market research projects and required an annual report to Congress. See sections 361a to 361h of this title.

EXISTING RIGHTS AND LIABILITIES

Any rights or liabilities existing under this section as unaffected by repeal, see section 2 of act Aug. 11, 1955, set out as a note under section 361 of this title.

§ 428. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 503, 70 Stat. 240, related to options to purchase lands and was superseded by section 428a of this title. Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title V, § 503, 69 Stat. 63.
June 29, 1954, ch. 409, title V, § 503, 68 Stat. 318.
July 28, 1953, ch. 251, title IV, § 403, 67 Stat. 224.
July 5, 1952, ch. 574, title IV, § 403, 66 Stat. 355.
Aug. 31, 1951, ch. 374, title IV, § 403, 65 Stat. 246.
Sept. 6, 1950, ch. 896, Ch. VI, title IV, § 407, 64 Stat. 657.
June 29, 1949, ch. 280, title I, 63 Stat. 325.
June 19, 1948, ch. 543, title I, 62 Stat. 508.
July 30, 1947, ch. 356, title I, 61 Stat. 523.
June 22, 1946, ch. 445, 60 Stat. 271.
May 5, 1945, ch. 109, 59 Stat. 136.
June 28, 1944, ch. 296, 58 Stat. 426.
July 12, 1943, ch. 215, 57 Stat. 393.
July 22, 1942, ch. 516, 56 Stat. 665.
July 1, 1941, ch. 267, 55 Stat. 408.
June 25, 1940, ch. 421, 54 Stat. 532.

§ 428a. Acquisition of land; options

(a) The Department of Agriculture is authorized to acquire land, or interest therein, by purchase, exchange or otherwise, as may be necessary to carry out its authorized work: *Provided*, That no acquisition shall be made under this authority unless provision is made therefor in the applicable appropriation or other law.

(b) Appropriations for the Department of Agriculture which are available for the purchase of land may be expended for options to purchase land: *Provided*, That not to exceed $1 may be expended for each option to purchase any particular tract or tracts of land unless otherwise provided in appropriation or other law.

(Aug. 3, 1956, ch. 950, § 11, 70 Stat. 1034.)

CROSS REFERENCES

Adjustment of title to lands under jurisdiction of Secretary of Agriculture, see section 2253 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 2103c.

§ 428b. Wheat and feed grains research; regional and national research programs; utilization of services of Federal, State and private agencies; authorization of appropriations

In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, and to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

There is authorized to be appropriated such sums as may be necessary to carry out the pro-

visions of this section, but not more than $1,000,000 in any fiscal year.

(Pub. L. 91–524, title VIII, § 810, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

§ 428c. Rice research

(a) Regional and national research programs; rules; purposes

The Secretary of Agriculture may, under rules prescribed by such Secretary, carry out regional and national research programs with regard to rice for the following purposes:

(1) to reduce fertilizer and herbicide usage in excess of production needs;

(2) to develop varieties of rice more susceptible to complete fertilizer utilization;

(3) to improve the resistance of rice plants to disease and to enhance their conservation and environmental qualities;

(4) to increase the usage of rice and its processing byproducts;

(5) to develop better husbandry practices in production and conservation of rice;

(6) to develop more efficient rice storage practices;

(7) to improve domestic and international marketing of rice; and

(8) to benefit the general welfare.

(b) Utilization of services of Federal, State, local governmental and private agencies; priority consideration

The Secretary shall, in implementing the program authorized in subsection (a) of this section, utilize the technical and related services of appropriate Federal, State, local governmental, and private agencies, with priority consideration for land grant universities, State experiment stations, and other agricultural institutions of higher learning.

(c) Authorization of appropriations; use restriction

There is authorized to be appropriated not more than $1,000,000 for the period ending September 30, 1976, to carry out the provisions of this section. No funds authorized by this section shall be used for advertising or promotional activities.

(Pub. L. 94–214, title II, § 201, Feb. 16, 1976, 90 Stat. 187.)

SHORT TITLE

Section 1 of Pub. L. 94–214 provided that: ''This Act [enacting this section, amending sections 1352, 1385, 1428, and 1441 of this title, and enacting provisions set out as notes under sections 1352, 1353, 1377, 1385, 1428, and 1441 of this title] may be cited as the 'Rice Production Act of 1975'.''

§ 429. Improvement of poultry, poultry products, and hatcheries

The Secretary of Agriculture is authorized to cooperate with State authorities and with the authorities of the District of Columbia, Alaska, Hawaii, and Puerto Rico in the administration of regulations for the improvement of poultry, poultry products, and hatcheries.

(Sept. 21, 1944, ch. 412, title I, § 101(b), 58 Stat. 734; Aug. 4, 1950, ch. 579, 64 Stat. 413.)

AMENDMENTS

1950—Act Aug. 4, 1950, included within its provisions the District of Columbia, Alaska, Hawaii, and Puerto Rico.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 430. Purchase and testing of serums or analogous products; dissemination of test results

The Secretary of Agriculture may purchase in the open market from applicable appropriations samples of all tuberculin, serums, antitoxins, or analogous products, of foreign or domestic manufacture, which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, test the same, and disseminate the results of said tests in such manner as he may deem best.

(Sept. 21, 1944, ch. 412, title I, § 101(d), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 431. Purchase of tags, labels, stamps, and certificates

The Secretary of Agriculture is authorized to expend appropriations for meat inspection for the purchase of printed tags, labels, stamps, and certificates without regard to existing laws applicable to public printing.

(Sept. 21, 1944, ch. 412, title I, § 101(f), 58 Stat. 734.)

APPROPRIATIONS

Appropriations of funds necessary to accomplish the purpose of this section, see note under section 395 of this title.

§ 432. Purchase of cultures for soil and fertilizer investigations

The Secretary of Agriculture may purchase from applicable appropriations cultures in the open market for use in connection with soil and fertilizer investigations.

(Sept. 21, 1944, ch. 412, title I, § 104, 58 Stat. 735.)

§ 433. Domestic raising of fur-bearing animals; classification

For the purposes of all classification and administration of Acts of Congress, Executive orders, administrative orders, and regulations pertaining to—

(a) fox, rabbit, mink, chinchilla, marten, fisher, muskrat, karakul and all other fur-bearing animals, raised in captivity for breeding or other useful purposes shall be deemed domestic animals;

(b) such animals and the products thereof shall be deemed agricultural products; and

(c) the breeding, raising, producing, or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit.

(Apr. 30, 1946, ch. 242, § 1, 60 Stat. 127.)

EFFECTIVE DATE

Section 3 of act Apr. 30, 1946, provided that this section and section 434 of this title shall become effective sixty days after Apr. 30, 1946.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 434 of this title.

§ 434. Transfer of functions, appropriations, records and property to Secretary of Agriculture

(a) All the functions of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior, which affect the breeding, raising, producing, marketing, or any other phase of the production or distribution, of domestically raised fur-bearing animals, or products thereof, are transferred to and vested in the Secretary of Agriculture.

(b) Appropriations and unexpended balances of appropriations, or parts thereof, which the Director of the Office of Management and Budget determines to be available for expenditure for the administration of any function transferred by this section and section 433 of this title, shall be available for expenditure for the continued administration of such function by the officer to whom such function is so transferred.

(c) All records and property (including office furniture and equipment) under the jurisdiction of the Secretary of the Interior and the Fish and Wildlife Service of the Department of the Interior used primarily in connection with the administration of functions transferred by said sections are transferred to the jurisdiction of the Secretary of Agriculture.

(Apr. 30, 1946, ch. 242, § 2, 60 Stat. 127; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

EFFECTIVE DATE

Section effective 60 days after Apr. 30, 1946, see note set out under section 433 of this title.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget were transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget and the offices of Director of Bureau of the Budget, Deputy Director of Bureau of the Budget, and Assistant Directors of Bureau of the Budget as Director of Office of Management and Budget, Deputy Director of Office of Management and Budget, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 502 of Title 31, Money and Finance.

§ 435. Omitted

CODIFICATION

Section, which made inapplicable provisions of law prohibiting or restricting employment of aliens to employment under the appropriations for the Foreign Agricultural Service, was from the Department of Agriculture Appropriation Act, 1974, Pub. L. 93–135. Similar provisions were contained in prior appropriation acts. Section was not repeated in the Department of Agriculture Appropriation Act, 1975, accordingly, section was omitted from the Code. For provisions covering employment of aliens generally, see section 3101 note of Title 5, Government Organization and Employees.

Section was based on acts July 30, 1947, ch. 356, title I, § 4, 61 Stat. 548; June 19, 1948, ch. 543, title I, § 4, 62 Stat. 530; June 2, 1949, ch. 280, title III, § 302, 63 Stat. 348; Sept. 6, 1950, ch. 896, ch. VI, title IV, § 402, 64 Stat. 679; Aug. 31, 1951, ch. 374, title IV, § 402, 65 Stat. 245; July 5, 1952, ch. 574, title IV, § 402, 66 Stat. 355; July 28, 1953, ch. 251, title IV § 402, 67 Stat. 224; June 29, 1954, ch. 409, title V, § 502, 68 Stat. 318; May 23, 1955, ch. 43, title V, § 502, 69 Stat. 63; June 4, 1956, ch. 355, title V, § 502, 70 Stat. 240; Aug. 2, 1957, Pub. L. 85–118, title V, § 502, 71 Stat. 340; June 13, 1958, Pub. L. 85–459, title IV, § 402, 72 Stat. 199; July 8, 1959, Pub. L. 86–80, title IV, § 402, 73 Stat. 179; June 29, 1960, Pub. L. 86–532, title IV, § 402, 74 Stat. 244; July 26, 1961, Pub. L. 87–112, title V, § 502, 75 Stat. 240; Oct. 24, 1962, Pub. L. 87–879, title VI, § 602, 76 Stat. 1215; Dec. 30, 1963, Pub. L. 88–250, title VI, § 602, 77 Stat. 833; Sept. 2, 1964, Pub. L. 88–573, title V, § 502, 78 Stat. 876; Nov. 2, 1965, Pub. L. 89–316, title V, § 502, 79 Stat. 1179; Sept. 7, 1966, Pub. L. 89–556, title V, § 502, 80 Stat. 703; Oct. 24, 1967, Pub. L. 90–113, title V, § 502, 81 Stat. 334; Aug. 8, 1968, Pub. L. 90–463, title V, § 502, 82 Stat. 653; Nov. 26, 1969, Pub. L. 91–127, title V, § 502, 83 Stat. 260; Dec. 22, 1970, Pub. L. 91–566, title V, § 502, 84 Stat. 1496; Aug. 10, 1971, Pub. L. 92–73, title V, § 502, 85 Stat. 201; Aug. 22, 1972, Pub. L. 92–399, title V, § 502, 86 Stat. 611; Oct. 24, 1973, Pub. L. 93–135, title V, § 502, 87 Stat. 489.

§ 436. Transfer of Army Remount Service to Department of Agriculture; effective date

In the interests of economy and efficiency, the records, property, real and personal, and civilian personnel of the Remount Service of the Quartermaster Corps, Department of the Army, are transferred to the Department of Agriculture, effective July 1, 1948. Prior to that date, the Secretary of the Army and the Secretary of Agriculture shall enter into a written agreement on the property and the personnel covered by this transfer.

(Apr. 21, 1948, ch. 224, § 1, 62 Stat. 197.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 437 of this title.

§ 437. Administration of transferred property; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations

The Secretary of Agriculture is authorized to receive the property transferred by section 436 of this title and is directed to administer it in such manner as he deems will best advance the livestock and agricultural interests of the United States, including improvement in the breeding of horses suited to the needs of the

United States; the acquisition by purchase in the open market, exchange, hire, or donation of breeding stock, and necessary land, buildings, and facilities; the use of horses in the improvement of the supply of horses available in agriculture; the demonstration of the quality and usefulness of horses through participation in and lending for use in fairs, shows, and other events, or otherwise; the loan, sale, or hire of animals or animal products through such arrangements and subject to such fees as are deemed necessary by the Secretary to accomplish the purposes of this section and section 436 of this title, and, in carrying out such program, the Secretary is authorized to cooperate with public and private organizations and individuals under such rules and regulations as are deemed by him to be necessary.

(Apr. 21, 1948, ch. 224, § 2, 62 Stat. 197.)

AUTHORIZATION OF APPROPRIATIONS; ABOLITION OF ARMY REMOUNT PROGRAM

Section 4 of act Apr. 21, 1948, provided: ''There is hereby authorized to be appropriated to the Department of Agriculture such funds as may be necessary to carry out this Act [sections 436 to 438 of this title]. The authority of the Department of the Army to conduct a remount breeding program is hereby abolished. Funds appropriated pursuant to this Act [said sections] shall be available for necessary administrative expenses, including personal services in the District of Columbia, printing and binding, and purchase or hire of passenger motor vehicles.''

§ 438. Repealed. Pub. L. 88–448, title IV, § 402(a)(26), Aug. 19, 1964, 78 Stat. 494

Section, act Apr. 21, 1948, ch. 224, § 3, 62 Stat. 197, related to employment of retired Army officers in Remount Service.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

§ 439. Operation of Government-owned alcohol plants; location; transfer of plants

For the purpose of assuring their operation for the production of products from agricultural commodities in order to provide a means of discharging the responsibility of the Department of Agriculture in connection with surplus agricultural commodities, research, and other authorized activities, and to assist in providing an adequate supply of alcohol and other products produced from agricultural commodities necessary for the national defense, (1) the Reconstruction Finance Corporation, as successor to Defense Plant Corporation, shall transfer, without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds, to the Secretary of Agriculture all of its right, title, and interest in and to the alcohol plant established and constructed by Defense Plant Corporation at Muscatine, Iowa, the property, together with the equipment, records, facilities, and other property appurtenant thereto; and (2) the War Assets Administration shall transfer to the Secretary of Agriculture without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds the alcohol plants at Kansas City, Missouri, and Omaha, Nebraska, together with the land, equipment, facilities, and other property appurtenant thereto.

(July 2, 1948, ch. 818, § 1, 62 Stat. 1234.)

REFERENCES IN TEXT

The Surplus Property Act of 1944, referred to in text, is act Oct. 3, 1944, ch. 479, 58 Stat. 765, which was classified principally to sections 1611 to 1646 of Title 50, Appendix, War and National Defense, and was repealed effective July 1, 1949, with the exception of sections 1622, 1631, 1637, and 1641 of Title 50, Appendix, by act June 30, 1949, ch. 288, title VI, § 602(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583. Sections 1622 and 1641 were partially repealed by the 1949 act, and section 1622 is still set out in part in Title 50, Appendix. Section 1622(g) was repealed and reenacted as sections 47151 to 47153 of Title 49, Transportation, by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1278–1280, 1379. Section 1631 was repealed by act June 7, 1939, ch. 190, § 6(e), as added by act July 23, 1946, ch. 590, 60 Stat. 599, and is covered by sections 98 et seq. of Title 50. Section 1637 was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 3287 of Title 18, Crimes and Criminal Procedure. Provisions of section 1641 not repealed by the 1949 act were repealed by Pub. L. 87–256, § 111(a)(1), Sept. 21, 1961, 75 Stat. 538, and are covered by chapter 33 (§ 2451 et seq.) of Title 22, Foreign Relations and Intercourse. The provisions of the Surplus Property Act of 1944 originally repealed by the 1949 act are covered by chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

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

Functions, property, records, etc., of War Assets Administration transferred to Administrator of General Services and War Assets Administration abolished by act June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439a. Powers and duties of Secretary of Agriculture

In carrying out the purposes of sections 439 to 439e of this title the Secretary is authorized, upon such terms and conditions as he deems reasonable, and notwithstanding the provisions of any other law—

(a) to provide for the operation of such plants by lease or other arrangement;

(b) to operate such plants, where operation by others will not, in the judgment of the Secretary, accomplish the purpose of sections 439 to 439e of this title.

Such plants may be operated in the furtherance of any authorized activities of the Department of Agriculture, and any lease, or other arrangement may be upon such terms and conditions as to result in the plant being operated for such purposes.

(July 2, 1948, ch. 818, § 2, 62 Stat. 1234.)

TRANSFER OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439b, 439c, 439e of this title.

§ 439b. Recommendations to Congress for discontinuance of plants

Whenever the Secretary finds that the operation of any plant or plants as provided in sections 439 to 439e of this title is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition thereof.

(July 2, 1948, ch. 818, § 3, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439c, 439e of this title.

§ 439c. Construction of additional facilities; acquisition of property; incurment of expenses; rules and regulations

For the purposes of sections 439 to 439e of this title, the Secretary of Agriculture is authorized (a) to construct and provide additional facilities and equipment necessary to the operation of such plants, and to maintain, repair, and alter such plants; (b) to acquire property or rights or interest therein by purchase, lease, gift, transfer, condemnation, or otherwise; (c) to incur necessary administrative expenses, including personal services; and (d) to make such rules and regulations as may be necessary to carry out the purposes of said sections.

(July 2, 1948, ch. 818, § 4, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439e of this title.

§ 439d. Assumption of obligations of Reconstruction Finance Corporation covering Muscatine, Iowa, plant

The Secretary of Agriculture shall assume all obligations of the Reconstruction Finance Corporation covering operations of the Muscatine, Iowa, plant, equipment, facilities, and appurtenant property outstanding at the date of transfer.

(July 2, 1948, ch. 818, § 5, 62 Stat. 1235.)

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439e of this title.

§ 439e. Authorization of appropriations; availability of other appropriations

There are authorized to be appropriated for the purposes of sections 439 to 439e of this title such sums as the Congress may from time to time determine to be necessary. Also, the Secretary is authorized to use such sums from other appropriations or funds available to the bureaus, corporations, or agencies of the Department of Agriculture as he may deem necessary for expenses in connection with maintaining these plants in standby condition while not under lease.

(July 2, 1948, ch. 818, § 6, 62 Stat. 1235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 439a, 439b, 439c, 439d of this title.

§ 440. Reimbursement of appropriations available for classing or grading agriculture commodities without charge

On and after June 29, 1949, appropriations available for classing or grading any agricultural commodity without charge to the producers thereof may be reimbursed from nonadministrative funds of the Commodity Credit Corporation for the cost of classing or grading any such commodity for producers who obtain Commodity Credit Corporation price support.

(June 29, 1949, ch. 280, title I, 63 Stat. 344.)

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of the said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 441. Repealed. Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35

Section, act Sept. 22, 1951, ch. 409, 65 Stat. 335, related to prevention of entry of mollusks. See chapter 7B of this title.

CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85–36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, orders, permits and certificates issued before May 23, 1957 as remaining in effect until modified, see section 111 of Pub. L. 85–36 set out as a note under section 147a of this title.

§ 442. Availability of grain to prevent waterfowl depredations; payment of packaging, transporting, handling, and other charges

For the purpose of preventing crop damage by migratory waterfowl, the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Commodity Credit Corporation to be available for purposes of sections 442 to 445 of this title or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary of the Interior shall requisition pursuant to section 443 of this title. With respect to any grain thus made available, the Commodity Cred-

it Corporation may pay packaging, transporting, handling, and other charges up to the time of delivery to one or more designated locations in each State.

(July 3, 1956, ch. 512, § 1, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 444, 445 of this title.

§ 443. Requisition of grain to prevent crop depredation by migratory waterfowl

Upon a finding by the Secretary of the Interior that any area in the United States is threatened with damage to farmers' crops by migratory waterfowl, whether or not during the open season for such migratory waterfowl, the Secretary of the Interior is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Commodity Credit Corporation through price-support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory waterfowl away from crop depredations and at the same time not expose such migratory waterfowl to shooting over areas to which the waterfowl have been lured by such feeding programs.

(July 3, 1956, ch. 512, § 2, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444, 445 of this title.

§ 444. Reimbursement of packaging and transporting expenses

With respect to all grain made available pursuant to section 443 of this title, the Commodity Credit Corporation shall be reimbursed by the Secretary of the Interior for its expenses in packaging and transporting such grain for purposes of sections 442 to 445 of this title.

(July 3, 1956, ch. 512, § 3, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 445 of this title.

§ 445. Authorization of appropriations for mitigating losses caused by waterfowl depredation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in the grain transferred pursuant to sections 442 to 445 of this title.

(July 3, 1956, ch. 512, § 4, 70 Stat. 492.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 442, 444 of this title.

§ 446. Repealed. Pub. L. 86–133, Aug. 4, 1959, 73 Stat. 279

Section, act July 3, 1956, ch. 512, § 5, 70 Stat. 492, prescribed three years following July 3, 1956, as expiration date for availability of grain under sections 442 to 446 of this title.

§ 447. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting

For the purpose of meeting emergency situations caused by adverse weather conditions or other factors destructive of important wildlife resources, the States are authorized, upon the request of the State fish and game authority or other State agency having similar authority and a finding by the Secretary of the Interior that any area of the United States is threatened with serious damage or loss to resident game birds and other resident wildlife from starvation, to requisition from the Commodity Credit Corporation grain acquired by the Corporation through price support operations. Such grain may thereafter be furnished to the particular State for direct and sole utilization by the appropriate State agencies for purposes of sections 447 to 449 of this title in such quantities as mutually agreed upon by the State and the Commodity Credit Corporation and subject to such regulations as may be considered desirable by the Corporation. The Corporation shall be reimbursed by the particular State in each instance for the expense of the Corporation in packaging and transporting such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87–152, § 1, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 448, 449 of this title.

§ 448. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting

Upon a finding by the Secretary of the Interior that migratory birds are threatened with starvation in any area of the United States, the Secretary is authorized to requisition from the Commodity Credit Corporation grain acquired by that Corporation through price support operations in such quantities as may be mutually agreed upon. The Corporation shall be reimbursed by the Secretary for its expense in packaging and transporting of such grain for purposes of sections 447 to 449 of this title.

(Pub. L. 87–152, § 2, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 449 of this title.

§ 449. Authorization of appropriations for reimbursement of Commodity Credit Corporation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in grain transferred pursuant to sections 447 to 449 of this title.

(Pub. L. 87–152, § 3, Aug. 17, 1961, 75 Stat. 389.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 447, 448 of this title.

§ 450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations relating to the marketing of agricultural products and to the control or eradication of plant and animal diseases and pests, the Secretary of Agriculture is authorized, in the administration and enforcement of such Federal laws within his area of responsibility, whenever he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner he deems appropriate in the public interest.

Further, the Secretary is authorized to coordinate the administration of such Federal laws and regulations with such State laws and regulations wherever feasible. However, nothing herein shall affect the jurisdiction of the Secretary of Agriculture under any Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions of law upon such cooperation.

(Pub. L. 87–718, Sept. 28, 1962, 76 Stat. 663.)

§ 450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies

On and after December 30, 1963, the Administrator of the Agricultural Research Service may enter into agreements with and receive funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects with such cooperators.

(Pub. L. 88–250, title I, Dec. 30, 1963, 77 Stat. 820.)

§ 450b. Cooperation with State and other agencies; expenditures

In carrying on the activities of the Department of Agriculture involving cooperation with State, county, and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations of business men, business organizations, and individuals within the State, Territory, district, or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county, or municipal agencies, or local farm bureaus or like organizations, cooperating for the purpose with the Secretary of Agriculture.

(July 24, 1919, ch. 26, 41 Stat. 270.)

CODIFICATION

Section was formerly classified to section 563 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

A prior section 450b, Pub. L. 89–106, § 2, Aug. 4, 1965, 79 Stat. 431, which related to research grants, duration, records, and audit, was transferred to section 450i of this title.

CROSS REFERENCES

Application to cooperative work by Fish and Wildlife Service, see section 753 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2220 of this title; title 16 section 743.

§ 450c. Delegation of regulatory functions of Secretary of Agriculture; definitions

As used in sections 450c to 450g of this title—

(a) The term ''regulatory order'' means an order, marketing agreement, standard, permit, license, registration, suspension or revocation of a permit, license, or registration, certificate, award, rule or regulation, if it has the force and effect of law, and if it may be made, prescribed, issued, or promulgated only after notice and hearing or opportunity for hearing have been given.

(b) The term ''regulatory function'' means the making, prescribing, issuing, or promulgating of a regulatory order; and includes (1) determining whether such making, prescribing, issuing, or promulgating is authorized or required by law, and (2) any action which is required or authorized to be performed before, after, or in connection with, such determining, making, prescribing, issuing, or promulgating.

(Apr. 4, 1940, ch. 75, § 1, 54 Stat. 81.)

CODIFICATION

Section was formerly classified to section 516a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450g of this title.

§ 450d. Delegation of regulatory functions to designated employees; status of employees; number; revocation of delegation

Whenever the Secretary of Agriculture deems that the delegation of the whole or any part of any regulatory function which the Secretary is, now or after April 4, 1940, required or authorized to perform will result in the more expeditious discharge of the duties of the Department of Agriculture, he is authorized to make such delegation to any officer or employee designated under this section. The Secretary is authorized to designate officers or employees of the Department to whom functions may be delegated under this section and to assign appropriate titles to such officers or employees. There shall not be in the Department at any one time more than two offi-

cers or employees designated under this section and vested with a regulatory function or part thereof delegated under this section. The Secretary may at any time revoke the whole or any part of a delegation or designation made by him under this section.

(Apr. 4, 1940, ch. 75, § 2, 54 Stat. 81; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 650.)

CODIFICATION

Section was formerly classified to section 516b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Pub. L. 89–554 repealed third sentence which related to grade of a position. See section 5109 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450e, 450f, 450g of this title; title 5 section 5109.

§ 450e. Authority of designated employees; retroactive revocation of delegation

Whenever a delegation is made under section 450d of this title, all provisions of law shall be construed as if the regulatory function or the part thereof delegated had (to the extent of the delegation) been vested by law in the individual to whom the delegation is made, instead of in the Secretary of Agriculture. A revocation of delegation shall not be retroactive, and each regulatory function or part thereof performed (within the scope of the delegation) by such individual prior to the revocation shall be considered as having been performed by the Secretary.

(Apr. 4, 1940, ch. 75, § 3, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450f. Delegation of functions under other laws as unaffected

The provisions of section 450d of this title shall not be deemed to prohibit the delegation, under authority of any other provision of law, of the whole or any part of any regulatory function or other function to any officer or employee of the Department of Agriculture.

(Apr. 4, 1940, ch. 75, § 4, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450c, 450g of this title.

§ 450g. Authorization of appropriations for cooperative research projects

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450c to 450g of this title.

(Apr. 4, 1940, ch. 75, § 5, 54 Stat. 82.)

CODIFICATION

Section was formerly classified to section 516e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450c of this title.

§ 450h. Transferred

CODIFICATION

Section, act July 24, 1919, ch. 26, 41 Stat. 270, as amended, was transferred to section 2220 of this title.

Section was formerly classified to sections 67 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 450i. Competitive, special, and facilities research grants

(a) Establishment of grant program

(1) In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

(2) SHORT TITLE.—This section may be cited as the ''Competitive, Special, and Facilities Research Grant Act''.

(b) Competitive grants

(1) The Secretary of Agriculture is authorized to make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, national laboratories, private organizations or corporations, and individuals, for research to further the programs of the Department of Agriculture. To the greatest extent possible the Secretary shall allocate these grants to high priority research taking into consideration, when available, the determinations made by the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 3123 of this title) identifying high priority research areas.

(2) HIGH PRIORITY RESEARCH.—For purposes of this subsection, the term ''high priority research'' means basic and applied research that focuses on both national and multistate research needs (and methods to transfer such research to onfarm or inmarket practice) in—

(A) plant systems, including plant genome structure and function; molecular and cellular genetics and plant biotechnology; plant-pest interactions and biocontrol systems; crop plant response to environmental stresses; unproved nutrient qualities of plant products; and new food and industrial uses of plant products;

(B) animal systems, including aquaculture, cellular and molecular basis of animal reproduction, growth, disease, and health; identi-

fication of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; and improved nutrient qualities of animal products, and uses, and the development of new and improved animal husbandry and production systems that take into account production efficiency and animal well-being, and animal systems applicable to aquaculture;

(C) nutrition, food quality, and health, including microbial contaminants and pesticides residues related to human health; links between diet and health; bioavailability of nutrients; postharvest physiology and practices; and improved processing technologies;

(D) natural resources and the environment, including fundamental structures and functions of ecosystems; biological and physical bases of sustainable production systems; minimizing soil and water losses and sustaining surface water and ground water quality; global climate effects on agriculture; forestry; and biological diversity;

(E) engineering, products, and processes, including new uses and new products from traditional and non-traditional crops, animals, byproducts, and natural resources; robotics, energy efficiency, computing, and expert systems; new hazard and risk assessment and mitigation measures; and water quality and management; and

(F) markets, trade, and policy, including optional strategies for entering and being competitive in overseas markets; new decision tools for onfarm and inmarket systems; choices and applications of technology; technology assessment; and new approaches to rural economic development.

(3) TYPES OF GRANTS.—In addition to making research grants under paragraph (1), the Secretary may conduct a program to improve research capabilities in the agricultural, food, and environmental sciences and award the following categories of competitive grants:

(A) Grants may be awarded to a single investigator or coinvestigators within the same discipline.

(B) Grants may be awarded to teams of researchers from different areas of agricultural research and scientific disciplines.

(C) Grants may be awarded to multidisciplinary teams that are proposing research on long-term applied research problems, with technology transfer a major component of all such grant proposals.

(D) Grants may be awarded to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching. The Secretary shall use not less than 25 percent, and not more than 40 percent, of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences.

(E) Grants may be awarded to single investigators or coinvestigators who are beginning their research careers and do not have an extensive research publication record. To be eligible for a grant under this subparagraph, an individual shall be within 5 years of the individual's initial career track position.

(F) Grants may be awarded to ensure that the faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants.

(4) TERM.—The term of a competitive grant made under this subsection may not exceed 5 years.

(5) DIRECTOR.—The Secretary shall appoint a director for the grant program authorized by this subsection. The Secretary, acting through the director, shall be responsible for the overall direction of the grant program and implementation of general policies respecting the management and operation of programs and activities in the program.

(6) PARTICIPATION IN GRANT PROCESS.—In seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

(7) CONSTRUCTION PROHIBITED.—A grant made under paragraph (1) may not be used for any purpose for which a grant may be made under subsection (d) of this section or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(8) MATCHING FUNDS.—(A) Except as provided in subparagraph (B), the Secretary may not take the offer or availability of matching funds into consideration in making a grant under this subsection.

(B) In the case of grants under paragraph (3)(D), the amount provided under this subsection may not exceed 50 percent of the cost of the special research equipment or other equipment acquired. The Secretary may waive all or part of the matching requirement under this subparagraph in the case of a smaller college or university (as described in section 2204f(c)(2)(C)(ii) of this title) if the equipment to be acquired costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.

(9) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report describing the policies, priorities, and operations of the grant program authorized by this subsection during the preceding fiscal year. The report shall—

(A) include a description of the progress being made to comply with subsection (j) of this section; and

(B) be transmitted not later than January 1 of each year.

(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $150,000,000 for fiscal year 1991, $275,000,000 for fiscal year 1992, $350,000,000 for fiscal year 1993, $400,000,000 for fiscal year 1994, and $500,000,000 for each of fiscal years 1995 through 2002, of which each fiscal year—

(A) not less than 10 percent for fiscal year 1991, 20 percent for fiscal year 1992, and 30 per-

cent for fiscal year 1993 and each fiscal year thereafter shall be available to make grants for research to be conducted by multidisciplinary teams;

(B) not less than 40 percent shall be available to make grants for research to be conducted by persons conducting mission-linked systems research;

(C) not less than 10 percent shall be available to make grants under subparagraphs (D) and (F) of paragraph (3) for awarding grants in research and education strengthening and research opportunity;

(D) not more than two percent may be used for equipment grants under subparagraph (3)(D); and

(E) not more than four percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

(11) AVAILABILITY OF FUNDS.—Funds made available under paragraph (10) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.

(c) Special grants

(1) The Secretary of Agriculture may make grants, for periods not to exceed 3 years—

(A) to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research, extension, or education activities to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States; and

(B) to State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research, extension, or education programs that—

(i) promote excellence in research, extension, or education on a regional and national level;

(ii) promote the development of regional research centers;

(iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and

(iv) facilitate coordination and cooperation of research, extension, or education among States through regional grants.

(2) LIMITATIONS.—The Secretary may not make a grant under this subsection—

(A) for any purpose for which a grant may be made under subsection (d) of this section; or

(B) for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(3) MATCHING FUNDS.—Grants made under this subsection shall be made without regard to matching funds.

(4) SET ASIDES.—Of amounts appropriated for a fiscal year to carry out this subsection—

(A) ninety percent of such amounts shall be used for grants for regional research projects; and

(B) four percent of such amounts may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.

(5) REVIEW REQUIREMENTS.—

(A) RESEARCH ACTIVITIES.—The Secretary shall make a grant under this subsection for a research activity only if the activity has undergone scientific peer review arranged by the grantee in accordance with regulations promulgated by the Secretary.

(B) EXTENSION AND EDUCATION ACTIVITIES.—The Secretary shall make a grant under this subsection for an extension or education activity only if the activity has undergone merit review arranged by the grantee in accordance with regulations promulgated by the Secretary.

(6) REPORTS.—

(A) IN GENERAL.—A recipient of a grant under this subsection shall submit to the Secretary on an annual basis a report describing the results of the research, extension, or education activity and the merit of the results.

(B) PUBLIC AVAILABILITY.—

(i) IN GENERAL.—Except as provided in clause (ii), on request, the Secretary shall make the report available to the public.

(ii) EXCEPTIONS.—Clause (i) shall not apply to the extent that making the report, or a part of the report, available to the public is not authorized or permitted by section 552 of title 5 or section 1905 of title 18.

(d) Facilities grants

The Secretary of Agriculture shall make annual grants to support the renovation and refurbishment (including energy retrofitting) of research spaces in buildings or spaces to be used for research, and the purchase and installation of fixed equipment in such spaces. Such grants may be used for new construction only for auxiliary facilities and fixed equipment used for research in such facilities, such as greenhouses, insectaries, and research farm structures and installations. Such grants shall be made to—

(1) each State agricultural experiment station in an amount of $100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), and the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7), whichever is greater: *Provided*, That of any amount in excess of $50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the purposes for which grants under this paragraph are made available;

(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year;

(3) each forestry school not described in paragraph (1) of this subsection, which is eligible to receive funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), in an amount which is equal to 10 per centum of the funds received by such school under that Act; and

(4) each college eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee Institute, in an amount which is equal to 10 per centum of the funds received by such college under section 3222 of this title.

Any college or State agricultural experiment station eligible for annual grants under this subsection may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided*, That the total amounts deferred may not exceed $1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirement of this subsection and the availability of appropriations under this subsection.

(e) Inter-Regional Research Project Number 4

(1) The Secretary of Agriculture shall establish an Inter-Regional Research Project Number 4 (hereinafter referred to in this subsection as the ''IR–4 Program'') to assist in the collection of residue and efficacy data in support of—

(A) the registration or reregistration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

(B) tolerances for residues of minor use chemicals in or on raw agricultural commodities under sections 346a and 348 of title 21.

(2) The Secretary shall carry out the IR–4 Program in cooperation with the Administrator of the Environmental Protection Agency, State agricultural experiment stations, colleges and universities, extension services, private industry, and other interested parties.

(3) In carrying out the IR–4 Program, the Secretary shall give priority to registrations, reregistrations, and tolerances for pesticide uses related to the production of agricultural crops for food use.

(4) As part of carrying out the IR–4 Program, the Secretary shall—

(A) participate in research activities aimed at reducing residues of pesticides registered for minor agricultural use;

(B) develop analytical techniques applicable to residues of pesticides registered for minor agricultural use, including automation techniques and validation of analytical methods; and

(C) coordinate with other programs within the Department of Agriculture and the Environmental Protection Agency designed to develop and promote biological and other alternative control measures.

(5) The Secretary shall prepare and submit, to appropriate Committees of Congress, a report on an annual basis that contains—

(A) a listing of all registrations, reregistrations, and tolerances for which data has been collected in the preceding year;

(B) a listing of all registrations, reregistrations, and tolerances for which data collection is scheduled to occur in the following year, with an explanation of the priority system used to develop this list; and

(C) a listing of all activities the IR–4 Program has carried out pursuant to paragraph (4).

(6) The Secretary shall submit to Congress not later than November 28, 1991, a report detailing the feasibility of requiring recoupment of the costs of developing residue data for registrations, reregistrations, or tolerances under this program. Such recoupment shall only apply to those registrants which make a profit on such registration, reregistration, or tolerance subsequent to residue data development under this program. Such report shall include:

(A) an analysis of possible benefits to the IR–4 Program of such a recoupment;

(B) an analysis of the impact of such a payment on the availability of registrants to pursue registrations or reregistrations of minor use pesticides; and

(C) recommendations for implementation of such a recoupment policy.

(7) There are authorized to be appropriated $25,000,000 for fiscal year 1991, and such sums as are necessary for subsequent fiscal years to carry out this subsection.

(f) Record keeping

Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

(g) Limits on overhead costs

The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

(h) Authorization of appropriations

Except as otherwise provided in subsections (b) and (e) of this section, there are hereby authorized to be appropriated such sums as are necessary to carry out this section.

(i) Rules

The Secretary of Agriculture may issue such rules and regulations as the Secretary deems necessary to carry out this section.

(j) Application of other laws

The Federal Advisory Committee Act and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications or proposals submitted under this section.

(k) Emphasis on sustainable agriculture

The Secretary of Agriculture shall ensure that grants made under subsections (b) and (c) of this section are, where appropriate, consistent with the development of systems of sustainable agriculture. For purposes of this section, the term ''sustainable agriculture'' has the meaning given that term in section 3103(17) of this title.

(Pub. L. 89–106, § 2, Aug. 4, 1965, 79 Stat. 431; Pub. L. 95–113, title XIV, § 1414, Sept. 29, 1977, 91 Stat. 991; Pub. L. 97–98, title XIV, § 1415, Dec. 22, 1981, 95 Stat. 1303; Pub. L. 99–198, title XIV, § 1409, Dec. 23, 1985, 99 Stat. 1546; Pub. L. 101–624, title XIV, § 1497, title XVI, §§ 1615, 1616, Nov. 28, 1990, 104 Stat. 3630, 3729, 3732; Pub. L. 102–237, title IV, § 401, Dec. 13, 1991, 105 Stat. 1862; Pub. L. 104–66, title I, § 1011(v), Dec. 21, 1995, 109 Stat. 711; Pub. L. 104–127, title VIII, § 885, Apr. 4, 1996, 110 Stat. 1179; Pub. L. 105–185, title II, §§ 211, 212, title III, § 301(f), title VI, § 606(h), June 23, 1998, 112 Stat. 536, 563, 604.)

REFERENCES IN TEXT

Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), referred to in subsec. (d)(1), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of October 10, 1962, referred to in subsecs. (c)(1)(B) and (d)(1), (3), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of August 30, 1890 (7 U.S.C. 321 et seq.), referred to in subsec. (d)(4), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (e)(1)(A), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (j), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Food and Agriculture Act of 1977, referred to in subsec. (j), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XVIII of the Act is classified generally to chapter 55A (§ 2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–185, §§ 211(1), 606(h)(1), in first sentence, inserted ''national laboratories,'' after ''Federal agencies,'' and in second sentence, substituted ''National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 3123 of this title)'' for ''Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board''.

Subsec. (b)(2). Pub. L. 105–185, § 211(2), substituted ''multistate'' for ''regional'' in introductory provisions.

Subsec. (b)(3)(E). Pub. L. 105–185, § 211(3), substituted ''an individual shall be within 5 years of the individual's initial career track position'' for ''an individual shall have less than 5 years of post-graduate research experience'' in second sentence.

Subsec. (b)(8)(B). Pub. L. 105–185, § 211(4), substituted ''the cost of'' for ''the cost'' and inserted at end ''The Secretary may waive all or part of the matching requirement under this subparagraph in the case of a smaller college or university (as described in section 2204f(c)(2)(C)(ii) of this title) if the equipment to be acquired costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.''

Subsec. (b)(10). Pub. L. 105–185, § 301(f), substituted ''2002'' for ''1997'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–185, § 212(1)(A), substituted ''3 years'' for ''5 years'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 105–185, § 212(1)(B), inserted '', extension, or education activities'' after ''conducting research''.

Subsec. (c)(1)(B). Pub. L. 105–185, § 212(1)(C)(i), inserted '', extension, or education'' after ''agricultural research'' in introductory provisions.

Subsec. (c)(1)(B)(i). Pub. L. 105–185, § 212(1)(C)(ii), inserted '', extension, or education'' after ''research''.

Subsec. (c)(1)(B)(iv). Pub. L. 105–185, § 212(1)(C)(iii), substituted '', extension, or education among States through regional'' for ''among States through regional research''.

Subsec. (c)(5), (6). Pub. L. 105–185, § 212(2), added pars. (5) and (6).

Subsec. (*l*). Pub. L. 105–185, § 606(h)(2), struck out heading and text of subsec. (*l*). Text read as follows: ''The Secretary of Agriculture may consult with the Agricultural Science and Technology Review Board regarding the policies, priorities, and operation of subsections (b) and (c) of this section.''

1996—Subsec. (b)(10). Pub. L. 104–127, § 885(a)(1), substituted ''each of fiscal years 1995 through 1997'' for ''fiscal year 1995'' in introductory provisions.

Subsec. (b)(10)(B). Pub. L. 104–127, § 885(a)(2), substituted ''40 percent'' for ''20 percent''.

Subsec. (b)(11). Pub. L. 104–127, § 885(b), added par. (11).

1995—Subsecs. (*l*), (m). Pub. L. 104–66 redesignated subsec. (m) as (*l*) and struck out former subsec. (*l*) which directed Secretary of Agriculture to submit annual reports to Congress on competitive grant and special grant awards.

1991—Subsec. (a). Pub. L. 102–237, § 401(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(10). Pub. L. 102–237, § 401(b)(1), struck out ''and'' after ''1993,''.

Subsec. (e). Pub. L. 102–237, § 401(b)(2)(A), substituted ''Inter-Regional Research Project Number 4'' for ''Record keeping'' as heading.

Subsec. (e)(1). Pub. L. 102–237, § 401(b)(2)(B), substituted ''this subsection'' for ''this section'' in introductory provisions.

Subsec. (e)(2) to (4). Pub. L. 102–237, § 401(b)(2)(C), substituted ''IR–4 Program'' for ''IR–4 program''.

Subsec. (e)(5)(B). Pub. L. 102–237, § 401(b)(2)(D), substituted ''registrations,'' for ''registration,'' and inserted ''and'' at end.

Subsec. (e)(5)(C). Pub. L. 102–237, § 401(b)(2)(C), substituted ''IR–4 Program'' for ''IR–4 program''.

Subsec. (e)(6). Pub. L. 102–237, § 401(b)(2)(E), substituted ''not later than November 28, 1991,'' for ''within one year of November 28, 1990,'' and inserted a comma after ''reregistrations'' in first sentence.

Subsec. (e)(6)(A). Pub. L. 102–237, § 401(b)(2)(C), substituted ''IR–4 Program'' for ''IR–4 program''.

Subsec. (e)(7). Pub. L. 102–237, § 401(b)(2)(B), substituted ''this subsection'' for ''this section''.

Subsec. (f). Pub. L. 102–237, § 401(b)(3), substituted ''Record keeping'' for ''Limits on overhead costs'' as heading.

Subsec. (g). Pub. L. 102–237, § 401(b)(4), substituted ''Limits on overhead costs'' for ''Authorization of appropriations'' as heading.

Subsec. (h). Pub. L. 102–237, § 401(b)(5), substituted ''Authorization of appropriations'' for ''Rules'' as heading and ''subsections (b) and (e) of this section'' for ''subsection (b) of this section'' and struck out ''the provisions of'' after ''to carry out''.

Subsec. (i). Pub. L. 102–237, § 401(b)(6), substituted ''Rules'' for ''Application of other laws'' as heading, substituted ''may'' for ''is authorized to'', and struck out ''the provisions of'' after ''to carry out''.

Subsec. (j). Pub. L. 102–237, § 401(b)(7), (8), inserted ''Application of other laws'' as heading and redesignated another subsec. (j), relating to emphasis on sustainable agriculture, as (k).

Subsecs. (k) to (m). Pub. L. 102–237, § 401(b)(8), redesignated subsecs. (j) to (*l*), as added by Pub. L. 101–624, § 1615(b), as (k) to (m), respectively.

1990—Pub. L. 101–624, § 1615(c)(1), inserted ''Competitive, special, and facilities research grants'' as section catchline.

Subsec. (a). Pub. L. 101–624, § 1615(c)(1), inserted heading.

Subsec. (b). Pub. L. 101–624, § 1615(a), inserted heading, designated first two sentences of existing text as par. (1), added pars. (2) to (10), and struck out former similar provisions which identified ''high priority research'' as well as provisions relating to the awarding, administration, and funding of such research.

Subsec. (c). Pub. L. 101–624, § 1616, amended subsec. (c) generally, designating former introductory text as par. (1), redesignating former pars. (1) and (2) as subpars. (A) and (B), respectively, and in subpar. (A), expanding the entities which may receive grants under this subsection to include all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research in areas of food and agriculture important to the U.S., and designating former closing provisions as pars. (2) through (4), and in par. (4), inserting provisions requiring that ninety percent of the amounts appropriated for a fiscal year under this subsection be used for regional research projects.

Subsec. (d). Pub. L. 101–624, § 1615(c)(2), inserted heading.

Subsec. (e). Pub. L. 101–624, §§ 1497(1), (2), 1615(c)(3), added subsec. (e), inserted heading, and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 101–624, §§ 1497(1), 1615(c)(4), redesignated subsec. (e) as (f) and inserted heading. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 101–624, §§ 1497(1), 1615(c)(5), redesignated subsec. (f) as (g) and inserted heading. Former subsec. (g) redesignated (h).

Pub. L. 101–624, § 1497(3), which directed insertion of ''and subsection (e)'' after ''subsection (b)'', could not be executed because ''subsection (b)'' did not appear in text.

Subsec. (h). Pub. L. 101–624, §§ 1497(1), 1615(c)(6), redesignated subsec. (g) as (h) and inserted heading. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 101–624, §§ 1497(1), 1615(c)(7), redesignated subsec. (h) as (i) and inserted heading. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 101–624, § 1615(b), added subsec. (j) relating to emphasis on sustainable agriculture.

Pub. L. 101–624, § 1497(1), redesignated subsec. (i), relating to application of other laws, as (j).

Subsecs. (k) and (*l*). Pub. L. 101–624, § 1615(b), added subsecs. (k) and (*l*).

1985—Subsec. (b). Pub. L. 99–198, § 1409(a)(1), (2), substituted in third sentence par. ''(2) research, with emphasis on biotechnology,'' for ''(2) research'' and added pars. (7) and (8), and prohibited any grant under subsec. (b) for any purpose for which a grant may be made under subsec. (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

Pub. L. 99–198, § 1409(a)(3), in concluding provisions substituted appropriations authorization of $70,000,000 annually for fiscal years ending Sept. 30, 1986, through Sept. 30, 1990 for prior authorization of 25, 30, 35, and 40 million dollars for fiscal years ending Sept. 30, 1978, through Sept. 30, 1981, and 50 million dollars annually for fiscal years ending Sept. 30, 1982, through Sept. 30, 1985, and for any subsequent fiscal year not in excess of such sums as may be authorized by law; and authorized retention of four percent of appropriated funds for payment of administrative costs.

Subsec. (c). Pub. L. 99–198, § 1409(b)(1), prohibited any grant under subsec. (c) for any purpose for which a grant may be made under subsec. (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

Pub. L. 99–198, § 1409(b)(2), authorized retention of four percent of appropriated funds for payment of administrative costs.

Subsec. (i). Pub. L. 99–198, § 1409(c), added subsec. (i).

1981—Subsec. (b). Pub. L. 97–98, § 1415(a), inserted ''and the National Agricultural Research and Extension Users Advisory Board'' and provision specifying what is included in high priority research and substituted ''for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985'' for ''for the fiscal year ending September 30, 1982''.

Subsec. (c). Pub. L. 97–98, § 1415(b), in par. (1) inserted ''research foundations established by land-grant colleges and universities,'', in par. (2) inserted reference to research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962, and accredited schools or colleges of veterinary medicine, and added subpar. (D).

Subsec. (d). Pub. L. 97–98, § 1415(c), in provision preceding par. (1) substituted provision directing that annual grants be made to support the renovation and refurbishment, including energy retrofitting, of research spaces in buildings or spaces to be used for research, and the purchase and installation of fixed equipment in such spaces and providing that grants may be used for new construction only for auxiliary facilities and fixed equipment used for research in such facilities, such as greenhouses, insectaries, and research farm structures and installations for provision that grants be made to support the purchase of equipment, supplies, and land, and the construction, alteration, or renovation of buildings, necessary for the conduct of food and agricultural research and added pars. (3) and (4).

1977—Pub. L. 95–113 designated existing provisions as subsec. (e) and a part of subsec. (b) and added the remainder of subsec. (b) and subsecs. (a), (c), (d), (f), (g), and (h).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1409(a)(3) of Pub. L. 99–198 provided that the amendment made by that section is effective Oct. 1, 1985.

Section 1409(b)(2) of Pub. L. 99–198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136w–7, 2209b, 3222, 3311, 3315, 3319, 5924, 5925, 5925a, 5925b, 7621 of this title.

§ 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. The Secretary is also authorized to make indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer: *Provided*, That no indemnity payment may be made for contamination resulting from such residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.

(Pub. L. 90–484, § 1, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91–524, title II, § 204(b), Nov. 30, 1970, 84 Stat. 1362; Pub. L. 93–86, § 1(5)(B), Aug. 10, 1973, 87 Stat. 223; Pub. L. 95–113, title II, § 205(1), Sept. 29, 1977, 91 Stat. 920.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90–95, § 1, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89–794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89–253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89–16, title III, § 303, Apr. 30. 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88–452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

AMENDMENTS

1977—Pub. L. 95–113 authorized indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of the presence of products of nuclear radiation or fall- out if such contamination is not due to the fault of the farmer, or because of residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and inserted provision that no indemnity payment may be made for contamination resulting from residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer.

1973—Pub. L. 93–86 inserted ''for milk or cows producing such milk'' after ''The Secretary of Agriculture is authorized to make indemnity payments'' and ''(but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973)'' after ''January 1, 1964'' and substituted '', and to make indemnity payments for dairy products at fair market value to'' for ''and'' after ''remove their milk'' and ''of'' for ''it contained'' before ''residues of chemicals''.

1970—Pub. L. 91–524 inserted ''and manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products,'' after ''milk'', in first sentence, and substituted ''Any indemnity payment to any farmer shall continue'' for ''Such indemnity payments shall continue to each dairy farmer'' in second sentence.

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450k, 450*l* of this title.

§ 450k. Authorization of appropriations for dairy farmer indemnities

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 450j to 450*l* of this title.

(Pub. L. 90–484, § 2, Aug. 13, 1968, 82 Stat. 750.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90–95, § 2, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89–794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89–253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89–16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88–452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450*l* of this title.

§ 450*l*. Expiration of dairy farmer indemnity program

The authority granted under sections 450j to 450*l* of this title shall expire on September 30, 1995.

(Pub. L. 90–484, § 3, Aug. 13, 1968, 82 Stat. 750; Pub. L. 91–524, title II, § 204(a), Nov. 30, 1970, 84 Stat. 1361; Pub. L. 93–86, § 1(5)(A), Aug. 10, 1973, 87 Stat. 223; Pub. L. 95–113, title II, § 205(2), Sept. 29, 1977, 91 Stat. 920; Pub. L. 97–98, title I, § 105, Dec.

22, 1981, 95 Stat. 1220; Pub. L. 99–198, title I, § 152, Dec. 23, 1985, 99 Stat. 1377; Pub. L. 101–624, title I, § 110, Nov. 28, 1990, 104 Stat. 3380.)

PRIOR PROVISIONS

The following Acts authorized indemnity payments for the periods ending as indicated:

June 30, 1968—Pub. L. 90–95, § 3, Sept. 28, 1967, 81 Stat. 231.

June 30, 1967—Pub. L. 89–794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465.

June 30, 1966—Pub. L. 89–253, § 24, Oct. 29, 1965, 79 Stat. 977.

June 30, 1965—Pub. L. 89–16, title III, § 303, Apr. 30, 1965, 79 Stat. 108.

Jan. 31, 1965—Pub. L. 88–452, title III, § 331, Aug. 20, 1964, 78 Stat. 525.

AMENDMENTS

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

1985—Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Pub. L. 97–98 substituted ''1985'' for ''1981''.

1977—Pub. L. 95–113 substituted ''September 30, 1981'' for ''June 30, 1977''.

1973—Pub. L. 93–86 substituted ''1977'' for ''1973''.

1970—Pub. L. 91–524 substituted ''1973'' for ''1970''.

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450k of this title.

CHAPTER 18—COOPERATIVE MARKETING

Sec.
451. ''Agricultural products'' defined.
452. Supervision of division of cooperative marketing.
453. Authority and duties of division.
454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence.
455. Dissemination of crop, market, etc., information by cooperative marketing associations.
456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations.
457. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6944 of this title.

§ 451. "Agricultural products" defined

When used in this chapter the term ''agricultural products'' means agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed or manufactured products thereof, transported or intended to be transported in interstate and/or foreign commerce.

(July 2, 1926, ch. 725, § 1, 44 Stat. 802.)

CROSS REFERENCES

Associations of producers of agricultural products, see sections 291 and 292 of this title.

Banks for cooperatives, see section 2001 et seq. of Title 12, Banks and Banking.

Organization and development of cooperative associations, see sections 1141, 1141b et seq. of Title 12.

§ 452. Supervision of division of cooperative marketing

The division of cooperative marketing shall be under the direction and supervision of the Secretary of Agriculture.

(July 2, 1926, ch. 725, § 2, 44 Stat. 802.)

CODIFICATION

First sentence of section, which provided that ''The Secretary of Agriculture is hereby authorized and directed to establish a division of cooperative marketing with suitable personnel in the Bureau of Agricultural Economics of the Department of Agriculture or in such bureau in the Department of Agriculture as may hereafter be concerned with the marketing and distribution of farm products'' was omitted from the Code as executed.

TRANSFER TO SECRETARY OF AGRICULTURE

Act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, provided: ''There is hereby transferred from the Farm Credit Administration to the jurisdiction and control of the Secretary of Agriculture the Division of Cooperative Marketing (by whatever name now called) authorized and created under and by virtue of an Act of Congress of July 2, 1926 (Public, Numbered 450, Sixty-ninth Congress), entitled 'An Act to create a Division of Cooperative Marketing in the Department of Agriculture; to provide for the acquisition and dissemination of information pertaining to cooperation; to promote the knowledge of cooperative principles and practices; to provide for calling advisers to counsel with the Secretary of Agriculture on cooperative activities; to authorize cooperative associations to acquire, interpret, and disseminate crop and market information, and for other purposes [this chapter]', together with all functions pertaining to the work and services of such Division, its personnel, property (including office equipment), assets, funds, contracts, and records used and employed in the execution of its functions, powers, and duties, and so much of the unexpended balances of appropriations, allocations, and other funds available or to be made available for salaries, expenses, and all other administrative expenditures as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] shall determine, for use in the execution of the functions, powers, and duties of said Division.''

TRANSFER OF FUNCTIONS

Farmer Cooperative Service established in Department of Agriculture Dec. 4, 1953, pursuant to Secretary's Memorandum 1320, Supp. 4, 1953, as successor to functions of Cooperative Research and Service Division, Farm Credit Administration.

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed Farm Credit Administration from Food Production Administration of Department of Agriculture and returned it to its former status as a separate agency of Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made Farm Credit Administration a part of Food Production Administration of Department of Agriculture.

Farm Credit Administration transferred to Department of Agriculture by 1939 Reorg. Plan No. I, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 6084, Mar. 27, 1933, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed name of Federal Farm Board to Farm Credit Administration and name of office of Chairman of Federal Farm Board to Governor of Farm Credit Administration.

Ex. Ord. No. 5200, Oct. 1, 1929, transferred, eff. Oct. 1, 1929, from Department of Agriculture to jurisdiction and control of Federal Farm Board the whole of Division of Cooperative Marketing in Bureau of Agricultural Economics of Department of Agriculture, all functions pertaining to work and services of such division, its records, property, including office equipment, personnel, and unexpended balances of appropriation, pertaining to such work or services.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 453. Authority and duties of division

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized—

(1) To acquire, analyze, and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed the results thereof; and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

(July 2, 1926, ch. 725, §3, 44 Stat. 802.)

§ 454. Advisers to counsel with Secretary of Agriculture; expenses and subsistence

The Secretary of Agriculture is authorized, in his discretion, to call advisers to counsel with him and/or his representatives relative to specific problems of cooperative marketing of farm products or any other cooperative activity. Any person, other than an officer, agent, or employee of the United States, called into conference, as provided for in this section, may be paid actual transportation expenses and not to exceed $10 per diem to cover subsistence and other expenses while in conference and en route from and to his home.

(July 2, 1926, ch. 725, §4, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing ''(by whatever name now called)'' from Farm Credit Administration to Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, §9, 67 Stat. 394, see note set out under section 452 of this title.

TRANSFER OF FUNCTIONS

Farmer Cooperative Service in Department of Agriculture as successor to functions of Cooperative Research and Service Division, Farm Credit Administration, see note set out under section 452 of this title.

For prior transfers of functions, see notes set out under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 455. Dissemination of crop, market, etc., information by cooperative marketing associations

Persons engaged, as original producers of agricultural products, such as farmers, planters, ranchmen, dairymen, nut or fruit growers, acting together in associations, corporate or otherwise, in collectively processing, preparing for market, handling, and marketing in interstate and/or foreign commerce such products of persons so engaged, may acquire, exchange, inter-

pret, and disseminate past, present, and prospective crop, market, statistical, economic, and other similar information by direct exchange between such persons, and/or such associations or federations thereof, and/or by and through a common agent created or selected by them.

(July 2, 1926, ch. 725, § 5, 44 Stat. 803.)

§ 456. Rules and regulations; appointment, removal, and compensation of employees; expenditures; authorization of appropriations

The Secretary of Agriculture may make such rules and regulations as may be deemed advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any other Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, such sums as may be necessary after the fiscal year 1927, for carrying out the purposes of this chapter.

(July 2, 1926, ch. 725, § 6, 44 Stat. 803.)

TRANSFER TO SECRETARY OF AGRICULTURE

Transfer of Division of Cooperative Marketing ''(by whatever name now called)'' from Farm Credit Administration to Secretary of Agriculture, by act Aug. 6, 1953, ch. 335, § 9, 67 Stat. 394, see note set out under section 452 of this title.

TRANSFER OF FUNCTIONS

Farmer Cooperative Service in Department of Agriculture as successor to functions of Cooperative Research and Service Division, Farm Credit Administration, see note set out under section 452 of this title.

For prior transfers of functions, see notes set out under section 452 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 457. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby, and nothing contained in this chapter is intended nor shall be construed, to modify or repeal any of the provisions of sections 291 and 292 of this title.

(July 2, 1926, ch. 725, § 7, 44 Stat. 803.)

CHAPTER 19—COTTON STATISTICS AND ESTIMATES

Sec.

471. Statistics and estimates of grades and staple length of cotton; collection and publication.
472. Information furnished of confidential character; penalty for divulging information.
473. Persons required to furnish information; request; failure to furnish; false information.
473a. Cotton classification services; fees for costs of services, adjustments, surcharge, discounts, and announcement; sales of samples; disposition of moneys.
473b. Market supply, demand, condition and prices; collection and publication of information.
473c. Rules and regulations.
473c–1. Offenses in relation to sampling of cotton for classification.
473c–2. Penalties for offenses relating to sampling of cotton.
473c–3. Liability of principal for act of agent.
473d. Quality tests and analyses by Secretary for breeders and others; fees.
474. Powers of Secretary of Agriculture; appropriation.
475. Repealed.
476. Acreage reports.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 61a of this title.

§ 471. Statistics and estimates of grades and staple length of cotton; collection and publication

The Secretary of Agriculture is authorized and directed to collect and publish annually, on dates to be announced by him, statistics or estimates concerning the grades and staple length of stocks of cotton, known as the carry-over, on hand on the 1st of August of each year in warehouses and other establishments of every character in the continental United States; and following such publication each year, to publish, at intervals in his discretion, his estimate of the grades and staple length of cotton of the then current crop: *Provided*, That not less than three such estimates shall be published with respect to each crop. In any such statistics or estimates published, the cotton which on the date for which such statistics are published may be recognized as tenderable on contracts of sale of cotton for future delivery under the United States Cotton Futures Act, shall be stated separately from that which may be untenderable under said Act.

(Mar. 3, 1927, ch. 337, § 1, 44 Stat. 1372.)

REFERENCES IN TEXT

The United States Cotton Futures Act, referred to in text, is part A of act Aug. 11, 1916, ch. 313, 39 Stat. 476, which was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For complete classification of this Act to the Code prior to its repeal, see Tables.

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–108, § 1, Aug. 20, 1987, 101 Stat. 728, provided: ''That this Act [amending section 473a of this title and enacting provisions set out as notes under sec-

tion 473a of this title] may be cited as the 'Uniform Cotton Classing Fees Act of 1987'.''

SHORT TITLE

Act Mar. 3, 1927, which enacted sections 471 to 474 and amended sections 475 and 476 of this title, is popularly known as the ''Cotton Statistics and Estimates Act''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 472. Information furnished of confidential character; penalty for divulging information

The information furnished by any individual establishment under the provisions of this chapter shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Department of Agriculture who, without the written authority of the Secretary of Agriculture, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than $300 or more than $1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court.

(Mar. 3, 1927, ch. 337, § 2, 44 Stat. 1373.)

§ 473. Persons required to furnish information; request; failure to furnish; false information

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, whether conducted as a corporation, firm, limited partnership, or individual, and of any owner or holder of any cotton and of the agents and representatives of any such owner or holder, when requested by the Secretary of Agriculture or by any special agent or other employee of the Department of Agriculture acting under the instructions of said Secretary to furnish completely and correctly, to the best of his knowledge, all of the information concerning the grades and staple length of cotton on hand, and when requested to permit such agent or employee of the Department of Agriculture to examine and classify samples of all such cotton on hand. The request of the Secretary of Agriculture for such information may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail, or by certified mail and the registry receipt or receipt for certified mail of the United States Postal Service shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, or any owner or holder of any cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated, shall refuse or willfully neglect to furnish any information herein provided for or shall willfully give answers that are false or shall refuse to allow agents or employees of the Department of Agriculture to examine or classify any cotton in store in any such establishment, or in the hands of any owner or holder or of the agent or representative of any such owner or holder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $300 or more than $1,000.

(Mar. 3, 1927, ch. 337, § 3, 44 Stat. 1373; Pub. L. 86–507, § 1(3), June 11, 1960, 74 Stat. 200; Pub. L. 91–375, §§ 4(a), 6(*o*), Aug. 12, 1970, 84 Stat. 773, 783.)

AMENDMENTS

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail'', and ''or receipt for certified mail'' after ''registry receipt.''

CHANGE OF NAME

''United States Postal Service'' substituted in text for ''Post Office Department'' pursuant to Pub. L. 91–375, §§ 4(a), 6(*o*), Aug. 12, 1970, 84 Stat. 773, 783, which are set out as notes preceding section 101 of Title 39, Postal Service, and under section 201 of Title 39, respectively, which abolished Post Office Department, transferred its functions to United States Postal Service, and provided that references in other laws to Post Office Department shall be considered a reference to United States Postal Service.

§ 473a. Cotton classification services; fees for costs of services, adjustments, surcharge, discounts, and announcement; sales of samples; disposition of moneys

Effective for each of fiscal years 1992 through 2002, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds from the sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: *Provided*, That (1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of

operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of a fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may add a special surcharge, not to exceed 5 cents per bale, applicable to such fiscal year, to ensure sufficient funds are available; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies. Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any fees collected under this section and under section 473d of this title, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs the cost of services provided under this section and section 473d of this title and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sales of samples.

(Mar. 3, 1927, ch. 337, § 3a, as added Apr. 13, 1937, ch. 75, 50 Stat. 62; amended Pub. L. 97–35, title I, § 156(b), Aug. 13, 1981, 95 Stat. 373; Pub. L. 98–403, § 1, Aug. 28, 1984, 98 Stat. 1479; Pub. L. 100–108, § 2, Aug. 20, 1987, 101 Stat. 728; Pub. L. 102–237, title I, § 120(a)–(c), Dec. 13, 1991, 105 Stat. 1842, 1843; Pub. L. 104–127, title IX, § 912(a), Apr. 4, 1996, 110 Stat. 1185.)

AMENDMENT OF SECTION

For termination of amendment by section 120(e) of Pub. L. 102–237, see Effective and Termination Dates of 1991 Amendment note below.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''2002'' for ''1996'' in first sentence.

1991—Pub. L. 102–237, § 120(c), (e), temporarily amended third sentence generally. Prior to amendment, third sentence read as follows: ''Special classification services provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.'' See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102–237, § 120(b)(2), (e), temporarily added cl. (7) and struck out former cl. (7) which read as follows: ''the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies, except that for fiscal year 1987, such announcement shall be made as soon as practicable following enactment of this proviso.'' See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102–237, § 120(b)(1), (e), temporarily added cls. (1) and (2) and struck out former cls. (1) and (2) which read as follows: ''(1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall be the uniform fee collected in the previous year, exclusive of adjustments to such fee made in the previous year under clauses (2), (3), and (4) of this proviso, and as may be adjusted by the percentage change in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year below the level of 12,500,000 running bales, or decreased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year above the level of 12,500,000 running bales;''. See Effective and Termination Dates of 1991 Amendment note below.

Pub. L. 102–237, § 120(a), (e), temporarily amended first sentence generally. Prior to amendment, first sentence read as follows: ''Effective for the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.'' See Effective and Termination Dates of 1991 Amendment note below.

1987—Pub. L. 100–108 temporarily amended first sentence generally, substituting ''September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992'' for ''September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988'' and striking out ''from'' before ''agents who voluntarily agree'', in second sentence inserted first proviso and struck out former first proviso which read as follows: ''That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which official statistics are available, and (2) the uniform per bale classification fee shall not be increased for any year if the accumulated reserve exceeds 20 per centum of the cost of the classification program in the previous year'', and in third sentence substituted ''clauses (1), (2), and (3)'' for ''clauses (1) and (2)''. See Effective and Termination Dates of 1987 Amendment note below.

1984—Pub. L. 98–403 substituted provisions effective for fiscal years ending Sept. 30, 1985, 1986, 1987, and 1988, requiring the Secretary to make classification service available to producers and to set and collect fees for provisions establishing similar requirements effective for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1981—Pub. L. 97–35 substituted provisions effective for fiscal years ending Sept. 30, 1982, 1983, and 1984, requiring the Secretary to make classification services available to producers, and to set and collect fees, for provisions authorizing the Secretary to determine and make available classification procedures.

EFFECTIVE AND TERMINATION DATES OF 1991 AMENDMENT

Section 120(e) of Pub. L. 102–237 provided that: ''Subsections (a), (b), and (c), and the amendments made by subsections (a), (b), and (c) [amending this section], shall be effective for the period beginning on the date of enactment of this Act [Dec. 13, 1991] and ending on September 30, 1996.''

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 2 of Pub. L. 100–108 provided that the amendment made by that section is effective for the period beginning Aug. 20, 1987, and ending Sept. 30, 1992.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 1 of Pub. L. 98–403 provided that the amendment made by that section is effective for the period beginning Oct. 1, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 156(b) of Pub. L. 97–35 provided that the amendment made by that section is effective only for the fiscal years ending Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

[Provisions of section 156 of Pub. L. 97–35 effective Oct. 1, 1981, see section 156(e) of Pub. L. 97–35, set out as an Effective Date note under section 61a of this title.]

SHORT TITLE

Act Apr. 13, 1937, which enacted sections 473a to 473c of this title, is popularly known as the ''Cotton Classification Act''.

STUDY ON PROCESSING CERTAIN COTTON GRADES

Section 3 of Pub. L. 100–108, which directed Secretary of Agriculture to conduct a study of differences between processing efficiency and product quality for Light Spotted and White grade cottons and also conduct a survey and research to determine why an increasing proportion of cotton crop was being classified as Light Spotted, with an initial report describing results of studies to be submitted not later than Oct. 1, 1988, to Committee on Agriculture of House of Representatives and Committee on Agriculture, Nutrition, and Forestry of Senate, and a final report to be submitted to such committees as soon as practicable after submission of initial report, was repealed by Pub. L. 102–237, title I, § 120(d), Dec. 13, 1991, 105 Stat. 1843.

§ 473b. Market supply, demand, condition and prices; collection and publication of information

The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or in other public or conspicuous places in cotton-growing communities, information on prices for the various grades and staple lengths of cotton.

(Mar. 3, 1927, ch. 337, § 3b, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

§ 473c. Rules and regulations

The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this chapter.

(Mar. 3, 1927, ch. 337, § 3c, as added Apr. 13, 1937, ch. 75, 50 Stat. 62.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c–1 of this title.

§ 473c–1. Offenses in relation to sampling of cotton for classification

It shall be unlawful—

(a) for any person sampling cotton for classification under this chapter knowingly to sample cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under this chapter;

(c) for any person knowingly to alter or cause to be altered a sample taken for classification under this chapter by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample for the purpose of misrepresenting the actual quality of the bale from which the sample was taken;

(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under this chapter by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under this chapter, except a second sample submitted for review classification;

(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 473c of this title.

(Mar. 3, 1927, ch. 337, § 3c–1, as added Pub. L. 86–588, July 5, 1960, 74 Stat. 328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473c–2 of this title.

§ 473c–2. Penalties for offenses relating to sampling of cotton

Any person violating any provision of section 473c–1 of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Mar. 3, 1927, ch. 337, § 3c–2, as added Pub. L. 86–588, July 5, 1960, 74 Stat. 329.)

§ 473c–3. Liability of principal for act of agent

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association, partnership, corporation, or firm, as well as that of the person.

(Mar. 3, 1927, ch. 337, § 3c–3, as added Pub. L. 86–588, July 5, 1960, 74 Stat. 329.)

§ 473d. Quality tests and analyses by Secretary for breeders and others; fees

The Secretary of Agriculture is authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted to him by cotton breeders and other persons, subject to such terms and conditions and to the payment by such cotton breeders and other persons of such fees as he may prescribe by regulations under this chapter. The fees to be assessed hereunder shall be reasonable, and, as nearly as may be, to cover the cost of the service rendered.

(Mar. 3, 1927, ch. 337, § 3d, as added Apr. 7, 1941, ch. 42, 55 Stat. 131.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 473a of this title.

§ 474. Powers of Secretary of Agriculture; appropriation

The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for the purchase of samples of cotton, for rent outside the District of Columbia, printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere and there are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary for such purposes. The Secretary of Agriculture shall maintain until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.

(Mar. 3, 1927, ch. 337, § 4, 44 Stat. 1373; Pub. L. 104–127, title IX, § 912(b), Apr. 4, 1996, 110 Stat. 1185.)

AMENDMENTS

1996—Pub. L. 104–127 inserted at end ''The Secretary of Agriculture shall maintain until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.''

TRANSFER OF FUNCTIONS

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

§ 475. Repealed. Pub. L. 104–127, title VIII, § 870, Apr. 4, 1996, 110 Stat. 1175

Section, acts May 3, 1924, ch. 149, § 1, 43 Stat. 115; Mar. 3, 1927, ch. 337, § 5, 44 Stat. 1373; Aug. 8, 1946, ch. 909, 60 Stat. 940; May 29, 1958, Pub. L. 85–430, § 2, 72 Stat. 149; June 30, 1972, Pub. L. 92–331, § 1, 86 Stat. 400, directed Secretary of Agriculture to issue cotton crop reports at certain times during growing and harvesting season.

§ 476. Acreage reports

The Secretary of Agriculture shall cause to be issued a report on or before the 12th day of July of each year showing by States and in toto the estimated acreage of cotton planted, to be followed on or before the 12th day of August with an estimate of the acreage for harvest and on or before the 12th day of December with an estimate of the harvested acreage.

(May 27, 1912, ch. 135, § 1, 37 Stat. 118; Mar. 3, 1927, ch. 337, § 6, 44 Stat. 1374; Pub. L. 85–430, § 1, May 29, 1958, 72 Stat. 149; Pub. L. 92–331, § 2, June 30, 1972, 86 Stat. 400.)

CODIFICATION

Section was not enacted as part of the Cotton Statistics and Estimates Act which enacted sections 471 to 474 of this title and amended sections 475 and 476 of this title.

Section was formerly classified to section 412 of this title.

AMENDMENTS

1972—Pub. L. 92–331 substituted ''12th'' for ''10th'', ''on or before the 12th day of August'' for ''on August 1'', and ''on or before the 12th day of December'' for ''on December 1''.

1958—Pub. L. 85–430 substituted provisions requiring report to show estimated acreage of cotton planted, to be followed with an estimate of acreage for harvest and an estimate of harvested acreage for provisions which required report to show number of acres of cotton in cultivation on July 1 of each year, followed with an estimate of acreage of cotton abandoned since July 1.

1927—Act Mar. 3, 1927, struck out ''Bureau of Statistics of the Department of Agriculture'', substituted ''on or before the 10th day of July'' for ''on or about the first Monday in July'' and inserted ''on July 1, to be followed on September 1 and December 1 with an estimate of the acreage of cotton abandoned since July 1'' after ''cultivation''.

CHAPTER 20—DUMPING OR DESTRUCTION OF INTERSTATE PRODUCE

Sec.
491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty.
492. Repealed.
493. Enforcement of provisions; prosecution of cases.
494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures.

Sec.
495. Authorization of appropriations.
496. Validity of other statutes dealing with same subject.
497. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 499c, 499s of this title.

§ 491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc.; penalty

After June 30, 1927, any person, firm, association, or corporation receiving any fruits, vegetables, melons, dairy, or poultry products or any perishable farm products of any kind or character, hereinafter referred to as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor shall destroy or abandon, discard as refuse or dump any produce directly or indirectly or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale, or disposition thereof or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100 and not more than $3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court.

(Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 1 of act Mar. 3, 1927. Remainder of section 1 was classified to section 492 of this title.

CROSS REFERENCES

Unfair conduct by commission merchants, see section 499b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 492. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355, related to investigation of quality and condition of produce received in interstate commerce. See section 1622(h) of this title.

§ 493. Enforcement of provisions; prosecution of cases

The Secretary of Agriculture is authorized and directed to enforce this chapter. It is made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice.

(Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

CROSS REFERENCES

Supervision of United States attorneys by Attorney General, see section 519 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 495 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 495. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary after the fiscal year beginning July 1, 1927 to carry out the purposes of this chapter.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 496 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 496. Validity of other statutes dealing with same subject

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 495 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

§ 497. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499c, 499d, 499n of this title.

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 499b–1 of this title; title 11 section 525; title 28 section 2342; title 49 section 5906.

§ 499a. Short title and definitions

(a) Short title

This chapter may be cited as the ''Perishable Agricultural Commodities Act, 1930''.

(b) Definitions

For purposes of this chapter:

(1) The term ''person'' includes individuals, partnerships, corporations, and associations.

(2) The term ''Secretary'' means the Secretary of Agriculture.

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

(4) The term ''perishable agricultural commodity''—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages.

(5) The term ''commission merchant'' means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another.

(6) The term ''dealer'' means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a ''dealer'' in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a ''dealer'' until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of $230,000; and (C) no person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a ''dealer'' whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a ''dealer'' under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a ''dealer''.

(7) The term ''broker'' means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a ''broker'' if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of $230,000 in any calendar year.

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(9) The term ''responsibly connected'' means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association. A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this chapter and that the person either was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.

(10) The terms ''employ'' and ''employment'' mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(11) The term ''retailer'' means a person that is a dealer engaged in the business of selling any perishable agricultural commodity at retail.

(12) The term ''grocery wholesaler'' means a person that is a dealer primarily engaged in the full-line wholesale distribution and resale of grocery and related nonfood items (such as perishable agricultural commodities, dry groceries, general merchandise, meat, poultry, and seafood, and health and beauty care items) to retailers. However, such term does not include a person described in the preceding sentence if the person is primarily engaged in the wholesale distribution and resale of perishable agricultural commodities rather than other grocery and related nonfood items.

(13) The term ''collateral fees and expenses'' means any promotional allowances, rebates, service or materials fees paid or provided, directly or indirectly, in connection with the distribution or marketing of any perishable agricultural commodity.

(June 10, 1930, ch. 436, §1, 46 Stat. 531; Apr. 13, 1934, ch. 120, §1, 48 Stat. 584; Aug. 20, 1937, ch. 719, §1, 50 Stat. 725; June 29, 1940, ch. 456, §§1, 2, 54 Stat. 696; Pub. L. 87–725, §§1, 2, Oct. 1, 1962, 76 Stat. 673; Pub. L. 91–107, §§1, 2, Nov. 4, 1969, 83 Stat. 182; Pub. L. 95–562, §1, Nov. 1, 1978, 92 Stat. 2381; Pub. L. 97–98, title XI, §1115(a), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 102–237, title X, §1011(1), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§2, 9(a), 12(a), Nov. 15, 1995, 109 Stat. 424, 429, 430.)

CODIFICATION

Section was formerly classified to section 551 of this title.

AMENDMENTS

1995—Subsec. (b)(9). Pub. L. 104–48, §12(a), inserted at end ''A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this chapter and that the person either was only nomi-

nally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.''

Subsec. (b)(11), (12). Pub. L. 104–48, §2, added pars. (11) and (12).

Subsec. (b)(13). Pub. L. 104–48, §9(a), added par. (13).

1991—Pub. L. 102–237 inserted section catchline, added subsec. (a), designated existing provisions as subsec. (b), and in subsec. (b), inserted heading, substituted ''For purposes of this chapter:'' for ''When used in this chapter—'' and periods for semicolons at the end of pars. (1) to (6) and (9).

1981—Pars. (6), (7). Pub. L. 97–98 substituted ''$230,000'' for ''$200,000''.

1978—Par. (6)(B). Pub. L. 95–562, §1(a)(1), substituted ''$200,000'' for ''$100,000''.

Par. (6)(C). Pub. L. 95–562, §1(b), inserted ''other than potatoes'' after ''commodity''.

Par. (7). Pub. L. 95–562, §1(a)(2), substituted ''$200,000'' for ''$100,000''.

1969—Par. (6)(B). Pub. L. 91–107, §1, substituted ''$100,000'' for ''$90,000''.

Par. (7). Pub. L. 91–107, §2, substituted ''$100,000'' for ''$90,000''.

1962—Par. (6). Pub. L. 87–725, §1, substituted ''wholesale or jobbing quantities'' for ''carloads'', the requirement that the dealer's invoice cost of his purchases in any calendar year exceed $90,000 for the requirement that his purchases in such year exceed 20 carloads, and struck out definition of ''in carloads''.

Par. (7). Pub. L. 87–725, §1, excluded from definition of ''broker'', persons who are independent agents negotiating sales for vendors and whose sales are of frozen fruits and vegetables having an invoice value not exceeding $90,000 in any calendar year.

Pars. (9), (10). Pub. L. 87–725, §2, added pars. (9) and (10).

1940—Par. (4). Act June 29, 1940, §1, designated existing provisions as cl. (A) and added cl. (B).

Par. (6)(C). Act June 29, 1940, §2, inserted '', or consists of cherries in brine,'' after ''ice''.

1937—Par. (6)(C). Act Aug. 20, 1937, inserted ''unless such product is frozen or packed in ice within the meaning of paragraph 4 of this section'' after ''foreign commerce''.

1934—Par. (6)(C). Act Apr. 13, 1934, added cl. (C).

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(a) of Pub. L. 95–562 provided that the amendment made by that section is effective Jan. 1, 1979.

SHORT TITLE OF 1995 AMENDMENT

Section 1(a) of Pub. L. 104–48 provided that: ''This Act [amending this section and sections 499b, 499c to 499f, and 499h of this title and repealing provisions set out as a note under section 499f of this title] may be cited as the 'Perishable Agricultural Commodities Act Amendments of 1995'.''

STUDY OF DOMESTIC FRUIT AND VEGETABLE INDUSTRY

Pub. L. 101–624, title XIII, §§1301–1305, Nov. 28, 1990, 104 Stat. 3559, 3560, provided that:

''SEC. 1301. FINDINGS.

''Congress finds that—

''(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

''(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious diet by numerous health officials and organizations including the Surgeon General of the United States; the National Institutes of Health; the National Cancer Institute; the American Heart Association; the Committee on Diet, Nutrition and Cancer of the National Academy of Sciences; the Department of Agriculture; and the Department of Health and Human Services.

''SEC. 1302. PURPOSES.

''The purposes of this subtitle [subtitle A (§§1301–1309) of Pub. L. 101–624, enacting section 499b–1 of this title, amending sections 608c and 608e–1 of this title, and enacting this note] are to—

''(1) improve the Nation's dietary and nutritional standards by promoting domestically produced wholesome and nutritious fruit and vegetable products;

''(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

''(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable products in the future.

''SEC. 1303. DECLARATION.

''Congress declares that the domestic production of fruits and vegetables is an integral part of this Nation's farm policy.

''SEC. 1304. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY.

''(a) STUDY.—

''(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

''(2) CONTENTS.—The study conducted under paragraph (1) shall include—

''(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

''(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

''(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

''(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

''(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

''(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

''(b) REPORT.—Not later than 18 months after the date of enactment of this title [Nov. 28, 1990], the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

''(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhance-

ment program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

''(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

''SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.

''(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the 'Secretary') shall implement a program defining the conditions under which non-perishable agricultural products may be designated as 'grown in the U.S.'.

''(b) PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

''(2) DETAILS OF THE PILOT PROGRAM.—

''(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

''(B) APPLICATION OF PROGRAM.—

''(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

''(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to imported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930 [19 U.S.C. 1304(a)].

''(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act [19 U.S.C. 1202 et seq.].

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''

POTATO DEALERS

Section 1(b) of Pub. L. 95–562 provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section as amended by section 1(b) of Pub. L. 95–562 until Jan. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499b–1 of this title; title 31 section 3903.

§ 499b. Unfair conduct

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce:

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce.

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer.

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce.

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction; or to fail to maintain the trust as required under section 499e(c) of this title. However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce. However, any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed $2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts. A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced.

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, §2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§2, 3, 48 Stat. 585; June 19, 1936, ch. 602, §1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§2–4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, §1, 70 Stat. 726; Pub. L. 93–369, Aug. 10, 1974, 88 Stat. 423; Pub. L. 97–352, §1, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 98–273, §2, May 7, 1984, 98 Stat. 166; Pub. L. 104–48, §§9(b), 10, Nov. 15, 1995, 109 Stat. 430.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1995—Pub. L. 104–48, §9(b)(1), substituted ''commerce:'' for ''commerce—'' in introductory provisions.

Pars. (1) to (3). Pub. L. 104–48, §9(b)(2), substituted period for semicolon at end.

Par. (4). Pub. L. 104–48, §9(b)(2), (3), substituted period for semicolon after ''section 499e(c) of this title'' and inserted at end ''However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.''

Par. (5). Pub. L. 104–48, §§9(b)(2), 10, substituted ''foreign commerce. However,'' for ''foreign commerce: *Provided*, That'', substituted period for semicolon after ''miscellaneous receipts'', and inserted at end ''A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.''

Par. (6). Pub. L. 104–48, §9(b)(2), substituted period for semicolon at end.

1984—Par. (4). Pub. L. 98–273 inserted ''or to fail to maintain the trust as required under section 499e(c) of this title;''.

1982—Par. (5). Pub. L. 97–352 substituted ''*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,'' for ''*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay''.

1974—Par. (5). Pub. L. 93–369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of $2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out ''for a fraudulent purpose'' after ''broker'', and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted ''and make full payment'' and ''or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction''.

1940—Par. (1). Act June 29, 1940, §3, among other changes, inserted ''dealer'' after ''merchant''.

Par. (5). Act June 29, 1940, inserted ''quantity, size, pack, weight'' after ''quality''.

1937—Par. (5). Act Aug. 20, 1937, §2, among other changes, inserted ''mark, stencil, label, statement'' after ''act'' and ''the character, kind, grade, quality, condition, degree of maturity'' after ''or deed''.

Par. (6). Act Aug. 20, 1937, §3, inserted ''or in compliance with any Federal or State law or regulation'' after ''inspector''.

Par. (7). Act Aug. 20, 1937, §4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out ''or concerning the condition of the market for'' after ''involving''.

1934—Par. (2). Act Apr. 13, 1934, §2, inserted ''or consigned'' after ''sold''.

Par. (4). Act Apr. 13, 1934, §3, substituted ''in connection with any transaction involving or concerning'' for ''concerning the condition, quality, quantity or disposition of'' and inserted ''or consigned'' after ''contracted to be bought or sold''.

CROSS REFERENCES

Destruction or dumping of farm products received in interstate commerce by commission merchants, see section 491 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499b–1, 499d, 499e, 499f, 499g, 499h, 499m of this title.

§ 499b–1. Products produced in distinct geographic areas

(a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—[1]

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) Penalties

A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2

[1] See References in Text note below.

of the Perishable Agricultural Commodities Act (7 U.S.C. 499b(4) and (5)).

(c) Reimbursement

A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) Prohibition

The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act [7 U.S.C. 499a et seq.] to offset costs associated with the operation of this section.

(e) Regulations

The Secretary shall promulgate regulations to carry out this section.

(Pub. L. 101–624, title XIII, § 1309, Nov. 28, 1990, 104 Stat. 3562.)

REFERENCES IN TEXT

The Perishable Agricultural Commodity Act, and the Perishable Agricultural Commodities Act, referred to in subsecs. (a), (b), and (d), probably mean the Perishable Agricultural Commodities Act, 1930, act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to this chapter (§ 499a et seq.). For complete classification of this Act to the Code, see section 499a(a) of this title and Tables.

7 U.S.C. 499a(4), referred to in subsec. (a), was redesignated 7 U.S.C. 499a(b)(4) by Pub. L. 102–237, title X, § 1011(1)(A), Dec. 13, 1991, 105 Stat. 1898.

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (a)(1), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§ 671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Perishable Agricultural Commodities Act, 1930 which comprises this chapter.

§ 499c. Licenses

(a) License required; penalties for violations

After December 10, 1930, no person shall at any time carry on the business of a commission merchant dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than $1,000 for each such offense and not more than $250 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of $250, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application and fees for licenses

(1) Application for license

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application and to be furnished thereafter.

(2) License fees

Upon the filing of an application under paragraph (1), the applicant shall pay such license fees, both individually and in the aggregate, as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491–497). Thereafter, the licensee shall pay such license fees annually or at such longer interval as the Secretary may prescribe. The Secretary shall take due account of savings to the program when determining an appropriate interval for renewal of licenses. The Secretary shall establish and alter license fees only by rulemaking under section 553 of title 5, except that the Secretary may not alter the fees required under paragraph (3) or (4) for retailers and grocery wholesalers that are dealers. Effective on November 15, 1995, and until such time as the Secretary alters such fees by rule, an individual license fee shall equal $550 per year, plus $200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary, subject to an annual aggregate limit of $4,000 per licensee. Any increase in license fees prescribed by the Secretary under this paragraph shall not take effect unless the Secretary determines that, without such increase, the funds on hand as of the end of the fiscal year in which the increase takes effect will be less than 25 percent of the projected budget to administer this chapter and such Act for the next fiscal year. In no case may a license fee increase by the Secretary take effect before the end of the three-year period beginning on November 15, 1995.

(3) One-time fee for retailers and grocery wholesalers that are dealers

During the three-year period beginning on November 15, 1995, a retailer or grocery wholesaler making an initial application for a license under this section shall pay the license fee required under subparagraph (A), (B), or (C) of paragraph (4) for license renewals in the year in which the initial application is made. After the end of such period, a retailer or grocery wholesaler making an initial application for a license under this section shall pay an administrative fee equal to $100. In either case, a retailer or grocery wholesaler paying a fee under this paragraph shall not be required to pay any fee for renewal of the license for subsequent years.

(4) Gradual elimination of annual fees for retailers and grocery wholesalers that are dealers

In the case of a retailer or grocery wholesaler that holds a license under this section as of November 15, 1995, payments for the renewal of the license shall be made pursuant to the following schedule:

(A) For anniversary dates occurring during the one-year period beginning on November 15, 1995, the licensee shall pay a renewal fee in an amount equal to 100 percent of the applicable renewal fee (subject to the $4,000 aggregate limit on such payments) in effect under this subsection on the day before November 15, 1995.

(B) For anniversary dates occurring during the one-year period beginning at the end of the period in subparagraph (A), the licensee shall pay a renewal fee in an amount equal to 75 percent of the amount paid by the licensee under subparagraph (A).

(C) For anniversary dates occurring during the one-year period beginning at the end of the period in subparagraph (B), the licensee shall pay a renewal fee in an amount equal to 50 percent of the amount paid by the licensee under subparagraph (A).

(D) After the end of the three-year period beginning on November 15, 1995, the licensee shall not be required to pay any fee if the licensee seeks renewal of the license.

(5) Perishable Agricultural Commodities Act Fund

Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the ''Perishable Agricultural Commodities Act Fund'', which shall be available for all expenses necessary to the administration of this chapter and the Act approved March 3, 1927, referred to above. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. Financial statements prescribed by the Director of the Office of Management and Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually.

(c) Use of trade names

A licensee may conduct business in more than one trade name or change the name under which business is conducted without requiring an additional or new license. The Secretary may disapprove the use of a trade name if, in his opinion, the use of the trade name by the licensee would be deceptive, misleading, or confusing to the trade, and the Secretary may, after notice and opportunity for a hearing, suspend for a period not to exceed ninety days the license of any licensee who continues to use a trade name which the Secretary has disapproved for use by such licensee. The Secretary may refuse to issue a license to an applicant if he finds that the trade name in which the applicant proposes to do business would be deceptive, misleading, or confusing to the trade if used by such applicant.

(June 10, 1930, ch. 436, § 3, 46 Stat. 533; Aug. 20, 1937, ch. 719, § 5, 50 Stat. 726; June 15, 1950, ch. 254, § 1, 64 Stat. 217; July 30, 1956, ch. 786, § 2(a), 70 Stat. 726; Pub. L. 87–725, §§ 3, 4, Oct. 1, 1962, 76 Stat. 673, 674; Pub. L. 91–107, § 3, Nov. 4, 1969, 83 Stat. 182; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 95–562, § 2, Nov. 1, 1978, 92 Stat. 2381; Pub. L. 97–98, title XI, § 1115(b), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 100–414, § 1, Aug. 22, 1988, 102 Stat. 1102; Pub. L. 101–624, title XIII, § 1361, Nov. 28, 1990, 104 Stat. 3568; Pub. L. 104–48, §§ 3–4(b), 5(a), Nov. 15, 1995, 109 Stat. 425–427.)

REFERENCES IN TEXT

The Act to prevent the destruction or dumping of farm produce, approved March 3, 1927, referred to in subsec. (b)(2), (5), is act Mar. 3, 1927, ch. 309, 44 Stat. 1355, as amended, which is classified generally to chapter 20 (§ 491 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 553 of this title.

AMENDMENTS

1995—Pub. L. 104–48, § 3(b)(1), reenacted section catchline without change.

Subsec. (a). Pub. L. 104–48, §§ 3(b)(1), 5(a), inserted heading and substituted ''$1,000'' for ''$500'' in first paragraph and ''$250'' for ''$25'' in two places.

Subsec. (b). Pub. L. 104–48, § 3(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 104–48, § 3(a)(1), (2), inserted heading, realigned margins, and struck out after second sentence ''Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491–497), but in no event shall such fee exceed $400, plus $200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $4,000 in the aggregate.''

Subsec. (b)(2). Pub. L. 104–48, § 4(a), added par. (2).

Subsec. (b)(3), (4). Pub. L. 104–48, § 3(a)(5), added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 104–48, §§ 3(a)(3), (4), 4(b), designated provisions of subsec. (b) relating to Perishable Agricultural Commodities Act Fund as par. (5), inserted heading, realigned margins, and struck out ''The amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year.'' after ''fees deposited in such fund.'' and ''The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase.'' after ''budget as submitted to the Congress annually.''

Subsec. (c). Pub. L. 104–48, § 3(b)(3), inserted heading.

1990—Subsec. (b). Pub. L. 101–624 substituted ''. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in in-

sured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. The'' for '': *Provided*, That the'' and ''. Financial'' for '': *Provided further*, That financial''.

1988—Subsec. (b). Pub. L. 100–414 substituted ''$400, plus $200'' for ''$300, plus $150'' and ''$4,000'' for ''$3,000''.

1981—Subsec. (b). Pub. L. 97–98 substituted ''$300'', ''$150'', and ''$3,000'' for ''$150'', ''$50'', and ''$1,000'', respectively.

1978—Subsec. (b). Pub. L. 95–562 substituted ''in such application and to be furnished thereafter'' for ''in such application'' and ''$150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary'' for ''$100'', and inserted provisions limiting the total annual fees for any applicant to an amount not to exceed $1,000 in the aggregate and limiting the amount of money in the special fund at the end of any fiscal year to an amount not to exceed 25 percent of the projected budget for the next following fiscal year.

1969—Subsec. (b). Pub. L. 91–107 increased limitation on fees from $50 to $100.

1962—Subsec. (b). Pub. L. 87–725, §3, increased annual fee from a maximum of $25, to such fee as the Secretary determines necessary to meet the expenses of administering this chapter and the Act approved March 3, 1927, but not exceeding $50, directed the Secretary to give public notice of any increase in the annual fee and to allow reasonable time before the effective date of such increase for submission of views on, or objections to, such increase, and struck out references to the availability of the Perishable Agricultural Commodities Act Fund for administrative expenses of sections 581 to 589 of this title.

Subsec. (c). Pub. L. 87–725, §4, added subsec. (c).

1956—Subsec. (b). Act July 30, 1956, increased fee from $15 annually to not more than $25 annually.

1950—Subsec. (b). Act June 15, 1950, increased fee from $10 to $15 annually, provided for its disposition in fund, made fund available for administrative expenses, and provided for financial statements.

1937—Subsec. (a). Act Aug. 20, 1937, added second par.

EFFECTIVE DATE OF 1981 AMENDMENT

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

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director of Bureau of the Budget, Deputy Director of Bureau of the Budget, and Assistant Directors of Bureau of the Budget as Director of Office of Management and Budget, Deputy Director of Office of Management and Budget, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of Bureau to Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

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

Exclusive jurisdiction of district courts in actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499a, 499d, 499f, 499h, 499*o*, 499s of this title.

§ 499d. Issuance of license

(a) Authority to do business; termination; renewal

Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this chapter, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g(d) of this title, but said license shall automatically terminate on the anniversary date of the license at the end of the annual or multiyear period covered by the license fee unless the licensee submits the required renewal application and pays the applicable renewal fee (if such fee is required): *Provided*, That notice of the necessity of renewing the license and of paying the renewal fee (if such fee is required) shall be mailed at least thirty days before the anniversary date: *Provided*, *further*, That if the renewal fee (if required) is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c(b) of this title, plus $50, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title: *And provided further*, That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt, unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination.

(b) Refusal of license; grounds

The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or any person responsibly connected with the applicant, is prohibited from employment with a licensee under section 499h(b) of this title or is a person who, or is or was responsibly connected with a person who—

(A) has had his license revoked under the provisions of section 499h of this title within two years prior to the date of the application or whose license is currently under suspension;

(B) within two years prior to the date of application has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect;

(C) within two years prior to the date of the application, has been found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, relating to the prevention of destruction and dumping of farm produce; or

(D) has failed, except in the case of bankruptcy and subject to his right of appeal under

section 499g(c) of this title, to pay any reparation order issued against him within two years prior to the date of the application.

(c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase

An applicant ineligible for a license by reason of the provisions of subsection (b) of this section may, upon the expiration of the two-year period applicable to him, be issued a license by the Secretary if such applicant furnishes a surety bond in the form and amount satisfactory to the Secretary as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders which may be issued against him in connection with transactions occurring within four years following the issuance of the license, subject to his right of appeal under section 499g(c) of this title. In the event such applicant does not furnish such a surety bond, the Secretary shall not issue a license to him until three years have elapsed after the date of the applicable order of the Secretary or decision of the court on appeal. If the surety bond so furnished is terminated for any reason without the approval of the Secretary the license shall be automatically canceled as of the date of such termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. The Secretary, based on changes in the nature and volume of business conducted by a bonded licensee, may require an increase or authorize a reduction in the amount of the bond. A bonded licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and upon failure of the licensee to provide such bond his license shall be automatically suspended until such bond is provided. The Secretary may not issue a license to an applicant under this subsection if the applicant or any person responsibly connected with the applicant is prohibited from employment with a licensee under section 499h(b) of this title.

(d) Withholding license pending investigation

The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.

(e) Refusal of license

The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, and if he finds that the circumstances of such bankruptcy warrant such a refusal, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this chapter.

(June 10, 1930, ch. 436, § 4, 46 Stat. 533; Apr. 13, 1934, ch. 120, §§ 4–7, 48 Stat. 585, 586; June 19, 1936, ch. 602, § 2, 49 Stat. 1533; Aug. 20, 1937, ch. 719, § 6, 50 Stat. 726; June 15, 1950, ch. 254, § 2, 64 Stat. 218; July 30, 1956, ch. 786, §§ 2(b), 3, 4, 70 Stat. 726; Pub. L. 87–725, §§ 5–7, Oct. 1, 1962, 76 Stat. 674; Pub. L. 95–598, title III, § 303, Nov. 6, 1978, 92 Stat. 2673; Pub. L. 102–237, title X, § 1011(2), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 4(c), 5(b), 12(c), Nov. 15, 1995, 109 Stat. 427, 431.)

CODIFICATION

Section was formerly classified to section 554 of this title.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–48, §§ 4(c), 5(b), substituted ''the anniversary date of the license at the end of the annual or multiyear period covered by the license fee unless the licensee submits the required renewal application and pays the applicable renewal fee (if such fee is required)'' for ''any anniversary date thereof unless the annual fee has been paid'' in provisions before first proviso, ''the necessity of renewing the license and of paying the renewal fee (if such fee is required)'' for ''the necessity of paying the annual fee'' in first proviso and ''renewal fee (if required)'' for ''annual fee'' and ''plus $50'' for ''plus $5'' in second proviso.

Subsec. (b). Pub. L. 104–48, § 12(c)(1), inserted ''is prohibited from employment with a licensee under section 499h(b) of this title or'' after ''with the applicant,'' in introductory provisions.

Subsec. (c). Pub. L. 104–48, §12(c)(2), inserted ''The Secretary may not issue a license to an applicant under this subsection if the applicant or any person responsibly connected with the applicant is prohibited from employment with a licensee under section 499h(b) of this title.''

1991—Subsec. (a). Pub. L. 102–237 substituted ''annual'' for ''anual'' before ''fee has been paid''.

1978—Subsec. (a). Pub. L. 95–598, §303(a), inserted '', unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination''.

Subsec. (e). Pub. L. 95–598, §303(b), inserted ''and if he finds that the circumstances of such bankruptcy warrant such a refusal,''.

1962—Subsec. (a). Pub. L. 87–725, §5, inserted proviso that the license of any licensee shall terminate, if he, or in case the licensee is a partnership, any partner, is discharged as a bankrupt.

Subsec. (b). Pub. L. 87–725, §6, amended subsection generally, and among other changes, required refusal of a license upon showing responsible connection by the applicant, or by any person responsibly connected with him, with a person guilty of the specified conduct, without requiring that the applicant was responsible in whole or in part for such conduct, and upon the grounds specified in clause (C) relating to being found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, provided that the provisions regarding flagrant or repeated violation of section 499b of this title shall not apply where the license in such case was suspended and the suspension period has expired or is not in effect, and eliminated provisions which, notwithstanding the grounds for refusal specified in the section, permitted the Secretary to issue a license upon the applicant furnishing a bond or other satisfactory assurance that his business would be conducted in accordance with this chapter, and that he would pay reparation orders previously issued against him or which could be issued against him within two years after receiving the license, but such license could not be issued until after the expiration of one year from the revocation or from the finding that the applicant was responsible, for any flagrant or repeated violation of section 499b of this title.

Subsec. (c). Pub. L. 87–725, §7, substituted provisions which permit a license to be issued to an applicant ineligible under subsec. (b) of this section, upon expiration of the two year period applicable to him, if he furnishes a surety bond as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders issued against him in connection with transactions occurring within four years following issuance of license, subject to appeal under section 499g(c) of this title, or if no bond is given, permit issuance of the license after three years from the applicable order, or decision of the court on appeal, and which provide that if a bond is terminated without the Secretary's approval, the license is automatically canceled and cannot be re-issued during the four year period without a new bond, that the Secretary may order an increase or a reduction in the bond, and that a licensee notified to increase the bond must do so in a reasonable time or his license will be suspended until such bond is provided, for provisions which required the Secretary to refuse a license to an applicant, or if the applicant was a partnership, or an association or a corporation, to a partner or officer or any person holding a responsible position therein, respectively, found within two years of being guilty of violating sections 491 to 497 or 499n(b) of this title.

1956—Subsec. (a). Act July 30, 1956, §2(b), substituted ''the fee provided in section 499c(b) of this title, plus $5'' for ''a fee of $20''.

Subsec. (d). Act July 30, 1956, §3, included within term ''applicant'' any general partner of a partnership, and officers or holders of more than 10 per centum of the stock of a corporation, and permitted the Secretary to refuse to issue a license to an applicant who was convicted of a felony in any State or Federal court.

Subsec. (e). Act July 30, 1956, §4, added subsec. (e).

1950—Subsec. (a). Act June 15, 1950, increased fee for late registration from $15 to $20, and provided for its disposition in the fund.

1937—Subsec. (a). Act Aug. 20, 1937, inserted first and second provisos.

Subsec. (b). Act Aug. 20, 1937, among other changes, inserted ''Such bond shall be in an amount sufficient in the judgment of the Secretary of Agriculture to insure payment of such reparation orders'' at the end.

Subsecs. (c), (d). Act Aug. 20, 1937, amended subsecs. (c) and (d) generally.

1936—Subsec. (b). Act June 19, 1936, among other changes, inserted ''if he finds'' after ''or (3)'' and ''or (5)'' after ''section 499b''.

1934—Subsec. (b). Act Apr. 13, 1934, §4, among other changes, added cls. (3) and (4).

Subsecs. (c) to (e). Act Apr. 13, 1934, §§5–7, added subsecs. (c) to (e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title.

§ 499e. Liability to persons injured

(a) Amount of damages

If any commission merchant, dealer, or broker violates any provision of section 499b of this title he shall be liable to the person or persons injured thereby for the full amount of damages (including any handling fee paid by the injured person or persons under section 499f(a)(2) of this title) sustained in consequence of such violation.

(b) Remedies

Such liability may be enforced either (1) by complaint to the Secretary as hereinafter provided, or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and the provisions of this chapter are in addition to such remedies.

(c) Trust on commodities and sales proceeds for benefit of unpaid suppliers, sellers, or agents; preservation of trust; jurisdiction of courts

(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association, as defined in section 1141j(a) of title 12, and its members.

(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. The written notice to the commission merchant, dealer, or broker shall set forth information in sufficient detail to identify the transaction subject to the trust. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agreement shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

(4) In addition to the method of preserving the benefits of the trust specified in paragraph (3), a licensee may use ordinary and usual billing or invoice statements to provide notice of the licensee's intent to preserve the trust. The bill or invoice statement must include the information required by the last sentence of paragraph (3) and contain on the face of the statement the following: ''The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.''.

(5) The several district courts of the United States are vested with jurisdiction specifically to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.

(June 10, 1930, ch. 436, § 5, 46 Stat. 534; Aug. 20, 1937, ch. 719, § 7, 50 Stat. 728; Pub. L. 98–273, § 1, May 7, 1984, 98 Stat. 165; Pub. L. 102–237, title X, § 1011(3), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 6, 8(b), Nov. 15, 1995, 109 Stat. 427, 429.)

CODIFICATION

Section was formerly classified to section 555 of this title.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–48, § 8(b), inserted ''(including any handling fee paid by the injured person or persons under section 499f(a)(2) of this title)'' after ''damages''.

Subsec. (c)(3). Pub. L. 104–48, § 6(a), (b), struck out ''and has filed such notice with the Secretary'' before ''within thirty calendar days'' in first sentence and inserted after first sentence ''The written notice to the commission merchant, dealer, or broker shall set forth information in sufficient detail to identify the transaction subject to the trust.''

Subsec. (c)(4), (5). Pub. L. 104–48, § 6(c), added par. (4) and redesignated former par. (4) as (5).

1991—Subsec. (c)(2). Pub. L. 102–237 substituted '', as'' for ''(as'' before ''defined''.

1984—Subsec. (c). Pub. L. 98–273 added subsec. (c).

1937—Subsec. (a). Act Aug. 20, 1937, struck out ''paragraph (1), (2), (3), or (4) of'' after ''provisions of''.

CROSS REFERENCES

Failure to maintain trust as required under subsec. (c) of this section as unlawful, see section 499b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499b, 499f of this title.

§ 499f. Complaints, written notifications, and investigations

(a) Reparation complaints

(1) Petition; process

Any person complaining of any violation of any provision of section 499b of this title by any commission merchant, dealer, or broker may, at any time within nine months after the cause of action accrues, apply to the Secretary by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Secretary, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Secretary to the commission merchant, dealer, or broker, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Secretary.

(2) Filing and handling fees

A person submitting a petition to the Secretary under paragraph (1) shall include a filing fee of $60 per petition. If the Secretary determines under paragraph (1) that the facts contained in the petition warrant further action, the person or persons submitting the petition shall submit to the Secretary a handling fee of $300. The Secretary may not forward a copy of the complaint to the commission merchant, dealer, or broker involved until after the Secretary receives the required handling fee. The Secretary shall deposit fees submitted under this paragraph into the Perishable Agricultural Commodities Act Fund provided for by section 499c(b) of this title. The Secretary may alter the fees specified in

this paragraph by rulemaking under section 553 of title 5.

(b) Disciplinary violations

Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any other interested person (other than an employee of an agency of the Department of Agriculture administering this chapter) may file, in accordance with rules prescribed by the Secretary, a written notification of any alleged violation of this chapter by any commission merchant, dealer, or broker. In addition, any official certificates of the United States Government or States or Territories of the United States and trust notices filed pursuant to section 499e of this title shall constitute written notification for the purposes of conducting an investigation under subsection (c) of this section. The identity of any person filing a written notification under this subsection shall be considered to be confidential information. The identity of such person, and any portion of the notification to the extent that it would indicate the identity of such person, are specifically exempt from disclosure under section 552 of title 5 (commonly known as the Freedom of Information Act), as provided in subsection (b)(3) of such section.

(c) Investigation of complaints and notifications

(1) Commencing or expanding an investigation

If there appears to be, in the opinion of the Secretary, reasonable grounds for investigating a complaint made under subsection (a) of this section or a written notification made under subsection (b) of this section, the Secretary shall investigate such complaint or notification. In the course of the investigation, if the Secretary determines that violations of this chapter are indicated other than the alleged violations specified in the complaint or notification that served as the basis for the investigation, the Secretary may expand the investigation to include such additional violations.

(2) Issuance of complaint by Secretary; process

In the opinion of the Secretary, if an investigation under this subsection substantiates the existence of violations of this chapter, the Secretary may cause a complaint to be issued. The Secretary shall have the complaint served by registered mail or certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the subject of the complaint is engaged in business. However, in complaints wherein the amount claimed as damages does not exceed $30,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(3) Special notification requirements for certain investigations

Whenever the Secretary initiates an investigation on the basis of a written notification made under subsection (b) of this section or expands such an investigation, the Secretary shall promptly notify the subject of the investigation of the existence of the investigation and the nature of the alleged violations of this chapter to be investigated. Not later than 180 days after providing the initial notification, the Secretary shall provide the subject of the investigation with notice of the status of the investigation, including whether the Secretary intends to issue a complaint under paragraph (2), terminate the investigation, or continue or expand the investigation. The Secretary shall provide additional status reports at the request of the subject of the investigation and shall promptly notify the subject of the investigation whenever the Secretary terminates the investigation.

(d) Decisions on complaints

After opportunity for hearing on complaints where the damages claimed exceed the sum of $30,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $30,000 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

(e) Bond required for certain complaints

In case a complaint is made by a nonresident of the United States, or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent: *Provided*, That the Secretary shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(June 10, 1930, ch. 436, §6, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§8–10, 48 Stat. 586, 587; Aug. 20, 1937, ch. 719, §§8, 9, 50 Stat. 728; Pub. L. 86–507, §1(4), June 11, 1960, 74 Stat. 200; Pub. L. 87–725, §8, Oct. 1, 1962, 76 Stat. 675; Pub. L. 92–231, §1, Feb. 15, 1972, 86 Stat. 38; Pub. L. 97–98, title XI, §1115(c), Dec. 22, 1981, 95 Stat. 1270; Pub. L. 97–352, §2, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 102–237, title X, §1011(4), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§7, 8(a), Nov. 15, 1995, 109 Stat. 428, 429.)

CODIFICATION

Section was formerly classified to section 556 of this title.

AMENDMENTS

1995—Pub. L. 104–48, §7(d)(1), substituted ''Complaints, written notifications, and investigations'' for ''Complaint and investigation'' in section catchline.

Subsec. (a). Pub. L. 104–48, §8(a), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (b). Pub. L. 104–48, §7(a), inserted heading and amended text generally. Prior to amendment, text read

as follows: ''Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested person may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this chapter by any commission merchant, dealer, or broker and may request an investigation of such complaint by the Secretary.''

Subsec. (c). Pub. L. 104–48, § 7(b), inserted heading and amended text generally. Prior to amendment, text read as follows: ''If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $15,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.''

Subsec. (d). Pub. L. 104–48, § 7(c), (d)(2), inserted heading and substituted ''$30,000'' for ''$15,000'' in two places in text.

Subsec. (e). Pub. L. 104–48, § 7(d)(3), inserted heading.

1991—Subsecs. (c), (d). Pub. L. 102–237 inserted a period at end of subsec. (c) and substituted a period for semicolon at end of subsec. (d).

1982—Subsec. (e). Pub. L. 97–352 inserted ''or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned,'' after ''In case a complaint is made by a nonresident of the United States,''.

1981—Subsecs. (c), (d). Pub. L. 97–98 substituted ''$15,000'' for ''$3,000''.

1972—Subsec. (c). Pub. L. 92–231 substituted ''$3,000'' for ''$1,500''.

Subsec. (d). Pub. L. 92–231 substituted ''$3,000'' for ''$1,500'' wherever appearing.

1962—Subsec. (c). Pub. L. 87–725 substituted ''$1,500'' for ''$500''.

Subsec. (d). Pub. L. 87–725 substituted ''$1,500'' for ''$500'' wherever appearing.

1960—Subsec. (c). Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

1937—Subsec. (b). Act Aug. 20, 1937, § 8, substituted ''section 499b of this title'' for ''this chapter''.

Subsec. (e). Act Aug. 20, 1937, § 9, inserted ''and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent'' and proviso.

1934—Subsec. (c). Act Apr. 13, 1934, § 8, inserted proviso.

Subsec. (d). Act Apr. 13, 1934, § 9, substituted ''complaints'' for ''a complaint'' after ''on'' and inserted ''where damages claimed do not exceed the sum of $500 not requiring hearing as provided herein'' after ''complaints''.

Subsec. (e). Act Apr. 13, 1934, § 10, among other changes, inserted ''formal'' before ''action''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 3 of Pub. L. 97–352 provided that: ''The amendment made by section 2 [amending this section] shall not apply with respect to complaints made under section 6(e) of the Perishable Agricultural Commodities Act, 1930 [subsec. (e) of this section], before the date of enactment of this Act [Oct. 18, 1982].''

EFFECTIVE DATE OF 1981 AMENDMENT

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

FILING AND HANDLING FEES DURING FISCAL YEARS 1995 AND 1996

Pub. L. 103–276, § 1, July 5, 1994, 108 Stat. 1406, during fiscal years 1995 and 1996, directed Secretary of Agriculture to require filing fee of $60 per petition for petitions alleging violation of section 499b of this title and handling fee of $300 for petitions that warrant further action, which handling fee was to be included in determining amount of damages, with both fees to be deposited into the Perishable Agricultural Commodities Act Fund, prior to repeal by Pub. L. 104–48, § 8(c), Nov. 15, 1995, 109 Stat. 429. See subsec. (a)(2) of this section.

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499e, 499g, 499h, 499m of this title.

§ 499g. Reparation order

(a) Determination by Secretary of Agriculture of amount of damages; order for payment

If after a hearing on a complaint made by any person under section 499f of this title, or without hearing as provided in subsections (c) and (d) of section 499f of this title, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. The Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any such hearing. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum.

(b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees

If any commission merchant, dealer, or broker does not pay the reparation award within the time specified in the Secretary's order, the complainant, or any person for whose benefit such order was made, may within three years of the

date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the commission merchant, dealer, or broker, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Secretary shall be prima-facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(c) Appeal from reparation order; proceedings

Either party adversely affected by the entry of a reparation order by the Secretary may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases handled without a hearing in accordance with subsections (c) and (d) of section 499f of this title or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the party complained against is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Secretary and shall state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of court shall immediately forward a copy thereof to the Secretary of Agriculture, who shall forthwith prepare, certify, and file in said court a true copy of the Secretary's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Secretary. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits for damages, except that the findings of fact and order or orders of the Secretary shall be prima-facie evidence of the facts therein stated. Appellee shall not be liable for costs in said court and if appellee prevails he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Secretary upon which decision was made by him shall upon filing in the district court constitute the pleadings upon which said trial de novo shall proceed subject to any amendment allowed in that court.

(d) Suspension of license for failure to obey reparation order or appeal

Unless the licensee against whom a reparation order has been issued shows to the satisfaction of the Secretary within five days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order his license shall be suspended automatically at the expiration of such five-day period until he shows to the satisfaction of the Secretary that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of thirty days from the date of the judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(June 10, 1930, ch. 436, §7, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§11–13, 48 Stat. 587, 588; June 19, 1936, ch. 602, §3, 49 Stat. 1534; Aug. 20, 1937, ch. 719, §10, 50 Stat. 728; June 23, 1938, ch. 599, 52 Stat. 953; May 14, 1940, ch. 196, 54 Stat. 214; Pub. L. 87–725, §§9, 10, Oct. 1, 1962, 76 Stat. 675; Pub. L. 92–231, §2, Feb. 15, 1972, 86 Stat. 38; Pub. L. 102–237, title X, §1011(5), Dec. 13, 1991, 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 557 of this title.

AMENDMENTS

1991—Subsecs. (a) to (c). Pub. L. 102–237 substituted periods for semicolons at end of subsecs. (a) to (c).

1972—Subsec. (a). Pub. L. 92–231 directed the Secretary to order commission merchants, dealers, or brokers who are the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with hearings.

1962—Subsec. (c). Pub. L. 87–725, §9, limited time for filing the bond to within 30 days from and after the date of the reparation order, and required such bond to be in cash, negotiable securities having a market value of at least equivalent to the amount of bond prescribed or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department.

Subsec. (d). Pub. L. 87–725, §10, lengthened period upon the expiration of which the license is suspended from ten to thirty days, and provided that if the judgment is stayed by a court of competent jurisdiction the suspension becomes effective ten days after the expiration of such stay.

1940—Subsec. (c). Act May 14, 1940, inserted proviso in first sentence.

1938—Subsec. (a). Act June 23, 1938, inserted last two sentences.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted ''or without hearing as provided in section 499f of this title, paragraphs (c) and (d), or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified'' after ''section 499f''.

Subsec. (b). Act Aug. 20, 1937, among other changes, substituted ''pay the reparation award'' for ''comply with an order for the payment of money''.

Subsec. (c). Act Aug. 20, 1937, inserted ''together with a bond in double the amount of the reparation award conditioned upon the payment of the judgment entered by the court plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail'' after ''upon adverse party'' and struck out proviso in first sentence and ''by registered mail'' after ''adverse party''.

Subsec. (d). Act Aug. 20, 1937, inserted proviso.

1936—Subsec. (c). Act June 19, 1936, inserted proviso in first sentence and ''by registered mail'' after ''adverse party''.

1934—Subsec. (b). Act Apr. 13, 1934, § 11, inserted after first sentence ''The orders, writs and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States.''

Subsecs. (c), (d). Act Apr. 13, 1934, §§ 12, 13, added subsecs. (c) and (d).

FEDERAL RULES OF CIVIL PROCEDURE

Costs, application of Rules of Civil Procedure, see rules 54 and 81, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

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

Exclusive jurisdiction of courts of appeals to set aside orders of Secretary of Agriculture under this chapter except those orders issued under subsection (a) of this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Review of orders by courts of appeals, see section 2341 et seq. of Title 28.

Venue of proceedings to set aside orders of Secretary of Agriculture under this chapter except subsec. (a) of this section, see section 2343 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499h, 499m of this title; title 28 section 2342.

§ 499h. Grounds for suspension or revocation of license

(a) Authority of Secretary

Whenever (1) the Secretary determines, as provided in section 499f of this title, that any commission merchant, dealer, or broker has violated any of the provisions of section 499b of this title, or (2) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title, the Secretary may publish the facts and circumstances of such violation and/or, by order, suspend the license of such offender for a period not to exceed ninety days, except that, if the violation is flagrant or repeated, the Secretary may, by order, revoke the license of the offender.

(b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties

Except with the approval of the Secretary, no licensee shall employ any person, or any person who is or has been responsibly connected with any person—

(1) whose license has been revoked or is currently suspended by order of the Secretary;

(2) who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect; or

(3) against whom there is an unpaid reparation award issued within two years, subject to his right of appeal under section 499g(c) of this title.

The Secretary may approve such employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant or repeated violation of section 499b of this title, if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the Secretary as assurance that such licensee's business will be conducted in accordance with this chapter and that the licensee will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title, which may be issued against it in connection with transactions occurring within four years following the approval. The Secretary may approve employment without a surety bond after the expiration of two years from the effective date of the applicable disciplinary order. The Secretary, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond. A licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and if the licensee fails to do so the approval of employment shall automatically terminate. The Secretary may, after thirty days notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section. The Secretary may extend the period of employment sanction as to a responsibly connected person for an additional one-year period upon the determination that the person has been unlawfully employed as provided in this subsection.

(c) Fraud in procurement

If, after a license shall have been issued to an applicant, the Secretary believes that the license was obtained through a false or misleading statement in the application therefor or through a misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee, he may, after thirty days' notice and an opportunity for a hearing, revoke said license, whereupon no license shall be issued to said applicant or any applicant in which the person responsible for such false or misleading statement or misrepresentation, concealment, or withholding of facts is financially interested, except under the conditions set forth in section 499d(b) of this title.

(d) Injunction

In addition to being subject to the penalties provided by section 499c(a) of this title, any commission merchant, dealer, or broker who engages in or operates such business without a valid and effective license from the Secretary shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States for an injunction to restrain such defendant from further continuing so to engage in or operate such business, and, if the court shall find that the defendant is continuing to engage in such business without a valid and effective license, the court shall issue an injunction to restrain such defendant from continuing to engage in or to operate such business without such license.

(e) Alternative civil penalties

In lieu of suspending or revoking a license under this section when the Secretary determines, as provided by section 499f of this title, that a commission merchant, dealer, or broker has violated section 499b of this title or subsection (b) of this section, the Secretary may assess a civil penalty not to exceed $2,000 for each violative transaction or each day the violation continues. In assessing the amount of a penalty under this subsection, the Secretary shall give due consideration to the size of the business, the number of employees, and the seriousness, nature, and amount of the violation. Amounts collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(June 10, 1930, ch. 436, §8, 46 Stat. 535; Apr. 13, 1934, ch. 120, §14, 48 Stat. 588; Aug. 20, 1937, ch. 719, §11, 50 Stat. 730; July 30, 1956, ch. 786, §5, 70 Stat. 727; Pub. L. 87–725, §11, Oct. 1, 1962, 76 Stat. 675; Pub. L. 102–237, title X, §1011(6), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§11, 12(b), Nov. 15, 1995, 109 Stat. 430, 431.)

CODIFICATION

Section was formerly classified to section 558 of this title.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–48, §12(b), inserted at end ''The Secretary may extend the period of employment sanction as to a responsibly connected person for an additional one-year period upon the determination that the person has been unlawfully employed as provided in this subsection.''

Subsec. (e). Pub. L. 104–48, §11, added subsec. (e).

1991—Subsec. (a). Pub. L. 102–237 redesignated cls. (a) and (b) as (1) and (2), respectively, and substituted a period for semicolon at end.

1962—Subsec. (b). Pub. L. 87–725 amended subsec. (b) generally, and among other changes, provided that any licensee hiring any person without the Secretary's approval in violation of this section, after notice and opportunity for hearing, may have his license suspended or revoked, that the restrictions shall apply to persons found, after notice and opportunity for hearing, to have committed any flagrant or repeated violation of section 499b of this title, but not where such violator's license was suspended and the suspension has expired or is not in effect, and shall also apply to persons against whom there is a unpaid reparation award issued within two years, subject to appeal under section 499g(c) of this title, permitted the Secretary to approve employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant and repeated violation of section 499b of this title, if the licensee furnishes a bond as assurance that his business will be conducted in accordance with this chapter and he will pay all reparation awards issued within four years following approval, subject to appeal under section 499g(c) of this title, or without bond after two years from the effective date of the disciplinary order, authorized the Secretary to increase or decrease the amount of bond, and required licensees notified of an increased bond to provide such in a reasonable time or the approval of employment will terminate.

1956—Subsec. (b). Act July 30, 1956, provided for suspension of licenses, and restricted authority to permit employment to those cases where licenses have been revoked or suspended for failure to pay a reparation award.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted cl. (a) designation and inserted ''or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title'' after ''section 499b of this title''.

Subsec. (b). Act Aug. 20, 1937, amended subsec. (b) generally.

Subsecs. (c), (d). Act Aug. 20, 1937, added subsecs. (c) and (d).

1934—Subsec. (b). Act Apr. 13, 1934, added subsec. (b).

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499d of this title.

§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(June 10, 1930, ch. 436, §9, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 559 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499m of this title.

§ 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty

Any order of the Secretary under this chapter other than an order for the payment of money shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date pre-

scribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained.

(June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 560 of this title.

CROSS REFERENCES

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

Review of orders by courts of appeals, see section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter.

(June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 561 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

FEDERAL RULES OF CIVIL PROCEDURE

Process and stay of proceedings to enforce judgment, see rules 4 and 62, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 499g(a) of this title, see section 2342 of Title 28, Judiciary and Judicial Procedure.

Injunction by courts of appeals restraining orders, see section 2349 of Title 28.

Surface Transportation Board orders—

Enforcement and review, see sections 2321 to 2323, 2341 et seq. of Title 28.

Jurisdiction, district courts, see section 1336 of Title 28.

§ 499*l*. Violations; report to Attorney General; proceedings; costs

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States.

(June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

CODIFICATION

Section was formerly classified to section 562 of this title.

CROSS REFERENCES

Exclusive jurisdiction of district courts of actions to recover penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Venue of action for penalty, see section 1395 of Title 28.

§ 499m. Complaints; procedure, penalties, etc.

(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this chapter, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this title is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this chapter, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(b) Inspection of records; surety bond; suspension of license

The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 499b(4) of this title is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 499f(b) of this title to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this chapter and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal

under section 499g(c) of this title: *Provided*, That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.

(c) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(d) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(f) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(June 10, 1930, ch. 436, §13, 46 Stat. 536; July 30, 1956, ch. 786, §6, 70 Stat. 727; Pub. L. 91–452, title II, §205, Oct. 15, 1970, 84 Stat. 928; Pub. L. 95–562, §3, Nov. 1, 1978, 92 Stat. 2381.)

CODIFICATION

Section was formerly classified to section 563 of this title.

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95–562 added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

1970—Subsec. (f). Pub. L. 91–452 struck out subsec. (f) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1956—Subsec. (a). Act July 30, 1956, permitted inspection of accounts, records and memoranda to determine ownership, control, packer, or State, country, or region of origin in connection with commodity inspection, and to ascertain whether section 499i of this title is being complied with, and to permit inspection of lots of perishable agricultural commodities.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 499n. Inspection of perishable agricultural commodities

(a) Employment of inspectors; fees and expenses; inspection certificate as evidence

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the pay-

ment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That fees for inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further*, That expenses for travel and subsistence incurred by inspectors shall be paid by the applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further*, That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act (7 U.S.C. 1 et seq.), as prima-facie evidence of the truth of the statements therein contained.

(b) Issuance of fraudulent certificates; penalties

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited, or willingly aid, cause, procure or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491, 493 to 497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or publish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate, for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

(June 10, 1930, ch. 436, §14, 46 Stat. 537; Apr. 13, 1934, ch. 120, §15, 48 Stat. 588; Aug. 20, 1937, ch. 719, §12, 50 Stat. 730; Pub. L. 102–237, title X, §1011(7), Dec. 13, 1991, 105 Stat. 1898.)

REFERENCES IN TEXT

The Commodities Exchange Act, referred to in subsec. (a), probably means act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, known as the Commodity Exchange Act, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was formerly classified to section 564 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''(7 U.S.C. 1 et seq.)'' for ''(7 U.S.C., Supp. 2, secs. 1 to 17(a))'' and a period for semicolon at end.

1937—Act Aug. 20, 1937, designated existing provisions as subsec. (a) and, among other changes inserted ''That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act'' before ''as prima facie'' in third proviso, and added subsec. (b).

1934—Act Apr. 13, 1934, inserted ''and in all proceedings under this chapter'' after ''United States'' in third proviso.

POTATO INSPECTION

Pub. L. 99–198, title XVII, §1704, Dec. 23, 1985, 99 Stat. 1635, as amended by Pub. L. 104–66, title I, §1011(g), Dec. 21, 1995, 109 Stat. 710, provided that: ''The Secretary of Agriculture shall perform random spot checks of potatoes entering through ports of entry in the northeastern United States.''

FEDERAL RULES OF CIVIL PROCEDURE

Subpoenas, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Fees of witnesses, see section 1821 of Title 28, Judiciary and Judicial Procedure.

Investigation and certification of condition of agricultural products shipped in interstate commerce, see section 1622 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title; title 42 section 418.

§ 499*o*. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, lawbooks, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title and any supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects of this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar only as they are inconsistent herewith or repugnant hereto.

(June 10, 1930, ch. 436, §15, 46 Stat. 537; June 15, 1950, ch. 254, §3, 64 Stat. 218.)

CODIFICATION

Section was formerly classified to section 565 of this title.

AMENDMENTS

1950—Act June 15, 1950, provided for payment of administrative costs out of fund and any supplements thereto as well as by Congressional appropriations.

CROSS REFERENCES

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

§ 499p. Liability of licensees for acts and omissions of agents

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person.

(June 10, 1930, ch. 436, § 16, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 566 of this title.

§ 499q. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1930, ch. 436, § 17, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 567 of this title.

§ 499r. Repealed. Pub. L. 102–237, title X, § 1011(8), Dec. 13, 1991, 105 Stat. 1898

Section, act June 10, 1930, ch. 436, § 18, 46 Stat. 538, provided for short title of chapter. See section 499a(a) of this title.

§ 499s. Depositing appropriations in fund

Any unexpended balances of appropriations for the current fiscal year, and any subsequent appropriations, made to carry out the Acts referred to in section 499c(b) of this title, may be deposited in the Perishable Agricultural Commodities Act fund.

(June 10, 1930, ch. 436, § 19, as added June 15, 1950, ch. 254, § 4, 64 Stat. 218.)

REFERENCES IN TEXT

The Acts referred to in section 499c(b) of this title, referred to in text, mean the Perishable Agricultural Commodities Act, 1930, which was translated to read ''this chapter'' and the Act to prevent the destruction or dumping of farm produce, act Mar. 3, 1927, ch. 309, 44 Stat. 1355, which is classified to chapter 20 (§ 491 et seq.) of this title.

§ 499t. Omitted

CODIFICATION

Section, act June 10, 1930, ch. 436, § 20, as added Aug. 22, 1988, Pub. L. 100–414, § 2, 102 Stat. 1102, established Perishable Agricultural Commodities Act Industry Advisory Committee, provided for its membership, compensation, etc., directed advisory committee to review Perishable Agricultural Commodities Act program and to make findings and recommendations to Congress and Secretary of Agriculture with respect to future operations of program, with an interim report not later than Sept. 30, 1989, and a final report not later than May 1, 1990, containing results of its review and recommendations, and provided that advisory committee cease to exist on date of its final report.

CHAPTER 21—TOBACCO STATISTICS

Sec.
501. Collection and publication; facts required; deteriorated tobacco.
502. Standards for classification; returns and blanks.
503. Reports; necessity; by whom made; penalties.
504. ''Person'' defined.
505. Access to internal-revenue records.
506. Returns under oath; administration.
507. Limitation on use of statistical information.
508. Separability.
509. Repealed.

§ 501. Collection and publication; facts required; deteriorated tobacco

The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this chapter, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds of tobacco, or from any manufacturer of cigars who, during the first three quarters of the preceding calendar year, manufactured less than one hundred and eighty-five thousand cigars, or from any manufacturer of cigarettes who, during the first three quarters of the preceding year, manufactured less than seven hundred and fifty thousand cigarettes: *And provided further*, That the Secretary of Agriculture may omit the collection of statistics from any dealer, manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner who does not own and/or have in stock, in the aggregate, fifty thousand pounds or more of leaf tobacco on the date as of which the reports are made. For the purposes of this chapter, any tobacco which has deteriorated on account of age or other causes to the extent that it is not merchantable or is unsuitable for use in manufacturing tobacco products shall be classified with other nondescript tobacco and reported in the ''N'' group of the type to which it belongs.

(Jan. 14, 1929, ch. 69, § 1, 45 Stat. 1079; July 14, 1932, ch. 480, § 1, 47 Stat. 662; Aug. 27, 1935, ch. 749, § 1, 49 Stat. 893.)

AMENDMENTS

1935—Act Aug. 27, 1935, inserted ''and Puerto Rico'' after ''United States'', substituted ''seven hundred and fifty thousand cigarettes'' for ''one million cigarettes'' before second proviso and inserted second proviso.

1932—Act July 14, 1932, substituted ''thirty-five'' for ''fifty'' and ''one hundred and eighty-five thousand cigars'' and ''one million'' for ''seven hundred and fifty thousand cigarettes''.

CHANGE OF NAME

''Porto Rico'' changed to ''Puerto Rico'' by act May 17, 1932, ch. 190, 47 Stat. 158.

SEPARABILITY

Section 4 of act Aug. 27, 1935, which amended this section and sections 502 and 505 of this title, provided as follows: ''If any provision of this act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 2276 of this title.

§ 502. Standards for classification; returns and blanks

The Secretary of Agriculture shall establish standards for the classification of leaf tobacco, and he is authorized to demonstrate such standards, to prepare and distribute samples thereof, and to make reasonable charges therefor. He shall specify the types, groups of grades, qualities, colors, and/or grades, which shall be included in the returns required by this chapter. The Secretary of Agriculture shall prepare appropriate blanks upon which the returns shall be made, shall, upon request, furnish copies to persons who are required by this chapter to make returns, and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require.

(Jan. 14, 1929, ch. 69, § 2, 45 Stat. 1079; Aug. 27, 1935, ch. 749, § 2, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935, inserted ''and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the Secretary may require'' in last sentence.

§ 503. Reports; necessity; by whom made; penalties

It shall be the duty of every dealer, manufacturer, quasi-manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner, other than the original grower, except such persons as are excluded by the proviso to section 501 of this title, to furnish within fifteen days after January 1, April 1, July 1, and October 1 of each year, completely and correctly, to the best of his knowledge, a report of the quantity of leaf tobacco on hand, segregated in accordance with the blanks furnished by the Secretary of Agriculture. Any person, firm, association, or corporation required by this chapter to furnish a report, and any officer, agent, or employee thereof who shall refuse or willfully neglect to furnish any of the information required by this chapter, or shall willfully give answers that are false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 or more than $1,000, or imprisoned not more than one year, or both.

(Jan. 14, 1929, ch. 69, § 3, 45 Stat. 1080; July 14, 1932, ch. 480, § 2, 47 Stat. 663.)

AMENDMENTS

1932—Act July 14, 1932, made quasi-manufacturers subject to section.

§ 504. "Person" defined

The word ''person'' as used in this chapter shall be held to embrace also any partnership, corporation, association, or other legal entity.

(Jan. 14, 1929, ch. 69, § 4, 45 Stat. 1080.)

§ 505. Access to internal-revenue records

The Secretary of Agriculture shall have access to the tobacco records of the Commissioner of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining lists of the persons subject to this chapter and for the purpose of aiding the collection of the information herein required, and the Commissioner of Internal Revenue and the several collectors of internal revenue shall cooperate with the Secretary of Agriculture in effectuating the provisions of this chapter.

(Jan. 14, 1929, ch. 69, § 5, 45 Stat. 1080; Aug. 27, 1935, ch. 749, § 3, 49 Stat. 894.)

AMENDMENTS

1935—Act Aug. 27, 1935, reenacted section without change.

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

Offices of Internal Revenue Collector and Deputy Collector abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in text, is an officer of Department of the Treasury.

§ 506. Returns under oath; administration

The returns provided for in this chapter shall be made under oath before a collector or deputy collector of internal revenue, a postmaster, assistant postmaster, or anyone authorized to administer oaths by State or Federal law.

(Jan. 14, 1929, ch. 69, § 6, 45 Stat. 1080.)

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

See note under section 505 of this title.

CROSS REFERENCES

Authorization to administer oaths, see section 7622 of Title 26, Internal Revenue Code.

Notary public authorized to take oath, see section 2903 of Title 5, Government Organization and Employees, and section 636 of Title 28, Judiciary and Judicial Procedure.

§ 507. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary of Agriculture whereby the data furnished by any particular establishment can be identified, nor shall the Secretary of Agriculture permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(Jan. 14, 1929, ch. 69, § 7, 45 Stat. 1080.)

§ 508. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of said sections and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Jan. 14, 1929, ch. 69, § 9, 45 Stat. 1080.)

§ 509. Repealed. Pub. L. 104–127, title II, § 262, Apr. 4, 1996, 110 Stat. 973

Section, Pub. L. 98–180, title II, § 214, as added Pub. L. 101–624, title XV, § 1557, Nov. 28, 1990, 104 Stat. 3699; amended Pub. L. 102–237, title III, § 337, Dec. 13, 1991, 105 Stat. 1859, provided for reporting requirements relating to tobacco.

CHAPTER 21A—TOBACCO INSPECTION

Sec.

511. Definitions.
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511q. Short title.
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Sec.

(a) Inspection for grade and quality; exception.
(b) Establishment of grade and quality standards.
(c) Certification necessary for excepted tobacco; false statements.
(d) Place of inspection; fees and charges.
(e) Tobacco pesticide residues; certification, etc., requirements.
(f) End users of imported tobacco; certification, identification, etc., requirements.

§ 511. Definitions

When used in this chapter—

(a) ''Person'' includes partnerships, associations, and corporations, as well as individuals.

(b) ''Secretary'' means the Secretary of Agriculture of the United States.

(c) ''Inspector'' means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade condition, or other characteristics of tobacco.

(d) ''Sampler'' means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(e) ''Weigher'' means any person employed, licensed, or authorized by the Secretary to weight and certify the weight of tobacco.

(f) ''Tobacco'' means tobacco in its unmanufactured form.

(g) ''Auction market'' means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) ''Commerce'' means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this chapter (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this paragraph the word ''State'' includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(Aug. 23, 1935, ch. 623, § 1, 49 Stat. 731.)

§ 511a. Declaration of purpose

Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; the classification of tobacco according to type, grade, and other characteristics affect the prices received therefor by producers; without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

(Aug. 23, 1935, ch. 623, § 2, 49 Stat. 731.)

§ 511b. Official standards for classification; tentative standards; modification

The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable.

(Aug. 23, 1935, ch. 623, § 3, 49 Stat. 732.)

CROSS REFERENCES

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

§ 511c. Demonstration of official standards; samples; cost

The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefore: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

(Aug. 23, 1935, ch. 623, § 4, 49 Stat. 732.)

§ 511d. Designation of markets; manner; inspection and related services; fees and charges

The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. The Secretary shall by regulation fix and collect fees and charges for inspection and certification, the establishment of standards, and other services under this section at designated auction markets. The fees and charges authorized by this section shall, as nearly as practicable, cover the costs of the services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, late payment penalties, and interest earned from the investment of such funds, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this chapter. Any funds realized from the collection of fees or charges authorized under this section and section 511e of this title and credited to the current appropriation account incurring the cost of services provided under this section and section 511e of this title, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this chapter or reinvested in the manner authorized in the preceding sentence. The fees and charges authorized in this section shall be assessed against the ware-

house operator, irrespective of ownership or interest in the tobacco, and shall be collected by the warehouse operator from the sellers of the tobacco. The inspection and related services under this section shall be suspended or denied if the warehouse operator fails to collect or otherwise pay the fees and charges imposed under this section. Tobacco inspection or certification services provided to designated auction markets shall take precedence over such services, other than reinspection, requested under the authority contained in section 511e of this title or any other provision of law. In accordance with the Federal Advisory Committee Act, the Secretary shall establish a national advisory committee of tobacco producers, and advisory subcommittees for each major kind of tobacco, to advise the Secretary with regard to the level of inspection and related services and the fees and charges therefor. The advisory committee and subcommittees established under this section shall be of permanent duration. The committees shall meet at the call of the Secretary.

(Aug. 23, 1935, ch. 623, §5, 49 Stat. 732; Pub. L. 97–35, title I, §157(a)(1), Aug. 13, 1981, 95 Stat. 374; Pub. L. 99–272, title I, §1111, Apr. 7, 1986, 100 Stat. 99.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1986—Pub. L. 99–272 inserted ''late payment penalties, and interest earned from the investment of such funds,'' in ninth sentence, substituted ''The fees and charges authorized in this section shall be assessed'' for ''Such fees and charges shall be assessed'', and inserted provision relating to the investment of any funds realized from collection of fees or charges in insured or fully collateralized, interest-bearing accounts or in United States Government debt instruments, the income therefrom to be used to pay expenses incident to providing services under this chapter or reinvested.

1981—Pub. L. 97–35 substituted provisions requiring the Secretary to fix and collect fees and charges for inspection, certification, establishment of standards, and other services at designated auction markets, for provisions prohibiting imposition or collection of fees or charges for inspection or certification at markets.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 157(b) of Pub. L. 97–35 provided that: ''The provisions of this section [amending this section and section 511e of this title] shall become effective October 1, 1981.''

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

Offices of Internal Revenue Collector and Deputy Collector abolished by 1952 Reorg. Plan No. 1, §1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 511e, 511k of this title.

§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary shall fix and collect such fees or charges in the administration of this section as will cover, as nearly as practicable, the costs of the services provided, including administrative and supervisory costs. Such fees and charges shall be credited to the account referred to in section 511d of this title. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weight or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

(Aug. 23, 1935, ch. 623, §6, 49 Stat. 732; Pub. L. 97–35, title I, §157(a)(2), Aug. 13, 1981, 95 Stat. 375.)

AMENDMENTS

1981—Pub. L. 97–35 substituted provisions requiring the Secretary to fix and collect fees and charges to cover cost of services, for provisions authorizing the Secretary to fix and collect fees and charges as he deems reasonable and provisions respecting fees or charges collected under an agreement with a State, etc.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 157(b) of Pub. L. 97–35, set out as a note under section 511d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511d of this title.

§ 511f. Reinspection and appeal inspection; certificate as evidence

The Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

(Aug. 23, 1935, ch. 623, §7, 49 Stat. 733.)

§ 511g. Placing of grade on warehouse tickets, etc.; form

Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

(Aug. 23, 1935, ch. 623, § 8, 49 Stat. 733.)

§ 511h. Publication of information relating to tobacco

The Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

(Aug. 23, 1935, ch. 623, § 9, 49 Stat. 733.)

§ 511i. Offenses

It shall be unlawful—

(a) For any person to use the words ''United States'', ''Government'', or ''Federal'' or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however*, That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco inspected under this chapter; or knowing that tobacco is to be offered for inspection or sampling under this chapter to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample.

(Aug. 23, 1935, ch. 623, § 10, 49 Stat. 733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 511k of this title.

§ 511j. Publication of violations

The Secretary is authorized to publish the facts regarding any violation of this chapter.

(Aug. 23, 1935, ch. 623, § 11, 49 Stat. 734.)

§ 511k. Penalty for violations

Any person violating any provision of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 23, 1935, ch. 623, § 12, 49 Stat. 734.)

§ 511*l*. Act of agent as that of principal

In construing and enforcing the provisions of this chapter;[1] the act;[1] omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person.

(Aug. 23, 1935, ch. 623, § 13, 49 Stat. 734.)

§ 511m. Regulation; hearings; employees; expenditures; authorization of appropriations

The Secretary is authorized to make such rules and regulations and hold such hearings as

[1] So in original. The semicolon probably should be a comma.

he may deem necessary to effectuate the purposes of this chapter and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed thereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of chapter 51 and subchapter III of chapter 53 of title 5. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(Aug. 23, 1935, ch. 623, § 14, 49 Stat. 734; Oct. 28, 1949, ch. 782, title II, § 202(28), title XI, § 1106(a), 63 Stat. 956, 972.)

CODIFICATION

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in text for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

§ 511n. Hearings; examination of witnesses; refusal to testify or produce evidence

In carrying on the work authorized in this chapter, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpena, the proper United States district court shall have power to compel obedience thereto.

(Aug. 23, 1935, ch. 623, § 15, 49 Stat. 735.)

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 511*o*. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 23, 1935, ch. 623, § 16, 49 Stat. 735.)

§ 511p. Delegation of duties by Secretary of Agriculture

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 23, 1935, ch. 623, § 17, 49 Stat. 735.)

CROSS REFERENCES

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

§ 511q. Short title

This chapter may be cited as ''The Tobacco Inspection Act.''

(Aug. 23, 1935, ch. 623, § 18, 49 Stat. 735.)

§ 511r. Imported tobacco

(a) Inspection for grade and quality; exception

Notwithstanding any other provision of law—

(1) All tobacco offered for importation into the United States, except tobacco described in paragraph (2), shall be inspected, insofar as practicable, for grade and quality as tobacco marketed through a warehouse in the United States is inspected for grade and quality.

(2) Cigar tobacco and oriental tobacco (both as provided for in chapter 24 of the Harmonized Tariff Schedule of the United States) offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture may prescribe, stating the kind and type of such tobacco, and, in the case of cigar tobacco, that such tobacco will be used solely in the manufacture or production of cigars.

(b) Establishment of grade and quality standards

The Secretary of Agriculture shall establish grade and quality standards for the purposes of subsection (a)(1) of this section that are, insofar as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States.

(c) Certification necessary for excepted tobacco; false statements

Any tobacco described in subsection (a)(2) of this section that is not accompanied by the certification required by that subsection shall not be permitted entry into the United States. The provisions of section 1001 of title 18 shall be applicable with respect to any certification made by an importer under such subsection.

(d) Place of inspection; fees and charges

The Secretary of Agriculture shall enforce the provisions of subsection (a) of this section at the point of entry of tobacco offered for importation into the United States. The Secretary shall by regulation fix and collect from the importer fees and charges for inspection under subsection (a)(1) and subsection (e) of this section which shall, as nearly as practicable, cover the costs of such services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations, and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States. The fees and charges, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under subsection (a)(1) of this section, subsection (e) of this section, and subsection (f) of this section. Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments. Fees and charges, including late payment penalties, and interest earned from the investment of such funds shall be credited to the account referred to in this section.

(e) Tobacco pesticide residues; certification, etc., requirements

Notwithstanding any other provision of law:

(1)(A) All flue-cured or burley tobacco offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture shall prescribe, that the tobacco does not contain any prohibited residue of any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]. Any flue-cured or burley tobacco that is not accompanied by such certification shall be inspected by the Secretary at the point of entry to determine whether that tobacco meets the pesticide residue requirements. Subsection (d) of this section shall apply with respect to fees and charges imposed to cover the costs of such inspection.

(B) Any tobacco that is determined by the Secretary not to meet the pesticide residue requirements shall not be permitted entry into the United States.

(C) The customs fraud provisions under section 1592 of title 19 and criminal fraud provisions under section 1001 of title 18 shall apply with respect to the certification requirement in subparagraph (A).

(2) The Secretary shall by regulation provide for pesticide residue standards with respect to pesticides that are cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], that shall apply to flue-cured and burley tobacco, whether domestically produced or imported.

(3) The Secretary, to such extent and at such times as the Secretary determines appropriate, shall sample and test flue-cured and burley tobacco offered for importation or for sale in the United States to determine whether it conforms with the pesticide residue requirements. The Secretary shall by regulation impose fees and charges for such inspections.

(4) If the Secretary determines, as a result of tests conducted under paragraph (3), that certain flue-cured or burley tobacco offered for importation does not meet the requirements of this subsection, then such tobacco shall not be permitted entry into the United States.

(5)(A) Subject to subparagraph (B), if the Secretary determines that domestically produced Flue-cured[1] or Burley[1] tobacco does not meet the requirements of this section, such tobacco may not be moved in commerce among the States and shall be destroyed by the Secretary.

(B) This paragraph shall apply only to tobacco produced after December 23, 1985, that receives price support under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(f) End users of imported tobacco; certification, identification, etc., requirements

(1) The certification required under subsection (e)(1) of this section shall also include the identification of any and all end users of such tobacco of which the importer has knowledge. Any flue cured[2] or burley tobacco permitted entry into the United States must be accompanied by a written identification of any and all end users of such tobacco. In cases in which the importer has no knowledge of the identity of an end user, the importer shall identify any and all purchasers to whom the importer expects to transfer such imported tobacco. The importer shall file with the Department of Agriculture an amended statement if, at any time after the time of entry of such tobacco imports, the importer has knowledge of any additional purchaser or end user. In those cases in which the importer has not identified all end users of such imported tobacco, the Secretary of Agriculture shall take all steps available to ascertain the identity of any and all such end users, including requesting such information from purchasers of such imported tobacco. Domestic purchasers of imported tobacco shall be required to supply any relevant information to the Department of Agriculture upon demand under this subsection.

(2) The Secretary shall provide to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture, on or before April 1, 1986, a report on the implementation of this authority to identify each end user and purchaser of imported tobacco. Such report shall identify the end users and purchasers of imported tobacco and the quantity, in pounds, bought by such end user or purchaser, as well as all steps taken by the Department of Ag-

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be ''flue-cured''.

riculture to ascertain such identities. The Secretary shall provide an additional report, beginning November 15, 1986, and annual reports thereafter, on the implementation of this authority.

(3) As used in this subsection, the term ''end user of imported tobacco'' means—

(A) a domestic manufacturer of cigarettes or other tobacco products;

(B) an entity that mixes, blends, processes, alters in any manner, or stores, imported tobacco for export; and

(C) any other individual that the Secretary may identify as making use of imported tobacco for the production of tobacco products.

(4) Subsection (d) of this section shall apply with respect to fees and charges imposed to cover the costs of such end user identification, certification, and reporting activities.

(Pub. L. 98–180, title II, §213, Nov. 29, 1983, 97 Stat. 1149; Pub. L. 99–198, title XI, §§1161, 1166, Dec. 23, 1985, 99 Stat. 1498, 1501; Pub. L. 100–418, title I, §1214(b), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 101–508, title I, §1204(c), Nov. 5, 1990, 104 Stat. 1388–11; Pub. L. 101–624, title XXV, §2511, Nov. 28, 1990, 104 Stat. 4073; Pub. L. 103–66, title I, §1106(c), Aug. 10, 1993, 107 Stat. 323.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (e)(1)(A), (2), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (section 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in subsec. (e)(5)(B), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (e)(5)(B), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Tobacco Adjustment Act of 1983, and not as part of The Tobacco Inspection Act which comprises this chapter.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–66 inserted before period at end of second sentence '', and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States''.

1990—Subsec. (d). Pub. L. 101–624 inserted provisions crediting to account fees, penalties and interest, authorizing investment of interest earned therefrom in insured or fully-collateralized accounts or in United States Government debt instruments, and crediting interest from such investments to account.

Pub. L. 101–508, §1202(c)(1), which directed the insertion of '', subsection (e) of this section, and subsection (f) of this section'' before the period was executed by making the insertion before the period at the end thereof as the probable intent of Congress.

Subsec. (f)(4). Pub. L. 101–508, §1202(c)(2), added par. (4).

1988—Subsec. (a)(2). Pub. L. 100–418 substituted ''chapter 24 of the Harmonized Tariff Schedule of the United States'' for ''Schedule 1, Part 13, Tariff Schedules of the United States''.

1985—Subsec. (d). Pub. L. 99–198, §1161(b), inserted ''and subsection (e)'' after ''subsection (a)(1)'' in second sentence.

Subsec. (e). Pub. L. 99–198, §1161(a), added subsec. (e).

Subsec. (f). Pub. L. 99–198, §1166, added subsec. (f).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1301 of title I of Pub. L. 101–508 provided that: ''This title and the amendments made by this title [enacting section 940d of this title, amending this section and sections 1441–2, 1444–2, 1444f, 1445, 1445b–3a, 1445c–3, 1445j, 1446e, 1446f to 1446h, 1722, 1736, 1736a, 1783, 1994, 1999, and 5822 of this title and section 136a of Title 21, Food and Drugs, enacting provisions set out as notes under sections 136w, 1421, and 1445b–3a of this title, and amending provisions set out as notes under sections 1421 and 1999 of this title] shall become effective 1 day after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 [Nov. 28, 1990], or December 1, 1990, whichever is earlier.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as a note under section 3001 of Title 19, Customs Duties.

WAIVER AUTHORITY OF PRESIDENT

For provision that President may waive application of amendment to this section by section 1106(c) of Pub. L. 103–66, if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103–465 set out as a note under section 1445 of this title.

CHAPTER 21B—TOBACCO CONTROL

Sec.

515. Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent.
515a. Definitions.
515b. Advancement of funds to compacting States; repayment.
515c. Designation of persons to deal with compacting States.
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(a) Determination of world consumption; ''crop year'' defined.
(b) Determination of marketing quota for Puerto Rico.
(c) Establishment of marketing quota for each Puerto Rican farm.
(d) Uniform adjustment of marketing quotas.
(e) Issuance of marketing certificates.
(f) Payments for production deficits due to adverse conditions.
(g) Prohibition of sale, etc., without certificate.
515i. Disposition of receipts under section 515h.
515j. Separability.
515k. Rules and regulations.
516, 517. Repealed.

§ 515. Consent of Congress to production compacts between States; uniformity; withdrawal of consent; limitation on consent

The Congress of the United States of America consents that any of the States in which tobacco is produced may negotiate a compact or compacts for the purpose of regulating and controlling the production of, or commerce in, any one or more kinds of tobacco therein: *Provided*, That all State acts authorizing such compact or compacts shall be essentially uniform and in no way conflicting: *Provided further*, That any compact, compacts, agreement, or agreements negotiated and agreed upon by the States referred to in the Act of the General Assembly of Virginia, approved March 13, 1936 (known as the Tobacco Control Act) (Va. Code 1936, § 1399), or by any other State or States producing any type or types of tobacco referred to in said Act, which is in conformity with said Act and relating to the type or types of tobacco specifically referred to in said Act, shall become effective to the extent and in the manner provided for in said Act without further consent or ratification on the part of the Congress of the United States of America: *Provided*, *however*, That nothing herein contained shall be construed as preventing the Congress of the United States of America from withdrawing its consent after April 25, 1936, to any compact or agreement entered into pursuant to this chapter: *Provided further*, That nothing in said sections shall be construed to grant the consent of Congress to negotiate any compact for regulating or controlling the production of, or commerce in, tobacco for the purpose of fixing the price thereof, or to create or perpetuate monopoly, or to promote regimentation, but such consent shall be limited to compacts for the regulation and control of production of, or commerce in, tobacco in order thereby to enable growers to receive a fair price for such tobacco.

(Apr. 25, 1936, ch. 249, § 1, 49 Stat. 1239.)

SHORT TITLE

Act Apr. 25, 1936, which is classified to this chapter, is popularly known as the ''Tobacco Control Act''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515a, 515b, 515d of this title.

§ 515a. Definitions

As used in this chapter, unless otherwise stated or unless the context or subject matter clearly indicates otherwise—

''Person'' means any individual, partnership, joint-stock company, corporation, or association.

''State Act'' means any Act of a State legislature authorizing a compact or compacts pursuant to the consent given in section 515 of this title.

''Commission'' means the tobacco commission created by any State Act.

''Secretary'' means the Secretary of Agriculture of the United States.

''Kind of tobacco'' means one or more types of tobacco as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as listed below according to the name or names by which known:

Types 11, 12, 13, and 14, known as flue-cured tobacco.

Type 31, known as Burley tobacco.

Types 21, 22, 23, 24, 35, 36, and 37, known as fire-cured and dark air-cured tobacco.

Types 41, 42, 43, 44, 45, and 46, known as cigar-filler tobacco.

Types 51, 52, 53, 54, and 65, known as cigar-binder tobacco.

Types 61 and 62, known as cigar-wrapper tobacco.

''Association'' means any association of tobacco producers or other persons engaged in the tobacco industry, or both, formed under the laws of any State for the purpose of stabilizing the marketing of tobacco and providing crop protection to producers of tobacco in any State or States.

(Apr. 25, 1936, ch. 249, § 2, 49 Stat. 1240.)

TRANSFER OF FUNCTIONS

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

§ 515b. Advancement of funds to compacting States; repayment

The Secretary is authorized to make advances from time to time, from the funds provided in section 515f of this title, to the tobacco commission established by the State act of each State which enters into a compact or compacts under the consent given by section 515 of this title in such amounts as the Secretary shall determine to be required for the payment of administrative expenses incurred by such commission, and under such terms and conditions with respect to the expenditure thereof as the Secretary shall stipulate: *Provided*, That each State act creating such commission shall provide for the repayment to the Secretary of such advances from any funds received by the commission from the sale of marketing certificates with respect to tobacco, prior to the use of such funds for any other purpose.

(Apr. 25, 1936, ch. 249, § 3, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515f of this title.

§ 515c. Designation of persons to deal with compacting States

The Secretary shall upon the request of the Commission of any compacting State, designate such tobacco producers or other persons engaged in the tobacco industry and such officials of the United States Department of Agriculture as he deems advisable to meet with the tobacco commissions for the different States for the purpose of advising in connection with the administration of any compact or compacts entered into pursuant to this chapter.

(Apr. 25, 1936, ch. 249, § 4, 49 Stat. 1240.)

§ 515d. Loans to associations of tobacco producers

The Secretary, from the funds provided in section 515f of this title, is authorized to make

loans for administrative purposes, upon terms and conditions stipulated by him, to such association of tobacco producers as may operate with respect to the 1936 crop in the Georgia Tobacco Belt, in a manner similar to that embodied in State acts providing for compacts under the consent given in section 515 of this title.

(Apr. 25, 1936, ch. 249, § 5, 49 Stat. 1240.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515e, 515f of this title.

§ 515e. Availability of Department of Agriculture records and facilities to compacting States

The Secretary is authorized, upon the request of the commission of any compacting State, or at the request of any association referred to in section 515d of this title, to make available to the commission of any State or to any such association such records and information, whether published or unpublished, and such facilities of the United States Department of Agriculture as the Secretary deems appropriate in aiding such commission or association.

(Apr. 25, 1936, ch. 249, § 6, 49 Stat. 1241.)

§ 515f. Authorization of appropriations; disposition of repayments of loans

(a) For the purpose of administering this chapter there is authorized to be appropriated to the Secretary of Agriculture the sum of $300,000, or so much thereof as may be necessary for that purpose.

(b) Any advances or loans which are repaid to the Secretary by any commission or association pursuant to sections 515b and 515d of this title shall revert to the general fund of the Treasury of the United States.

(Apr. 25, 1936, ch. 249, § 7, 49 Stat. 1241.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515b, 515d of this title.

§ 515g. Agencies to which funds available

All funds available for carrying out this chapter shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal or State Governments as the Secretary may request to cooperate or assist in carrying out this chapter.

(Apr. 25, 1936, ch. 249, § 8, 49 Stat. 1241.)

§ 515h. Effect of compacts between States producing cigar tobacco on Puerto Rican commerce

If, pursuant to this chapter, any compact entered into among three or more of the States of Pennsylvania, Ohio, Wisconsin, Massachusetts, Florida, and Connecticut, becomes effective, or if any association or associations are formed, the membership of which includes at least two-thirds of the producers of cigar-filler tobacco and cigar-binder tobacco in three or more of said States, commerce in cigar-filler tobacco produced in Puerto Rico shall be regulated during the period in which any such compact remains effective or such associations continue to operate, as follows:

(a) Determination of world consumption; "crop year" defined

The Secretary shall determine for each crop year, by calculations from available statistics of the United States Department of Agriculture, the quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico which is likely to be consumed in all countries of the world during such crop year, increased or decreased, as the case may be, by the amount by which the world stocks of cigar-filler tobacco (produced in the continental United States and Puerto Rico) at the beginning of such crop year are less than or greater than the normal stocks of such cigar-filler tobacco, as determined by the Secretary. For the purposes of this section, the Secretary shall specify as a ''crop year'' such period of twelve months as he deems will facilitate the administration of this section.

(b) Determination of marketing quota for Puerto Rico

The Secretary shall determine a marketing quota for Puerto Rico for cigar-filler tobacco for each crop year in which the provisions of this section are operative. Such quota shall be that quantity of cigar-filler tobacco which bears the same proportion (subject to such adjustment, which may be cumulative from one crop year to another, not exceeding 5 per centum of said proportion in any one year, as the Secretary determines is necessary to correct for any abnormal conditions of production during any three normal crop years during the last ten years for trends in production during such crop years and for trends in consumption since such crop years) to the total quantity of cigar-filler tobacco produced in the continental United States and Puerto Rico and required for world consumption (as determined pursuant to subsection (a) of this section) as the average production of cigar-filler tobacco in Puerto Rico in such crop years bore to the average of the total production of cigar-filler tobacco in the continental United States and Puerto Rico in such crop years.

(c) Establishment of marketing quota for each Puerto Rican farm

The Secretary shall establish for each farm in Puerto Rico for each crop year a tobacco-marketing quota, giving due consideration to the quantity of cigar-filler tobacco marketed from the crops produced on such farm and by the operator thereof in past years; to the land, labor, and equipment available for production of tobacco on such farm; to the crop-rotation practices on such farm; and to the soil and other physical factors affecting production of tobacco on such farm: *Provided*, That the total of the marketing quotas established for all farms in Puerto Rico for any crop year shall not exceed the marketing quota for Puerto Rico for such crop year.

(d) Uniform adjustment of marketing quotas

The marketing quota established for Puerto Rico and the marketing quotas established for

farms in Puerto Rico for any crop year pursuant to subsections (b) and (c) of this section shall be subject to such uniform adjustment during the crop year, not exceeding 10 per centum of said quotas, as the Secretary shall determine to be necessary to establish and maintain normal world stocks of cigar-filler tobacco produced in the continental United States and Puerto Rico and otherwise to effectuate the purposes of this chapter.

(e) Issuance of marketing certificates

The Secretary shall, under such terms and conditions and in accordance with such methods as may be established in regulations prescribed by him, issue, to buyers or handlers of tobacco from any farm in Puerto Rico, marketing certificates for an amount of tobacco equal to the marketing quota established for such farm, and, for any tobacco marketed in excess of such quota for such farm, sell, to the buyer or handlers of such excess tobacco, marketing certificates for a charge equal to one-third of the current market value of such tobacco, and the Secretary may require the buyer or handler of such excess tobacco to deduct the charge for marketing certificates from the price or proceeds of or advances on such tobacco.

(f) Payments for production deficits due to adverse conditions

From the proceeds received from the sale of marketing certificates pursuant to subsection (e) of this section, the Secretary shall make payments to the producers of tobacco on farms in Puerto Rico from which the sales of tobacco, because of weather or diseases or loss by fire affecting the tobacco crops thereon adversely during any crop year, are less than the marketing quotas for such farms for such crop year. Such payments shall be at a rate per pound of such deficit as shall be determined by dividing the funds remaining after deduction of such amount as the Secretary estimates to be necessary for the payment of administrative expenses incurred in administering the provisions of this section by the total number of pounds by which the sales of tobacco from all such farms fall below the marketing quotas for such farms.

(g) Prohibition of sale, etc., without certificate

The sale, marketing, purchase, or transportation of any cigar-filler tobacco produced, sold, or marketed in Puerto Rico during any period of time when this section shall be in effect is prohibited unless a marketing certificate has been issued for such tobacco by the Secretary pursuant to the provisions of subsection (e) of this section.

(Apr. 25, 1936, ch. 249, § 9, 49 Stat. 1241.)

CROSS REFERENCES

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 515i of this title.

§ 515i. Disposition of receipts under section 515h

Any receipts by the Secretary under section 515h of this title shall be held in a separate fund and used by the Secretary for the purpose of paying administrative expenses and expenditures incurred or made in connection with said section.

(Apr. 25, 1936, ch. 249, § 10, 49 Stat. 1242.)

§ 515j. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, shall be held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Apr. 25, 1936, ch. 249, § 11, 49 Stat. 1242.)

§ 515k. Rules and regulations

The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out the provisions of this chapter.

(Apr. 25, 1936, ch. 249, § 12, 49 Stat. 1242.)

§§ 516, 517. Repealed. Pub. L. 102–237, title X, § 1019, Dec. 13, 1991, 105 Stat. 1906

Section 516, act June 5, 1940, ch. 232, § 1, 54 Stat. 231, prohibited exportation of seeds or plants without permit.

Section 517, act June 5, 1940, ch. 232, § 2, 54 Stat. 231, provided penalty for violations.

CHAPTER 22—AGRICULTURAL MARKETING

§§ 521 to 535. Omitted or Transferred

CODIFICATION

Sections, act June 15, 1929, ch. 24, §§ 1–15, 46 Stat. 11, as amended, were omitted or transferred as set forth below.

Section 521, which related to declaration of policy, effective merchandising of agricultural commodities, speculation, cooperative marketing, surpluses and administration of the chapter, was transferred to section 1141 of Title 12, Banks and Banking.

Section 522, which related to appointment, compensation, qualifications, term of office, and expenses of Governor of Farm Credit Administration, was transferred to section 1141a of Title 12, and was repealed by act Aug. 6, 1953, ch. 335, § 19, 67 Stat. 400. See section 2244 et seq. of Title 12.

Section 523, which related to designation of agricultural commodities and establishment of advisory commodity committees, was omitted.

Section 524, which related to general powers of Farm Credit Administration, was transferred to section 1141b of Title 12.

Section 525, which related to special powers of Administration, was transferred to section 1141c of Title 12.

Section 526, which related to authorization of a revolving fund, was transferred to section 1141d of Title 12.

Section 527, which related to loans to cooperative associations, was transferred to section 1141e of Title 12.

Section 528, which related to miscellaneous loan provisions, was transferred to section 1141f of Title 12.

Section 529, which provided for recognition, upon application of advisory commodity committee, of stabilization corporations for commodities, and prescribed functions and operations in connection therewith, was transferred to section 1141g of Title 12, and was subsequently omitted from the Code as obsolete.

Section 530, which related to clearing house associations, was omitted.

Section 531, which related to insurance against loss through price decline, was omitted.

Section 532, which related to appropriation for administrative expenses, was omitted.

Section 533, which related to avoidance of duplication, cooperation with other governmental establishments, obtaining information and data, cooperation with States, Territories, and agencies or subdivisions thereof, indication of research problems, and transfer of offices and functions, etc. was transferred to section 1141h of Title 12.

Section 534, which related to examination of books and accounts, was transferred to section 1141i of Title 12.

Section 535, which related to miscellaneous provisions, was transferred to section 1141j of Title 12.

CHAPTER 23—FOREIGN AGRICULTURAL SERVICE

§§ 541 to 545. Repealed. Aug. 13, 1946, ch. 957, title XI, § 1131(56), 60 Stat. 1039

Sections 541 to 545, act June 5, 1930, ch. 399, 46 Stat. 497–499, related to Foreign Agricultural Service.

EFFECTIVE DATE OF REPEAL

Repeal effective three months following Aug. 13, 1946, see section 1141 of act Aug. 13, 1946, ch. 957, title XI, 60 Stat. 1040.

CHAPTER 24—PERISHABLE AGRICULTURAL COMMODITIES

§§ 551 to 568. Transferred

CODIFICATION

Sections 551 to 568 of this title, which were comprised of act June 10, 1930, ch. 436, §§1–18, 46 Stat. 531, as amended, known as the Perishable Agricultural Commodities Act, 1930, were transferred to sections 499a to 499r of chapter 20A of this title.

CHAPTER 25—EXPORT STANDARDS FOR APPLES

Sec.

581. Standards of export; establishment; shipping without certificate forbidden; hearings.
582. Notice of establishment of standards; shipments under contracts made before adoption of standards.
583. Foreign standards; certification of compliance.
584. Shipments of less than carload lots; exemptions.
585. Fees for inspection and certification; certificates as prima facie evidence.
586. Refusal of certificates for violations of laws; penalties for violations.
587. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
588. Separability.
589. Definitions.
590. Authorization of appropriations.

§ 581. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any apples in packages which are not accompanied by a certificate issued under authority of the Secretary of Agriculture showing that such apples are of a Federal or State grade which meets the minimum of quality established by the Secretary for shipment in export. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grade, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise, for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(June 10, 1933, ch. 59, §1, 48 Stat. 123; Pub. L. 106–96, §1(c), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''and/or pears'' after ''any apples'' and ''or pears'' after ''such apples''.

SHORT TITLE

Act June 10, 1933, ch. 59, §11, as added by Pub. L. 106–96, §1(a), Nov. 12, 1999, 113 Stat. 1321, provided that: ''This Act [enacting this chapter] may be cited as the 'Export Apple Act'.''.

§ 582. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any apples may be certified and shipped for export in fulfillment of any contract made within six months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(June 10, 1933, ch. 59, §2, 48 Stat. 123; Pub. L. 106–96, §1(c)(2), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''or pears'' after ''any apples''.

§ 583. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of apples, the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(June 10, 1933, ch. 59, §3, 48 Stat. 124; Pub. L. 106–96, §1(c)(2), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''or pears'' after ''of apples''.

§ 584. Shipments of less than carload lots; exemptions

Apples in less than carload lots as defined by the Secretary may, in his discretion, be shipped to any foreign country without complying with the provisions of this chapter.

(June 10, 1933, ch. 59, §4, 48 Stat. 124; Pub. L. 106–96, §1(c)(2), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''or pears'' after ''Apples''.

§ 585. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, and/or condition of apples, the Secretary shall cause to be collected a reasonable fee which shall as nearly as may be cover the cost of the service rendered: *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(June 10, 1933, ch. 59, § 5, 48 Stat. 124; Pub. L. 106–96, § 1(c)(1), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''and/or pears'' after ''of apples''.

TRANSFER OF FUNCTIONS

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

§ 586. Refusal of certificates for violations of laws; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any apples in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency knowingly violating any of the provisions of this chapter shall be fined not less than $100 nor more than $10,000 by a court of competent jurisdiction.

(June 10, 1933, ch. 59, § 6, 48 Stat. 124; Pub. L. 106–96, § 1(c)(1), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 struck out ''and/or pears'' after ''any apples''.

§ 587. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(June 10, 1933, ch. 59, § 7, 48 Stat. 124.)

§ 588. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1933, ch. 59, § 8, 48 Stat. 124.)

§ 589. Definitions

When used in this chapter—

(1) The term ''person'' includes individuals, partnerships, corporations, and associations.

(2) The term ''Secretary of Agriculture'' means the Secretary of Agriculture of the United States.

(3) Except as provided herein, the term ''foreign commerce'' means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term ''apples'' means fresh whole apples, whether or not the apples have been in storage.

(June 10, 1933, ch. 59, § 9, 48 Stat. 124; Pub. L. 106–96, § 1(b), Nov. 12, 1999, 113 Stat. 1321.)

AMENDMENTS

1999—Pub. L. 106–96 added par. (4) and struck out former par. (4) which read as follows: ''The term 'apples and/or pears' means fresh whole apples or pears, whether or not they have been in storage.''

§ 590. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the administration of this chapter.

(June 10, 1933, ch. 59, § 10, as added Pub. L. 87–725, § 12, Oct. 1, 1962, 76 Stat. 676.)

CHAPTER 25A—EXPORT STANDARDS FOR GRAPES AND PLUMS

Sec.
591. Standards of export; establishment; shipping without certificate forbidden; hearings.
592. Notice of establishment of standards; shipments under contracts made before adoption of standards.

Sec.
593. Foreign standards; certification of compliance.
594. Exemption of minimum quantities.
595. Fees for inspection and certification; certificates as prima facie evidence.
596. Refusal of certificates for violations of law; penalties for violations.
597. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws.
598. Separability.
599. Definitions.

§ 591. Standards of export; establishment; shipping without certificate forbidden; hearings

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any grapes or plums of any variety in packages which are not accompanied by a certificate issued under authority of the Secretary showing that such grapes or plums are of a Federal or State grade which meets the minimum of quality established for such variety and destination by the Secretary for shipment in export to such destination. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grades, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter.

(Pub. L. 86–687, § 1, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87–105, § 1, July 26, 1961, 75 Stat. 220; Pub. L. 93–606, Jan. 2, 1975, 88 Stat. 1966.)

AMENDMENTS

1975—Pub. L. 93–606 inserted ''and destination'' and ''to such destination'' after ''such variety'' and ''for shipment in export'', respectively.

1961—Pub. L. 87–105 inserted ''of any variety'' and ''for such variety'' after ''any grapes or plums'' and ''minimum of quality established'', respectively.

SHORT TITLE

Pub. L. 86–687, as amended, which is classified to this chapter, is popularly known as the ''Export Grape and Plum Act''.

§ 592. Notice of establishment of standards; shipments under contracts made before adoption of standards

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any grapes or plums may be certified and shipped for export in fulfillment of any contract made within two months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

(Pub. L. 86–687, § 2, Sept. 2, 1960, 74 Stat. 734.)

§ 593. Foreign standards; certification of compliance

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of grapes and plums the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

(Pub. L. 86–687, § 3, Sept. 2, 1960, 74 Stat. 734.)

§ 594. Exemption of minimum quantities

The Secretary may, by regulation, exempt from compliance with the provisions of this chapter (1) any variety or varieties of grapes and plums, and (2) the shipment of such minimum quantities of grapes and plums to any foreign country as he may prescribe.

(Pub. L. 86–687, § 4, Sept. 2, 1960, 74 Stat. 734; Pub. L. 87–105, § 2, July 26, 1961, 75 Stat. 220.)

AMENDMENTS

1961—Pub. L. 87–105 added cl. (1) and designated existing provisions as cl. (2).

§ 595. Fees for inspection and certification; certificates as prima facie evidence

For inspecting and certifying the grade, quality, or condition of grapes or plums the Secretary shall cause to be collected a reasonable fee which shall, as nearly as may be, cover the cost of the service rendered: *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(Pub. L. 86–687, § 5, Sept. 2, 1960, 74 Stat. 734.)

§ 596. Refusal of certificates for violations of law; penalties for violations

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any grapes or plums in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency violating any of the provisions of this chapter shall be fined not less than $100 nor more than $10,000 by a court of competent jurisdiction.

(Pub. L. 86–687, § 6, Sept. 2, 1960, 74 Stat. 734.)

§ 597. Rules and regulations; cooperation with other agencies; compensation of officers and employees; effect on other laws

The Secretary may make such rules, regulations, and orders, and require such reports, as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto.

(Pub. L. 86–687, § 7, Sept. 2, 1960, 74 Stat. 735.)

§ 598. Separability

If any provision of the chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 86–687, § 8, Sept. 2, 1960, 74 Stat. 735.)

§ 599. Definitions

When used in this chapter—

(1) The term ''person'' includes individuals, partnerships, corporations, and associations.

(2) The term ''Secretary'' means the Secretary of Agriculture.

(3) Except as provided herein, the term ''foreign commerce'' means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term ''grapes'' means vinifera species table grapes, European type, whether or not they have been in storage.

(5) The term ''plums'' means both European and Japanese type, whether or not they have been in storage, but does not mean Italian-type prunes, nor damson-type plums.

(Pub. L. 86–687, § 9, Sept. 2, 1960, 74 Stat. 735.)

CHAPTER 26—AGRICULTURAL ADJUSTMENT

SUBCHAPTER I—DECLARATION OF CONDITIONS AND POLICY

Sec.
601. Declaration of conditions.
602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation.

SUBCHAPTER II—COTTON OPTION CONTRACTS

603. Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary.
604. Borrowing money; expenditures; authority of Secretary.
605, 606. Repealed.
607. Sale by Secretary; additional options; validation of assignments; publication of information.

SUBCHAPTER III—COMMODITY BENEFITS

608. Powers of Secretary.
(1) Investigations; proclamation of findings.
(2) Agreements for adjustment of acreage or production and for rental or benefit payments.
(3) Payments by Secretary.
(4) Additional investigation; suspension of exercise of powers.
(5) Hearings; notice.
(6) Commodity in which payment made.
(7) Additional payments to producers of sugar beets or sugarcane.
(8) Pledge by rice producer for production credit of right to rental or benefit payments.
(9) Advances of payments on stored nonperishable commodity.
608–1. Omitted.
608a. Enforcement of chapter.
(1) to (4) Omitted.
(5) Forfeitures.
(6) Jurisdiction of district courts.
(7) Duties of United States attorneys; investigation of violations by Secretary; hearings.
(8) Cumulative remedies.
(9) ''Person'' defined.
608a–1. Repealed.
608b. Marketing agreements; exemption from antitrust laws; inspection requirements for handlers not subject to agreements.
608c. Orders regulating handling of commodity.
(1) Issuance by Secretary.
(2) Commodities to which applicable; single commodities and separate agricultural commodities.
(3) Notice and hearing.
(4) Finding and issuance of order.
(5) Milk and its products; terms and conditions of orders.
(6) Other commodities; terms and conditions of orders.
(7) Terms common to all orders.
(8) Orders with marketing agreement.
(9) Orders with or without marketing agreement.
(10) Manner of regulation and applicability.
(11) Regional application.
(12) Approval of cooperative association as approval of producers.
(13) Retailer and producer exemption.
(14) Violation of order; penalty.
(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.
(16) Termination of orders and marketing agreements.
(17) Provisions applicable to amendments.
(18) Milk prices.
(19) Producer or processor referendum for approving order.
608c–1. Repealed.
608d. Books and records.
608e. Repealed.
608e–1. Import prohibitions on specified foreign produce.

Sec.
(a) Import prohibitions on tomatoes, avocadoes, limes, etc.
(b) Extension of time for marketing order; factors; review.
(c) Notification of United States Trade Representative of import restrictions; advisement of Secretary of Agriculture.
(d) Proposed prohibition or regulation; authority of Secretary of Agriculture to proceed.
608f. Repealed.
609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering.
610. Administration.
(a) Appointment of officers and employees; impounding appropriations.
(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency.
(c) Regulations; penalty for violation.
(d) Regulations of Secretary of the Treasury.
(e) Review of official acts.
(f) Geographical application.
(g) Officers; dealing or speculating in agricultural products; penalties.
(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.
(i) Cooperation with State authorities; imparting information.
(j) Definitions.
611. ''Basic agricultural commodity'' defined; exclusion of commodities.
612. Appropriation; use of revenues; administrative expenses.
612a, 612b. Omitted.
612c. Appropriation to encourage exportation and domestic consumption of agricultural products.
612c–1. Authorization for appropriations to increase domestic consumption of surplus farm commodities.
612c–2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture.
612c–3. Repealed.
613. Termination date; investigations and reports.
613a. Repealed.
614. Separability.
615. Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury.
616. Stock on hand when tax takes effect or terminates.
617. Refund on goods exported; bond to suspend tax on commodity intended for export.
618. Existing contracts; imposition of tax on vendee; collection.
619. Collection of tax; provisions of internal revenue laws applicable; returns.
619a. Cotton tax, time for payment.
620. Falsely ascribing deductions or charges to taxes; penalty.
621. Machinery belting processed from cotton; exemption from tax.
622. Omitted.
623. Actions relating to tax; legalization of prior taxes.
(a) Action to restrain collection of tax or obtain declaratory judgment forbidden.
(b) Taxes imposed prior to August 24, 1935, legalized and ratified.
(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified.
Sec.
624. Limitation on imports; authority of President.
625. Review of Burley tobacco imports by Secretary of Agriculture; price-support levels; excessive stocks.
626. Import inventory.
(a) Compilation and report on imports.
(b) Compilation and report on consumption.
(c) Issuing of data.
627. Dairy forward pricing pilot program.
(a) Pilot program required.
(b) Minimum milk price requirements.
(c) Milk covered by pilot program.
(d) Duration.
(e) Study and report on effect of pilot program.
SUBCHAPTER IV—REFUNDS
641 to 659. Omitted.

CROSS REFERENCES

Agricultural Adjustment Act of 1938, see section 1281 et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 499b–1, 671, 672, 673, 1446, 7271 of this title; title 12 section 1150a; title 16 section 2005b; title 18 section 433; title 41 section 22.

SUBCHAPTER I—DECLARATION OF CONDITIONS AND POLICY

§ 601. Declaration of conditions

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce.

(May 12, 1933, ch. 25, title I, §1, 48 Stat. 31; June 3, 1937, ch. 296, §§1, 2(a), 50 Stat. 246.)

SHORT TITLE

Section 8(a) of act June 16, 1933, ch. 90, 48 Stat. 199, provided in part that title I of act May 12, 1933, which is classified to this chapter, may for all purposes be referred to as the ''Agricultural Adjustment Act.''

VALIDITY OF CERTAIN SECTIONS AFFIRMED

Act June 3, 1937, ch. 296, §§1, 2, 50 Stat. 246, provided as follows: ''The following provisions of the Agricultural Adjustment Act, as amended, not having been intended for the control of the production of agricultural commodities, and having been intended to be effective irrespective of the validity of any other provision of that Act are expressly affirmed and validated, and are reenacted without change except as provided in section 2:

''(a) Section 1 (relating to the declaration of emergency [this section]):

''(b) Section 2 (relating to declaration of policy [section 602 of this title]):

''(c) Section 8a(5), (6), (7), (8), and (9) (relating to violations and enforcement [section 608a(5), (6), (7), (8), and (9) of this title]);

''(d) Section 8b (relating to marketing agreements [section 608b of this title]);

''(e) Section 8c (relating to orders [section 608c of this title]);

''(f) Section 8d (relating to books and records [section 608d of this title]);

''(g) Section 8e (relating to determination of base period [former section 608e of this title]);

''(h) Section 10(a), (b)(2), (c), (f), (g), (h), and (i) (miscellaneous provisions [section 610(a), (b)(2), (c), (f), (g), (h), and (i) of this title]);

''(i) Section 12(a) and (c) (relating to appropriation and expenses [section 612(a) and (c) of this title]);

''(j) Section 14 (relating to separability [section 614 of this title]);

''(k) Section 22 (relating to imports [section 624 of this title]).

''SEC. 2. The following provisions, reenacted in section I of this act, are amended as follows: * * * [sections 601, 602(1), 608a(6), 608c(5)(B)(d), (6)(B), (6)(B)(18), (19), 610(c), (f), 612(a) of this title].''

Section 2 of act June 3, 1937, also added subsec. (j) to section 610.

Section 2 of act June 3, 1937, was amended by act Aug. 5, 1937, ch. 567, 50 Stat. 563, which amending act provided for amendments to subsecs. (2) and (6) of section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 671, 672, 673, 1392 of this title.

§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301(a)(1) of this title.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such production research, marketing research, and development projects provided in section 608c(6)(I) of this title, such container and pack requirements provided in section 608c(6)(H) of this title[1] such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c (2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest.

(4) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c(2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(5) Through the exercise of the power conferred upon the Secretary of Agriculture under this chapter, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of this chapter.

(May 12, 1933, ch. 25, title I, § 2, 48 Stat. 32; Aug. 24, 1935, ch. 641, §§ 1, 62, 49 Stat. 750, 782; June 3, 1937, ch. 296, §§ 1, 2(b), 50 Stat. 246, 247; Aug. 1, 1947, ch. 425, § 1, 61 Stat. 707; July 3, 1948, ch. 827, title III, § 302(a), 62 Stat. 1257; Aug. 28, 1954, ch. 1041, title IV, § 401(a), 68 Stat. 906; Pub. L. 87–128, title I, § 141(1), Aug. 8, 1961, 75 Stat. 303; Pub. L. 89–330, § 1(a), Nov. 8, 1965, 79 Stat. 1270; Pub. L. 91–292, § 1(1), June 25, 1970, 84 Stat. 333.)

AMENDMENTS

1970—Subsec. (3). Pub. L. 91–292 inserted authority to establish and maintain the production research, marketing research, and development projects provided in section 608c(6)(I) of this title.

1965—Subsec. (3). Pub. L. 89–330 inserted ''such container and pack requirements provided in section 608c(6)(H) of this title''.

1961—Subsec. (5). Pub. L. 87–128 added subsec. (5).

1954—Subsec. (4). Act Aug. 28, 1954, added subsec. (4).

1948—Subsec. (1). Act July 3, 1948, made definition of ''parity'' conform to definition stated in section 1301(a)(1) of this title.

1947—Subsec. (3). Act Aug. 1, 1947, added subsec. (3).

1937—Act June 3, 1937, inserted ''orderly marketing conditions for agricultural commodities in interstate commerce as will establish'' before ''as the prices to farmers''.

1935—Subsec. (1). Act Aug. 24, 1935, ch. 641, § 1, amended first sentence and act Aug. 24, 1935, ch. 641, § 62, amended second and third sentences.

Subsec. (2). Act Aug. 24, 1935, amended subsec. (2).

EFFECTIVE DATE OF 1948 AMENDMENT

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

VALIDITY OF SECTION AFFIRMED

Section 1 of act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section except for the amendment to subsec. (1) by section 2 of said act. See note set out under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 609, 672, 673, 1392 of this title.

SUBCHAPTER II—COTTON OPTION CONTRACTS

§ 603. Government owned cotton; transfer to Secretary of Agriculture; powers of Secretary

The Farm Credit Administration and all departments and other agencies of the Govern-

[1] So in original. Probably should be followed by a comma.

ment, not including the Federal intermediate credit banks are directed—

(a) To sell to the Secretary of Agriculture at such price as may be agreed upon, not in excess of the market price, all cotton now owned by them.

(b) To take such action and to make such settlements as are necessary in order to acquire full legal title to all cotton on which money has been loaned or advanced by any department or agency of the United States, including futures contracts for cotton or which is held as collateral for loans or advances and to make final settlement of such loans and advances as follows:

(1) In making such settlements with regard to cotton, including operations to which such cotton is related, such cotton shall be taken over by all such departments or agencies other than the Secretary of Agriculture at a price or sum equal to the amounts directly or indirectly loaned or advanced thereon and outstanding, including loans by the Government, department or agency and any loans senior thereto, plus any sums required to adjust advances to growers to 90 per centum of the value of their cotton at the date of its delivery in the first instance as collateral to the department or agency involved, such sums to be computed by subtracting the total amount already advanced to growers on account of pools of which such cotton was a part, from 90 per centum of the value of the cotton to be taken over as of the time of such delivery as collateral, plus unpaid accrued carrying charges and operating costs on such cotton, less, however, any existing assets of the borrower derived from net income, earnings, or profits arising from such cotton, and from operations to which such cotton is related; all as determined by the department or agency making the settlement.

(2) The Secretary of Agriculture shall make settlements with respect to cotton held as collateral for loans or advances made by him on such terms as in his judgment may be deemed advisable, and to carry out the provisions of this section, is authorized to indemnify or furnish bonds to warehousemen for lost warehouse receipts and to pay the premiums on such bonds.

When full legal title to the cotton referred to in this subsection has been acquired, it shall be sold to the Secretary of Agriculture for the purposes of this section, in the same manner as provided in subsection (a) of this section.

(c) The Secretary of Agriculture is authorized to purchase the cotton specified in subsections (a) and (b) of this section.

(May 12, 1933, ch. 25, title I, § 3, 48 Stat. 32; 1933 Ex. Ord. No. 6084, Mar. 22, 1933.)

CHANGE OF NAME

Ex. Ord. No. 6084, set out as a note preceding section 2241 of Title 12, Banks and Banking, changed the name of ''Federal Farm Board'' to ''Farm Credit Administration''.

TRANSFER OF FUNCTIONS

Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, removed Farm Credit Administration from Food Production Administration of Department of Agriculture and returned it to its former status as a separate agency of Department.

Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10179, made Farm Credit Administration a part of Food Production Administration of Department of Agriculture.

Farm Credit Administration transferred to Department of Agriculture by 1939 Reorg. Plan No. 1, § 401, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, functions, etc., see section 2241 et seq., of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 604, 673 of this title.

§ 604. Borrowing money; expenditures; authority of Secretary

(a) The Secretary of Agriculture shall have authority to borrow money upon all cotton in his possession or control and may, at his discretion, deposit as collateral for such loans the warehouse receipts for such cotton.

(b) The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000, to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to sections 603, 604, and 607 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of said sections, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the purposes described in subsection (e) of this section. This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of this chapter including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture.

(c) The funds authorized by subsection (b) of this section shall be made available to the Secretary of Agriculture from time to time upon his request and with the approval of the Secretary of the Treasury. Each such request shall be accompanied by a statement showing by weight and average grade and staple the quantity of cotton held by the Secretary of Agri-

culture and the approximate aggregate market value thereof.

(d) It is the purpose of subsections (b) and (c) of this section to provide an alternative method to that provided by subsection (a) of this section, for enabling the Secretary of Agriculture to finance the acquisition, carrying, handling, insuring, and marketing of cotton acquired by him under authority of section 603 of this title. The Secretary of Agriculture may at his discretion make use of either or both of the methods provided in this section for obtaining funds for the purposes hereinabove enumerated.

(e) The Secretary of Agriculture is authorized to use in his discretion any funds obtained by him pursuant to the provisions of subsection (a) or (b) of this section for making advances to any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture, to enable any such agency to perform, exercise, and discharge any of the duties, privileges, and functions which such agency may be authorized to perform, exercise, or discharge.

(f) The proceeds derived from the sale of cotton shall be held for the Secretary of Agriculture by the Treasurer of the United States in a special deposit account and shall be used by the Secretary of Agriculture to discharge the obligations incurred under authority of sections 603, 604, and 607 of this title. Whenever any cotton shall be marketed the net proceeds (after discharge of other obligations incurred with respect thereto) derived from the sale thereof shall be used, to the extent required, to reimburse the Treasury for such portion of the funds hereby provided for as shall have been used, which shall be covered into the Treasury as a miscellaneous receipt. If when all of the cotton acquired by the Secretary of Agriculture shall have been marketed and all of the obligations incurred with respect to such cotton shall have been discharged, and the Treasury reimbursed for any and all sums which may have been advanced pursuant to subsection (b) of this section, there shall remain any balance in the hands of the Secretary of Agriculture, such balance shall be covered into the Treasury as miscellaneous receipts.

The word ''obligation'' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton.

(May 12, 1933, ch. 25, title I, § 4, 48 Stat. 33; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1058; Aug. 24, 1935, ch. 641, §§ 35, 36, 49 Stat. 775.)

AMENDMENTS

1935—Subsec. (b). Act Aug. 24, 1935, § 35, struck out ''to be available until March 1, 1936'' after ''$100,000,000'' and inserted last sentence relating to availability of the sum of $100,000,000.

Subsec. (f). Act Aug. 24, 1935, § 36, inserted last par. defining ''obligation''.

1934—Subsec. (a). Act June 19, 1934, inserted ''may in his discretion'' after ''or control and''.

Subsecs. (b) to (f). Act June 19, 1934, added subsecs. (b) to (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 605. Repealed. June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208

Section, acts May 12, 1933, ch. 25, title I, § 5, 48 Stat. 33; June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1059, related to loans from Reconstruction Finance Corporation and warehouse receipts as collateral.

§ 606. Repealed. Aug. 24, 1935, ch. 641, § 34, 49 Stat. 775

Section, act May 12, 1933, ch. 25, title I, § 6, 48 Stat. 33, related to option contracts.

§ 607. Sale by Secretary; additional options; validation of assignments; publication of information

The Secretary shall sell cotton held or acquired by him pursuant to authority of this chapter at his discretion subject only to the conditions and limitations of this chapter: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of this chapter, make public such information as he deems necessary in order to effectuate the purposes of this chapter.

(May 12, 1933, ch. 25, title I, § 7, 48 Stat. 34; June 16, 1933, ch. 90, title II, § 221, 48 Stat. 210; Aug. 24, 1935, ch. 641, § 33, 49 Stat. 775.)

AMENDMENTS

1935—Act Aug. 24, 1935, among other changes, inserted provisions as to presumption of validity of assignments made prior to Jan. 11, 1934 of option contracts exercised prior to Jan. 18, 1934 if in good faith, for full value, and without fraud or speculation by the assignee.

1933—Act June 16, 1933, amended section generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608d, 673 of this title.

SUBCHAPTER III—COMMODITY BENEFITS

§ 608. Powers of Secretary

(1) Investigations; proclamation of findings

Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the

fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this chapter.

(2) Agreements for adjustment of acreage or production and for rental or benefit payments

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this chapter, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter, and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this chapter.

(3) Payments by Secretary

Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

(4) Additional investigation; suspension of exercise of powers

Whenever, during a period during which any of the powers conferred in subsection (2) or (3) of this section is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3) of this section, and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this chapter,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

(5) Hearings; notice

In the course of any investigation required to be made under subsection (1) or (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

(6) Commodity in which payment made

No payment under this chapter made in an agricultural commodity acquired by the Secretary in pursuance of this chapter shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

(7) Additional payments to producers of sugar beets or sugarcane

In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933–1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to produc-

ers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

(8) Pledge by rice producer for production credit of right to rental or benefit payments

In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this chapter, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) Advances of payments on stored nonperishable commodity

Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.

(May 12, 1933, ch. 25, title I, § 8, 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; May 9, 1934, ch. 263, § 14, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 7, 49 Stat. 46; Aug. 24, 1935, ch. 641, §§ 2, 4–7, 49 Stat. 751, 753–762.)

CODIFICATION

Section as originally enacted consisted of subsections (1) to (5). Act Aug. 24, 1935, amended section by striking out or amending and redesignating the various subsections.

AMENDMENTS

1935—Subsec. (1) was, together with subsecs. (2) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935, which also struck out former (1) as amended by acts May 9, 1934, and March 18, 1935.

Subsec. (2) was, together with subsecs. (1) and (3) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (2), as amended by act Apr. 7, 1934, was designated section 8b of the Agricultural Adjustment Act, section 608b of this title, and amended by section 4 of said act Aug. 24, 1935.

Subsec. (3) was, together with subsecs. (1), (2), and (4) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (3) was struck out by section 5 of said act Aug. 24, 1935, which also added section 8c to the Agricultural Adjustment Act, section 608c of this title.

Subsec. (4) was, together with subsecs. (1) to (3) and (5) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (4) was struck out by section 6 of said act Aug. 24, 1935, which also added sections 8d and 8e to the Agricultural Adjustment Act, section 608d and former section 608e, respectively, of this title.

Subsec. (5) was, together with subsecs. (1) to (4) and (6) to (9), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935. Former subsec. (5) was designated section 8f of the Agricultural Adjustment Act, section 608f of this title, and amended by section 7 of said act Aug. 24, 1935.

Subsecs. (6) to (9) were, together with subsecs. (1) to (5), inserted in lieu of former (1) by section 2 of act Aug. 24, 1935.

1934—Act May 9, 1934, amended subsec. (1) generally.

Act Apr. 7, 1934, amended subsec. (2) by striking out proviso.

VALIDITY OF AGREEMENTS AND LICENSES PRESERVED UNDER 1935 ACT

Section 38 of act Aug. 24, 1935, which amended this chapter generally, provided as follows: ''Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof [Aug. 24, 1935], or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8(1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8(1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act [this chapter]; *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act.''

CROSS REFERENCES

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

Marketing quotas for tobacco, corn, wheat, cotton, and rice, see section 1311 et seq. of this title.

Parity payments to producers, see section 1303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 610, 612, 623, 673 of this title; title 12 section 1150a.

§ 608–1. Omitted

CODIFICATION

Section, act July 2, 1940, ch. 521, § 9, 54 Stat. 729, which related to adjustments between payee and third persons, was omitted as executed.

§ 608a. Enforcement of chapter

(1) to (4) Omitted

(5) Forfeitures

Any person exceeding any quota or allotment fixed for him under this chapter by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceed-

ing of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this chapter, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(9) "Person" defined

The term ''person'' as used in this chapter includes an individual, partnership, corporation, association, and any other business unit.

(May 12, 1933, ch. 25, title I, § 8a, as added May 9, 1934, ch. 263, § 4, 48 Stat. 672; amended Aug. 24, 1935, ch. 641, §§ 8–10, 49 Stat. 762; June 3, 1937, ch. 296, §§ 1, 2(c), 50 Stat. 246, 247; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Pub. L. 87–128, title I, § 141(2), Aug. 8, 1961, 75 Stat. 304.)

CODIFICATION

Provisions of subsecs. (1) to (4), relating to establishment, regulation and determination of sugar quotas, agreements limiting or regulating child labor, wages, and adjustment of disputes in the sugar industry, and prescribing penalties for violations thereof, were omitted since they ceased to apply on Sept. 1, 1937, in accordance with the provisions of section 510 of the Sugar Act of 1937, act Sept. 1, 1937, ch. 898, 50 Stat. 916. Section 510 of act Sept. 1, 1937, provided in part that: ''The provisions of the Agricultural Adjustment Act, as amended [this chapter], shall cease to apply to sugar upon the enactment of this Act [Sept. 1, 1937]''. Provisions similar to former subsecs. (1) to (4) were contained in the Sugar Act of 1948, section 1100 et seq. of this title, which expired on Dec. 31, 1974.

AMENDMENTS

1961—Subsec. (5). Pub. L. 87–128 struck out ''willfully'' after ''Any person'' and substituted provision for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6). Act June 3, 1937, § 2(c), struck out ''the provisions of this section, or of''.

1935—Subsec. (1). Act Aug. 24, 1935, § 8, substituted ''persons engaged in handling'' for ''handlers'' wherever appearing; struck out ''or in competition with,'' in par. (B); inserted ''directly'' before ''to burden'' in par. (B); and struck out ''in any way'' in par. (B).

Subsec. (6). Act Aug. 24, 1935, § 9, inserted ''or'' after ''regulation,'' and struck out ''or license''.

Subsec. (7). Act Aug. 24, 1935, § 10, inserted last sentence.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys'' in subsec. (7). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding 491 of Title 48, Territories and Insular Possessions.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5), (6), (7), (8), and (9) of this section, except for the amendment to subsection (6) by section 2 of the act. See note set out under section 601 of this title.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Jurisdiction of district courts of actions for fines, penalties and forfeitures, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Pendency of proceedings by handler for modification of order or exemption as not impeding the United States or the Secretary from obtaining relief pursuant to subsection (6) of this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 608e–1, 616, 672, 673, 855, 1392 of this title.

§ 608a–1. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 2, 49 Stat. 1539, related to additional provisions regulating the sugar quotas.

§ 608b. Marketing agreements; exemption from anti-trust laws; inspection requirements for handlers not subject to agreements

(a) In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such

commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this chapter.

(b)(1) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

(A) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement;

(B) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement; and

(C) any assessment (except with respect to any assessment for the indemnification of losses on rejected peanuts) imposed under the agreement shall—

(i) apply to peanut handlers (as defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to those handlers who have entered into the agreement; and

(ii) be paid to the Secretary.

(2) Violation of this subsection by a person who has not entered into such an agreement shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts multiplied by the quantity of peanuts sold or disposed of in violation of subsection (b)(1)(B) of this section, as determined under section 1445c–3[1] of this title, for the marketing year for the crop with respect to which such violation occurs.

(May 12, 1933, ch. 25, title I, § 8b, formerly § 8(2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; renumbered and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 753; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208; Pub. L. 101–220, § 4, Dec. 12, 1989, 103 Stat. 1878; Pub. L. 102–237, title I, § 115(1), Dec. 13, 1991, 105 Stat. 1840; Pub. L. 103–66, title I, § 1109(b), Aug. 10, 1993, 107 Stat. 326.)

REFERENCES IN TEXT

Section 1445c–3 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938.

CODIFICATION

The provisions appearing in subsec. (a) of this section except the first sentence, were originally enacted as part of section 8(2) of act May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1993—Subsec. (b)(1)(C). Pub. L. 103–66 added subpar. (C).

1991—Subsec. (b)(2). Pub. L. 102–237 made technical amendment to reference to section 1445c–3 of this title involving corresponding provisions of original Act.

1989—Pub. L. 101–220 designated existing provisions as subsec. (a) and added subsec. (b).

1947—Act June 30, 1947, repealed provisions providing for loans from Reconstruction Finance Corporation.

1935—Act Aug. 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and amended first sentence generally.

1934—Act Apr. 7, 1934, empowered Secretary of Agriculture to enter into marketing agreements with individual producers.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 4(c) of Pub. L. 101–220 provided that: ''The amendment made by this section [amending this section] shall be effective with respect to the 1990 and subsequent crops of peanuts.''

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

CROSS REFERENCES

Anti-trust laws, see section 1 et seq. of Title 15, Commerce and Trade.

Orders with marketing agreement, see section 608c of this title.

Termination of marketing agreements entered into under this section, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 672, 673, 1392 of this title; title 12 section 1150a.

§ 608c. Orders regulating handling of commodity

(1) Issuance by Secretary

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as ''handlers.'' Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.

(2) Commodities to which applicable; single commodities and separate agricultural commodities

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural commodities and the products thereof (except canned or frozen pears, grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana,

[1] See References in Text note below.

California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, Colorado, Utah, New Mexico, Illinois, and Ohio, and not including fruits for canning or freezing other than pears, olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing and not including potatoes for canning, freezing, or other processing), hops, honeybees, and naval stores as included in the Naval Stores Act [7 U.S.C. 91 et seq.] and standards established thereunder (including refined or partially refined oleoresin): *Provided,* That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this chapter, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys and not excepting poultry which produce commercial eggs), fruits and vegetables for canning or freezing, including potatoes for canning, freezing, or other processing[1] and apples), or any regional or market classification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared policy of this chapter will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

[1] So in original. Probably should be followed by a comma.

(3) Notice and hearing

Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) Finding and issuance of order

After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this chapter with respect to such commodity.

(5) Milk and its products; terms and conditions of orders

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers. Throughout the 2-year period beginning on the effective date of this sentence (and subsequent to such 2-year period unless modified by amendment to the order involved), the minimum aggregate amount of the adjustments, under clauses (1) and (2) of the preceding sentence, to prices for milk of the highest use classification under orders that are in effect under this section on December 23, 1985, shall be as follows:

Marketing Area Subject to Order	Minimum Aggregate Dollar Amount of Such Adjustments Per Hundredweight of Milk Having 3.5 Percent Milkfat
New England	$3.24
New York-New Jersey	3.14
Middle Atlantic	3.03
Georgia	3.08
Alabama-West Florida	3.08
Upper Florida	3.58
Tampa Bay	3.88
Southeastern Florida	4.18
Michigan Upper Peninsula	1.35
Southern Michigan	1.75
Eastern Ohio-Western Pennsylvania	1.95

Ohio Valley	2.04
Indiana	2.00
Chicago Regional	1.40
Central Illinois	1.61
Southern Illinois	1.92
Louisville-Lexington-Evansville	2.11
Upper Midwest	1.20
Eastern South Dakota	1.50
Black Hills, South Dakota	2.05
Iowa	1.55
Nebraska-Western Iowa	1.75
Greater Kansas City	1.92
Tennessee Valley	2.77
Nashville, Tennessee	2.52
Paducah, Kentucky	2.39
Memphis, Tennessee	2.77
Central Arkansas	2.77
Fort Smith, Arkansas	2.77
Southwest Plains	2.77
Texas Panhandle	2.49
Lubbock-Plainview, Texas	2.49
Texas	3.28
Greater Louisiana	3.28
New Orleans-Mississippi	3.85
Eastern Colorado	2.73
Western Colorado	2.00
Southwestern Idaho-Eastern Oregon	1.50
Great Basin	1.90
Lake Mead	1.60
Central Arizona	2.52
Rio Grande Valley	2.35
Puget Sound-Inland	1.85
Oregon-Washington	1.95

Effective at the beginning of such two-year period, the minimum prices for milk of the highest use classification shall be adjusted for the locations at which delivery of such milk is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, (d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year, (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order, and (f) a further adjustment, equitably to apportion the total value of milk purchased by any handler or by all handlers among producers on the basis of the milk components contained in their marketings of milk.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection, providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this subsection.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

(H) Omitted

(I) Establishing or providing for the establishment of research and development projects, and

advertising (excluding brand advertising), sales promotion, educational, and other programs designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph[2] may be deducted from funds due producers in computing total pool value or otherwise computing total funds due producers and such deductions shall be in addition to the adjustments authorized by paragraph (B) of this subsection. Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research is required under the authority of any State law. Such funds shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order. Such agency may expend such funds for any of the purposes authorized by this subparagraph[2] and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order. All funds collected under this subparagraph[2] shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph[2] may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph[2] shall not become effective in any marketing order unless such provisions are approved by producers separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16)(B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order. Notwithstanding any other provision of this chapter, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph,[2] and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order.

(J) Providing for the payment, from the total sums payable by all handlers for milk (irrespective of the use classification of such milk) and before computing uniform prices under paragraph (A) and making adjustments in payments under paragraph (C), to handlers that are cooperative marketing associations described in paragraph (F) and to handlers with respect to which adjustments in payments are made under paragraph (C), for services of marketwide benefit, including but not limited to—

(i) providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers;

(ii) handling on specific days quantities of milk that exceed the quantities needed by handlers; and

(iii) transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification.

(K)(i) Notwithstanding any other provision of law, milk produced by dairies—

(I) owned or controlled by foreign persons; and

(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of title 26;

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this chapter. For the purposes of this subparagraph,[2] the term ''foreign person'' has the meaning given such term under section 3508(3) of this title.

(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph.[2]

(iii) This subparagraph[2] shall not apply with respect to any dairy that began operation before May 6, 1986.

(L) Providing that adjustments in payments by handlers under paragraph (A) need not be the same as adjustments to producers under paragraph (B) with regard to adjustments authorized by subparagraphs (2) and (3) of paragraph (A) and clauses (b), (c), and (d) of paragraph (B)(ii).

(6) Other commodities; terms and conditions of orders

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified

[2] So in original. Probably should be ''paragraph''.

period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding clause (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608a of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: *Provided, however*, That no action taken hereunder shall conflict with the Standard Containers Act of 1916 (15 U.S.C. 251–256) and the Standard Containers Act of 1928 (15 U.S.C. 257–257i).

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided*, That with respect to orders applicable to almonds, filberts (otherwise known as hazelnuts), California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, eggs, avocados, apples, raisins, walnuts, tomatoes,,[3] Florida grown[4] strawberries, or cranberries, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds, filberts (otherwise known as hazelnuts), raisins, walnuts, olives, Florida Indian River grapefruit, and cranberries may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: *Provided further*, That the inclusion in a Federal marketing order of provisions for research and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.

(J) In the case of pears for canning or freezing, any order for a production area encompassing

[3] So in original.

[4] So in original. Probably should be ''Florida-grown''.

territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year.

(7) Terms common to all orders

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610(g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit or pears for canning or freezing one or more representatives of processors of the commodity specified in such order: *Provided*, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5) to (7) of this section and necessary to effectuate the other provisions of such order.

(8) Orders with marketing agreement

Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) Orders with or without marketing agreement

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area speci-

fied therein tends to prevent the effectuation of the declared policy of this chapter with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) Manner of regulation and applicability

No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this chapter prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity, or product covered by such marketing agreement.

(11) Regional application

(A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this chapter.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas. The price of milk paid by a handler at a plant operating in Clark County, Nevada shall not be subject to any order issued under this section.

(12) Approval of cooperative association as approval of producers

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) Retailer and producer exemption

(A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this chapter shall be applicable to any producer in his capacity as a producer.

(14) Violation of order; penalty

(A) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order shall, on conviction, be fined not less than $50 or more than $5,000 for each such violation, and each day during which such violation continues shall be deemed a separate violation. If the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order may be assessed a civil penalty by the Secretary not exceeding $1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an oppor-

tunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

(16) Termination of orders and marketing agreements

(A)(i) Except as provided in clause (ii), the Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(ii) The Secretary may not terminate any order issued under this section for a commodity for which there is no Federal program established to support the price of such commodity unless the Secretary gives notice of, and a statement of the reasons relied upon by the Secretary for, the proposed termination of such order to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 60 days before the date such order will be terminated.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

(17) Provisions applicable to amendments

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof: *Provided further*, That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced the decision on a previously proposed amendment to such order and

the two proposed amendments are essentially the same.

(18) Milk prices

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer or processor referendum for approving order

For the purpose of ascertaining whether the issuance of an order is approved or favored by producers or processors, as required under the applicable provisions of this chapter, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this chapter, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State.

(May 12, 1933, ch. 25, title I, § 8c, as added Aug. 24, 1935, ch. 641, § 5, 49 Stat. 753; amended June 25, 1936, ch. 804, 49 Stat. 1921; June 3, 1937, ch. 296, §§ 1, 2(d), (e), (f), (k), (*l*), (m), 50 Stat. 246, 247; Aug. 5, 1937, ch. 567, 50 Stat. 563; Apr. 13, 1938, ch. 143, §§ 1, 2, 52 Stat. 215; May 31, 1939, ch. 157, 53 Stat. 793; Feb. 10, 1942, ch. 52, §§ 2, 3, 56 Stat. 85; 1947 Reorg. Plan No. 1, § 102, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; Aug. 1, 1947, ch. 425, §§ 2, 4, 61 Stat. 707, 710; July 3, 1948, ch. 827, title III, § 302(b), (c), 62 Stat. 1258; June 29, 1949, ch. 273, 63 Stat. 282; Aug. 28, 1954, ch. 1041, title IV, § 401(b)–(d), 68 Stat. 906, 907; Pub. L. 87–128, title I, § 141(3), (4), Aug. 8, 1961, 75 Stat. 304, 305; Pub. L. 87–703, title IV, § 403, Sept. 27, 1962, 76 Stat. 632; Pub. L. 89–321, title I, §§ 101, 102, Nov. 3, 1965, 79 Stat. 1187; Pub. L. 89–330, § 1(b), Nov. 8, 1965, 79 Stat. 1270; Pub. L. 91–196, § 1, Feb. 20, 1970, 84 Stat. 14; Pub. L. 91–292, § 1(2), June 25, 1970, 84 Stat. 333; Pub. L. 91–341, July 18, 1970, 84 Stat. 438; Pub. L. 91–363, July 31, 1970, 84 Stat. 687; Pub. L. 91–384, Aug. 18, 1970, 84 Stat. 827; Pub. L. 91–522, Nov. 25, 1970, 84 Stat. 1357; Pub. L. 91–524, title II, § 201(a), Nov. 30, 1970, 84 Stat. 1359; Pub. L. 91–670, title I, § 101, title II, § 201, Jan. 11, 1971, 84 Stat. 2040, 2041; Pub. L. 92–120, Aug. 13, 1971, 85 Stat. 340; Pub. L. 92–233, Feb. 15, 1972, 86 Stat. 39; Pub. L. 92–466, Oct. 6, 1972, 86 Stat. 780; Pub. L. 91–524, title II, § 201(f), Nov. 30, 1970, as added Pub. L. 93–86, § 1(2)(B), Aug. 10, 1973, 87 Stat. 222; Pub. L. 93–230, Dec. 29, 1973, 87 Stat. 945; Pub. L. 95–279, title IV, § 401(a), May 15, 1978, 92 Stat. 242; Pub. L. 96–494, title I, § 101, Dec. 3, 1980, 94 Stat. 2570; Pub. L. 97–98, title I, § 101(a), Dec. 22, 1981, 95 Stat. 1218; Pub. L. 98–171, § 1, Nov. 29, 1983, 97 Stat. 1117; Pub. L. 98–180, title III, § 304, Nov. 29, 1983, 97 Stat. 1151; Pub. L. 99–198, title I, §§ 131(a), 133, title XVI, §§ 1661(a), 1662(a), Dec. 23, 1985, 99 Stat. 1372, 1373, 1630, 1631; Pub. L. 100–203, title I, § 1501, Dec. 22, 1987, 101 Stat. 1330–27; Pub. L. 100–418, title IV, §§ 4601, 4602, Aug. 23, 1988, 102 Stat. 1407; Pub. L. 101–624, title I, §§ 112, 113, title XIII, § 1306, Nov. 28, 1990, 104 Stat. 3380, 3561; Pub. L. 102–237, title I, § 115(2), Dec. 13, 1991, 105 Stat. 1840; Pub. L. 102–553, § 2, Oct. 28, 1992, 106 Stat. 4141; Pub. L. 106–78, title VII, §§ 757(a), 760, Oct. 22, 1999, 113 Stat. 1171, 1173.)

AMENDMENT OF SECTION

For termination of amendment by section 101(b) of Pub. L. 97–98, see Effective and Termination Dates of 1981 Amendment note below.

REFERENCES IN TEXT

The Naval Stores Act, referred to in subsec. (2), is act Mar. 3, 1923, ch. 217, 42 Stat. 1435, as amended, which is

classified generally to chapter 4 (§91 et seq.) of this title. For complete classification of this Act to the Code, see section 91 of this title and Tables.

For the effective date of this sentence, referred to in subsec. (5)(A), see Effective Date of 1985 Amendment note below.

The Standard Containers Act of 1916 and the Standard Containers Act of 1928, referred to in subsec. (6)(H), are act Aug. 31, 1916, ch. 426, 39 Stat. 673, as amended, and act May 21, 1928, ch. 664, 45 Stat. 685, as amended, respectively, and were repealed by Pub. L. 90–628, §1(a), (b), Oct. 22, 1968, 82 Stat. 1320.

CODIFICATION

Subsec. (5)(H), which permitted marketing orders applicable to milk and its products to be limited in application to milk used for manufacturing, was omitted as terminated. See Termination of 1965 Amendments note set out below.

Phrase ''with the approval of the President,'' following ''Secretary of Agriculture'' in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.

The words ''(including the district court of the United States for the District of Columbia)'' in subsec. (15)(B) following ''The District Courts of the United States'' have been deleted as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure which states that ''There should be in each judicial district a district court which shall be a court of record known as the United States District Court for the district'', and section 88 of said Title 28 which states that ''The District of Columbia constitutes one judicial district.''

In subsec. (18), ''or, in the case of orders applying only to manufacturing milk, the production area'' following ''marketing area'' in two places, was deleted from the Code. See Termination of 1965 Amendments note set out below.

AMENDMENTS

1999—Subsec. (6)(I). Pub. L. 106–78, §757(a)(2), substituted ''Florida Indian River grapefruit, and cranberries'' for ''and Florida Indian River grapefruit''.

Pub. L. 106–78, §757(a)(1), which directed substitution of '', Florida grown strawberries, or cranberries'' for ''or Florida grown strawberries'', was executed by making the substitution for ''or Florida-grown strawberries'' to reflect the probable intent of Congress.

Subsec. (11). Pub. L. 106–78, §760, inserted at end ''The price of milk paid by a handler at a plant operating in Clark County, Nevada shall not be subject to any order issued under this section.''

1992—Subsec. (1). Pub. L. 102–553 inserted at end ''In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.''

1991—Subsec. (5)(B). Pub. L. 102–237 substituted '', and'' for ''and,'' before cl. (f) in last sentence.

1990—Subsec. (5)(B)(f). Pub. L. 101–624, §112, added cl. (f).

Subsec. (5)(L). Pub. L. 101–624, §113, added par. (L).

Subsec. (14)(A). Pub. L. 101–624, §1306(1), struck out ''(other than a provision calling for payment of a pro rata share of expenses)'' before ''shall, on conviction'' and substituted ''. If'' for '': *Provided*, That if''.

Subsec. (14)(B). Pub. L. 101–624, §1306(2), struck out ''(other than a provision calling for payment of a pro rata share of expenses)'' before ''may be assessed''.

1988—Subsec. (5)(K). Pub. L. 100–418, §4601, added par. (K).

Subsec. (6)(I). Pub. L. 100–418, §4602, substituted ''tomatoes, or Florida-grown strawberries,'' for ''or tomatoes''.

1987—Subsec. (14). Pub. L. 100–203 designated existing provisions as par. (A) and added par. (B).

1985—Subsec. (5)(A). Pub. L. 99–198, §131(a), inserted provisions, with accompanying table, establishing the minimum aggregate amounts of the adjustments under cls. (1) and (2) to prices for milk of the highest use classification under orders in effect on Dec. 23, 1985, and requiring that such prices be adjusted for the locations at which delivery of such milk is made to such handlers.

Subsec. (5)(J). Pub. L. 99–198, §133, added par. (J).

Subsec. (14). Pub. L. 99–198, §1661(a), substituted ''$5,000'' for ''$500''.

Subsec. (16)(A). Pub. L. 99–198, §1662(a)(1), designated existing provisions of par. (A) as cl. (i), substituted ''Except as provided in clause (ii), the Secretary'' for ''The Secretary'', and added cl. (ii).

Subsec. (16)(C). Pub. L. 99–198, §1662(a)(2), substituted ''Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination'' for ''The termination''.

1983—Subsec. (2). Pub. L. 98–180, §304(1), substituted ''poultry (but not excepting turkeys and not excepting poultry which produce commercial eggs),'' for ''poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs),''.

Subsec. (6)(I). Pub. L. 98–180, §304(2), inserted ''eggs,'' after ''pecans,''.

Pub. L. 98–171 inserted ''filberts (otherwise known as hazelnuts),'' after ''almonds,'' in two places.

1981—Subsec. (5)(B). Pub. L. 97–98, §101(a)(1), struck out cl. (f) which extended authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, inserted provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.

Subsec. (17). Pub. L. 97–98, §101(a)(2), inserted provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same. An identical amendment was made by Pub. L. 91–524, §201(f)(1), as added by Pub. L. 93–86, see Termination of 1970 Amendment note set out below.

Subsec. (18). Pub. L. 97–98, §101(a)(3), inserted ''to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'' after ''pure and wholesome milk''. An identical amendment was made by Pub. L. 91–524, §201(f)(2), as added by Pub. L. 93–86, see Termination of 1970 Amendment note set out below.

1980—Subsec. (6)(I). Pub. L. 96–494 inserted ''walnuts'' before ''or tomatoes'' and substituted ''walnuts, olives,

and Florida Indian River grapefruit'' for ''Florida Indian River grapefruit''.

1978—Subsec. (6)(I). Pub. L. 95–279 inserted ''raisins'' after ''apples'' and after ''with respect to almonds''.

1973—Subsec. (6)(I). Pub. L. 93–230 inserted ''and Florida Indian River grapefruit'' after ''with respect to almonds''.

Subsec. (17). Pub. L. 91–524, § 201(f)(1), as added by Pub. L. 93–86, inserted provisions governing procedures when one-third or more of producers apply in writing for a hearing on a proposed amendment of an order, prohibiting any construction of subsec. (12) in a way which might permit cooperatives to act for their members in applying for hearings, and excusing the Secretary from the requirement of having to call a hearing on proposed amendments to an order in response to an application for such a hearing when the application for such a hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.

Subsec. (18). Pub. L. 91–524, § 201(f)(2), as added by Pub. L. 93–86, inserted ''to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'' after ''insure a sufficient quantity of pure and wholesome milk''.

1972—Subsec. (2). Pub. L. 92–233 inserted potatoes for canning, freezing or other processing to the agricultural commodities excluded from the categories of commodities which the Secretary may regulate. The amendment served to make permanent the temporary exemption first inserted by Pub. L. 91–196. See 1970 Amendment note and Effective Date of 1970 Amendment note.

Subsec. (2)(A). Pub. L. 92–466, § 1(1), inserted ''pears,'' after ''except canned or frozen'' and after ''canning or freezing other than''.

Subsec. (6)(I). Pub. L. 92–466, § 1(2), struck out ''fresh'' before ''pears'' and provided that when the handling of any commodity for canning or freezing is regulated, then any projects may also deal with the commodity or its products in canned or frozen form.

Subsec. (6)(J). Pub. L. 92–466, § 1(5), added par. (J).

Subsec. (7)(C). Pub. L. 92–466, § 1(3), inserted ''or pears'' after ''marketing order applicable to grapefruit'' and inserted proviso that in a marketing order applicable to pears for canning or freezing the representation of processors and producers on the agency shall be equal.

Subsec. (19). Pub. L. 92–466, § 1(4), inserted provision respecting producer or processor referendum for approving order applicable to pears for canning or freezing.

1971—Subsec. (5)(I). Pub. L. 91–670, § 101, added par. (I).

Subsec. (6)(I). Pub. L. 92–120 inserted reference to ''California-grown peaches'' in proviso.

Pub. L. 91–670, § 201, inserted reference to ''tomatoes'' in proviso.

1970—Subsec. (2). Pub. L. 91–196 inserted potatoes for canning, freezing or other processing to the category of agricultural commodities excluded from the Secretary's power to issue orders to regulate the handling of such commodities.

Subsec. (2)(A). Pub. L. 91–341 inserted provision for marketing orders for apples produced in Colorado, Utah, New Mexico, Illinois and Ohio.

Subsec. (5)(B). Pub. L. 91–524 retained and separately stated the existing authority for base-surplus or base-excess provisions in milk marketing orders in cl. (d), clarified and reaffirmed, in cl. (e), the authority for plans under which leveling of spring and fall production is encouraged by withholding from sums paid for milk in the spring and subsequently paying the same sums to producers in the fall, and, in cl. (f), extended the authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, inserted provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.

Subsec. (6)(I). Pub. L. 91–522 in first proviso inserted applicability to almonds and provisions authorizing with respect to almonds the crediting of the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for marketing promotion including paid advertising as authorized by the order, and in second proviso inserted provisions relating to marketing promotion, including paid advertising, in Federal marketing orders.

Pub. L. 91–384 inserted ''papayas,'' after ''applicable to cherries,''.

Pub. L. 91–363 substituted ''avocados, or apples'' for ''or avocados'' in proviso.

Pub. L. 91–292 authorized the establishment of production research, inserted efficient production to the enumeration of aims to be served by established projects, and inserted proviso that the inclusion in a Federal marketing order of provisions for research not be deemed to preclude, preempt, or supersede research provisions in any State program covering the same commodity.

1965—Subsec. (5). Pub. L. 89–321, §§ 101, 102, inserted '', which may be adjusted to reflect sales of such milk by any handler or by all handlers in any classification or classifications,'' before ''during a representative period of time'' in cl. (d) of par. (B) and, after ''representative period of time'', inserted ''which need not be limited to one year'' in completion of first sentence of cl. (d) as well as all the remaining sentences in completion of cl. (d), and added par. (H).

Subsec. (6)(I). Pub. L. 89–330 inserted ''carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, or avocados'' in proviso.

Subsec. (18). Pub. L. 89–321, § 102, inserted ''or, in the case of orders applying only to manufacturing milk, the production area'' after ''marketing area'' wherever occurring.

1962—Subsec. (6)(I). Pub. L. 87–703 inserted the cherry marketing order provisions for advertising.

1961—Subsec. (2). Pub. L. 87–128, § 141(3), designated existing provisions as par. (A), included in exception provision thereof cherries, apples, and cranberries, substituted ''Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho)'' for ''and Idaho, and not including fruits, other than olives and grapefruit, for canning or freezing)'', struck out ''soybeans'' before '', hops, honeybees'', and added par. (B) and provisions respecting the effectiveness of orders as to cherries, apples and cranberries for canning or freezing, the applicability of orders to peanuts, the treatment of commodities as single commodities and separate agricultural commodities, and the deeming of the covered agricultural commodities and products as specified in the subsection.

Subsec. (19). Pub. L. 87–128, § 141(4), provided for processor referendum for approving order, required referendum in case of an order other than an amendatory order, and a description of the terms and conditions of the proposed order in the ballot used in the conduct of the referendum, and prohibited the use of such description as a basis for attacking legality of orders or any action relating thereto.

1954—Subsec. (2). Act Aug. 28, 1954, § 401(b), made grapefruit for canning and freezing (but not the canned or frozen product) subject to its provisions, and inserted proviso.

Subsec. (6). Act Aug. 28, 1954, § 401(c), brought within its scope all agricultural commodities specified in subsec. (2) of this section, and added pars. (H) and (I).

Subsec. (7)(C). Act Aug. 28, 1954, § 401(d), provided for the appointment of representatives from the grapefruit for canning processors.

1949—Subsecs. (2), (6). Act June 29, 1949, made section applicable to filberts and almonds.

1948—Subsec. (17). Act July 3, 1948, § 302(c), struck out ''section 608e of this title''.

Subsec. (18). Act July 3, 1948, § 302(b), made definition of ''parity'' conform to definition stated in section 1301(a)(1) of this title.

1947—Subsec. (2). Act Aug. 1, 1947, inserted ''or freezing'' after ''canning'' in two places.

Subsec. (6). Act Aug. 1, 1947, in opening par., inserted ''or freezing'' after ''canning'' in two places, reenacted pars. (A) to (E) without change, inserted par. (F), redesignated former par. (F) as (G) and reenacted such par. without further change.

1942—Subsec. (6), opening par. Act Feb. 10, 1942, § 2, inserted ''and their products'' after ''hops''.

Subsec. (6)(F). Act Feb. 10, 1942, § 3, added par. (F).

1939—Subsecs. (2), (6). Act May 31, 1939, amended Act June 3, 1937, § 2, by adding subsection (m) thereto, which in turn amended subsecs. (2) and (6) of this section.

1938—Subsec. (2). Act Apr. 13, 1938, § 1, inserted ''hops'' after ''soybeans''.

Subsec. (6). Act Apr. 13, 1938, § 2, inserted ''hops'' after ''soybeans and their products''.

1937—Subsec. (2). Act Aug. 5, 1937, amended act June 3, 1937, by adding thereto subsec. (k), which in turn amended subsec. (2) by inserting ''and the products of honeybees'' after ''except the products of naval stores'' and '', honeybees'' after ''soybeans''.

Subsec. (5)(B)(d). Act June 3, 1937, § 2(d), substituted ''marketings'' for ''production''.

Subsec. (6). Act Aug. 5, 1937, amended act June 3, 1937, by adding subsec. (*l*), which in turn amended subsec. (6) by inserting ''honeybees'' after ''soybeans and their products,''.

Subsec. (6)(B). Act June 3, 1937, § 2(e), struck out ''produced or'' and ''production or sales of'' and inserted in lieu thereof ''quantities available for sale by''.

Subsecs. (18), (19). Act June 3, 1937, § 2(f), added subsecs. (18) and (19). See note set out under section 601 of this title.

1936—Act June 25, 1936, provided that the Supreme Court of the District of Columbia should thereafter be known as the ''district court of the United States for the District of Columbia''.

1935—Section added to the Agricultural Adjustment Act by act Aug. 24, 1935, which also struck out former section 608(3) of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–78, title VII, § 760, Oct. 22, 1999, 113 Stat. 1173, provided that the amendment made by section 760 is effective Oct. 1, 1999.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendments by sections 112 and 113 of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 131(b) of Pub. L. 99–198 provided that: ''The amendment made by this section [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Dec. 23, 1985].''

Section 133 of Pub. L. 99–198 provided that the amendment made by that section is effective Jan. 1, 1986.

Section 1661(b) of Pub. L. 99–198 provided that: ''The amendment made by subsection (a) [amending this section] shall not apply with respect to any violation described in section 8c(14) of the Agricultural Adjustment Act [subsec. (14) of this section] occurring before the date of the enactment of this Act [Dec. 23, 1985].''

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 101(b) of Pub. L. 97–98, as amended by Pub. L. 99–198, title I, § 132, Dec. 23, 1985, 99 Stat. 1373; Pub. L. 101–624, title I, § 108, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 103–66, title I, § 1105(b), Aug. 10, 1993, 107 Stat. 317, provided that: ''The provisions of subsection (a) [amending this section] shall become effective January 1, 1982, and shall terminate December 31, 1996.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 401(a) of Pub. L. 95–279 provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91–196 provided that: ''The amendments made by this Act [amending this section] shall be effective only during the period beginning with the date of enactment of this Act [Feb. 20, 1970] and ending two years after such date.'' The limited effective period beginning Feb. 20, 1970, and ending two years after such date for the amendment made by Pub. L. 91–196 was removed as a result of the enactment of Pub. L. 92–233, Feb. 15, 1972, 86 Stat. 39, which made an amendment to the section identical to that made by Pub. L. 91–196 but without a time limit on such amendment of the type which had limited the duration of such earlier Pub. L. 91–196 amendment.

EFFECTIVE DATE OF 1948 AMENDMENT

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

TERMINATION OF 1970 AMENDMENT; SAVINGS PROVISION

Section 201(e) of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(2)(A), Aug. 10, 1973, 87 Stat. 222; Pub. L. 95–113, title II, § 201, Sept. 29, 1977, 91 Stat. 919, provided that: ''The provisions of this section [amending this section] shall not be effective after December 31, 1981, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1984.''

TERMINATION OF 1965 AMENDMENTS; REVERSION OF STATUS OF PRODUCER HANDLERS OF MILK TO PRE-AMENDMENT STATUS

Sections 103 and 104 of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(3), Oct. 11, 1968, 82 Stat. 996, provided that:

''SEC. 103. The provisions of this title [amending this section] shall not be effective after December 31, 1970.

''SEC. 104. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this title [amending this section] as it was prior thereto.''

SHORT TITLE

Section 1 of Pub. L. 89–321 provided: ''That this Act [enacting sections 1305, 1306, 1316, 1344b, 1379, 1446a–1, and 1838 of this title, amending this section and sections 1301, 1314b, 1332, 1333, 1334, 1335, 1339, 1339a, 1339c, 1340, 1346, 1348, 1350, 1353, 1374, 1379b, 1379c, 1379d, 1379e, 1379g, 1379i, 1423, 1427, 1428, 1444, 1445a, and 1782 of this title and section 590p of Title 16, Conservation, repealing sections 1801 to 1816, 1821 to 1824, 1831, and 1832 to

1837 of this title, enacting provisions set out as notes under this section and sections 1282, 1301, 1332, 1334, 1339, 1350, 1359, 1379b, 1379c, 1379d, 1379i, 1428, 1441, and 1445a of this title and section 590p of Title 16, and amending provisions set out as notes under sections 1339, 1379c, and 1427 of this title] may be cited as the 'Food and Agriculture Act of 1965'.''

MINNESOTA-WISCONSIN PRICE SERIES REFORM

Section 103 of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Within 60 days of the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall commence to accept alternative pricing formula recommendations, as they may relate to the Minnesota-Wisconsin price series used to determine the minimum prices paid under milk marketing orders, in order to amend such milk marketing orders authorized under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937. Among the alternative pricing formulas to be considered by the Secretary shall be a price series based on prices paid by milk processors for Grade A milk and manufacturing grade milk that is used in the manufacture of dairy products.

''(b) AVAILABILITY OF DATA.—The Secretary shall compile and make available to the public the historical and current data used to compare the alternative pricing formulas submitted and recommended as provided in subsection (a) with the existing Minnesota-Wisconsin price series.

''(c) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—

''(1) ANNOUNCEMENT OF HEARING.—Not later than October 1, 1991, the Secretary shall—

''(A) announce a national hearing to consider the proposed replacement of the Minnesota-Wisconsin price series in Federal milk marketing orders; and

''(B) invite industry and consumer proposals on the specific provisions to be considered for each order.

''(2) REPORT TO CONGRESS.—On issuance of the final decision on the hearing proposals, the Secretary shall report the decision to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(3) OPPORTUNITY FOR PUBLIC COMMENT.—The opportunity for public comment on the recommended decision shall not be less than 30 legislative days. For purposes of this paragraph, the term 'legislative day' means a day on which either House of Congress is in session.''

HEARINGS ON FEDERAL MILK MARKETING ORDERS

Section 104 of Pub. L. 101–624 provided that: ''The Secretary of Agriculture shall—

''(1) conclude the national hearings announced by the Secretary on March 29, 1990, regarding possible changes in the pricing provisions of Federal milk marketing orders; and

''(2) to the maximum extent practicable consistent with applicable laws, effect any resulting system-wide changes in the Federal orders setting minimum prices that milk processors must pay for Grade A milk received from producers, by January 1, 1992.''

STATUS OF PRODUCER HANDLERS

Section 115 of title I of Pub. L. 101–624 provided that: ''The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title [enacting section 1446e of this title and amending sections 450*l*, 608c, and 1446a of this title, section 713a–14 of Title 15, Commerce and Trade, and provisions set out as notes under sections 608c and 1731 of this title] take effect as it was before the effective date of the amendments [see Effective Date of 1990 Amendment note set out under section 1421 of this title].''

MULTIPLE COMPONENT PRICING STUDY

Section 116 of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall initiate a study to determine whether, and to what extent, milkfat is being produced in the United States in excess of commercial market needs as a result of any provision of law, regulation, or order that affects the manner in which producers receive payment for milk on the basis of the milk components contained in their marketings of milk under any Federal or State milk pricing program.

''(b) STUDY.—In conducting the study, the Secretary shall assess the potential impact on achieving balance in the production, marketing, and domestic commercial use of milkfat through adoption of multiple component pricing programs under Federal and State milk pricing programs.

''(c) REPORT.—Not later that 180 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary shall—

''(1) report the results of the study conducted under subsection (a), together with associated recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

''(2) publish the results of the study.

''(d) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—On completion and publication of the study described in this section, the Secretary shall—

''(1) announce a national hearing to consider the adoption of multiple component pricing provisions in individual Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

''(2) invite industry and consumer proposals on the specific provisions to be considered for each order.''

MARKETWIDE SERVICE PAYMENTS

Pub. L. 99–260, § 9, Mar. 20, 1986, 100 Stat. 51, provided that:

''(a) HEARING.—Not later than 90 days after receipt of a proposal to amend a milk marketing order in accordance with section 8c(5)(J) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(J)) (as added by section 133 of the Food Security Act of 1985), the Secretary of Agriculture shall conduct a hearing on the proposal.

''(b) IMPLEMENTATION.—Not later than 120 days after a hearing is conducted under subsection (a), the Secretary shall implement, in accordance with the Agricultural Adjustment Act [this chapter], a marketwide service payment program under section 8c(5)(J) of such Act that meets the requirements of such Act.''

TERMINATION OF MARKETING ORDERS

Section 1662(b) of Pub. L. 99–198 provided that: ''The Secretary of Agriculture may not terminate any marketing order under section 8c(16) of the of the [so in original] Agricultural Adjustment Act (7 U.S.C. 608c(16)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, if such termination becomes effective before January 16, 1986.''

REPORT TO HOUSES OF CONGRESS REGARDING IMPLEMENTATION OF PROVISIONS RELATING TO HANDLING OF COMMODITIES

Section 401(b) of Pub. L. 95–279 provided that: ''Within a period of sixty days following the second anniversary of the implementation of this section, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that shall describe in detail how

this section has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted.''

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1985 AMENDMENT STATUS

Section 134 of Pub. L. 99–198 provided that: ''The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title [probably means this subtitle, subtitle C (§§131–134) of title I of Pub. L. 99–198, amending subsec. (5) of this section and provisions set out as a note above] take effect as it was before the effective date of such amendments.''

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1981 AMENDMENT STATUS

Section 102 of Pub. L. 97–98 provided that: ''The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 [this chapter] shall be the same subsequent to the adoption of the amendment made by the Agriculture and Food Act of 1981 [see Tables] as it was prior thereto.''

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1977 AMENDMENT STATUS

Pub. L. 95–113, title II, §202, Sept. 29, 1977, 91 Stat. 919, provided that: ''The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act [see Short Title note set out under section 601 of this title], as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [act June 3, 1937, ch. 296, 50 Stat. 246, set out as a note under section 601 of this title] shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] as it was prior thereto.''

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1973 AMENDMENT STATUS

Section 206 of Pub. L. 91–524, as added by Pub. L. 93–86, §1(6), Aug. 10, 1973, 87 Stat. 224; amended Pub. L. 93–125, §1(a)(iii), Oct. 18, 1973, 87 Stat. 450, provided that: ''The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture and Consumer Protection Act of 1973 [amending this section and sections 450*l*, 1446, and 1446a of this title] as it was prior thereto.''

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1970 AMENDMENT STATUS

Section 201(b) of Pub. L. 91–524 provided that: ''The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this Act [amending subsec. (5)(B) of this section] as it was prior thereto.''

RATIFICATION, LEGALIZATION, CONFIRMATION, AND EXTENSION OF CLASS I BASE PLAN PROVISIONS IN MARKETING ORDERS ISSUED PRIOR TO NOV. 30, 1970

Section 201(c) of Pub. L. 91–524 provided that: ''Nothing in subsection (a) of this section 201 [amending subsec. (5)(B) of this section] shall be construed as invalidating any class I base plan provisions of any marketing order previously issued by the Secretary of Agriculture pursuant to authority contained in the Food and Agriculture Act of 1965 (79 Stat. 1187), but such provisions are expressly ratified, legalized, and confirmed and may be extended through and including December 31, 1971.''

REAFFIRMATION OF SUBSEC. (5)(G) OF THIS SECTION

Section 201(d) of Pub. L. 91–524 provided that: ''It is not intended that existing law be in any way altered, rescinded, or amended with respect to section 8c(5)(G) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [subsec. (5)(G) of this section], and such section 8c(5)(G) is fully reaffirmed.''

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5)(B)(d) and (6)(B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See note set out under section 601 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see rule 4.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus, marketing agreements relating to, see section 853 of this title.

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Referendum on quotas established for tobacco, corn, wheat, cotton, and rice, see sections 1312 and 1336 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 608d, 608e–1, 610, 627, 672, 673, 853, 855, 1392, 6409, 7253, 7256, 7401 of this title.

§ 608c–1. Repealed. June 29, 1945, ch. 196, 59 Stat. 263

Section, acts Apr. 13, 1938, ch. 143, §3, 52 Stat. 215; May 26, 1939, ch. 150, 53 Stat. 782; Feb. 10, 1942, ch. 52, §1, 56 Stat. 85, related to orders applicable to hops. Section was not a part of the Agricultural Adjustment Act of 1933.

§ 608d. Books and records

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this chapter and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished,

the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section, as well as information for marketing order programs that is categorized as trade secrets and commercial or financial information exempt under section 552(b)(4) of title 5 from disclosure under section 552 of such title, shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Notwithstanding the preceding sentence, any such information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains. The Secretary shall notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and shall include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(3) COLLECTION OF CRANBERRY INVENTORY DATA.—

(A) IN GENERAL.—If an order is in effect with respect to cranberries, the Secretary of Agriculture may require persons engaged in the handling or importation of cranberries or cranberry products (including producer-handlers, second handlers, processors, brokers, and importers) to provide such information as the Secretary considers necessary to effectuate the declared policy of this chapter, including information on acquisitions, inventories, and dispositions of cranberries and cranberry products.

(B) DELEGATION TO COMMITTEE.—The Secretary may delegate the authority to carry out subparagraph (A) to any committee that is responsible for administering an order covering cranberries.

(C) CONFIDENTIALITY.—Paragraph (2) shall apply to information provided under this paragraph.

(D) VIOLATIONS.—Any person who violates this paragraph shall be subject to the penalties provided under section 608c(14) of this title.

(May 12, 1933, ch. 25, title I, § 8d, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 761; amended June 3, 1937, ch. 296, § 1, 50 Stat. 246; Pub. L. 99–198, title XVI, § 1663, Dec. 23, 1985, 99 Stat. 1631; Pub. L. 106–78, title VII, § 757(b), Oct. 22, 1999, 113 Stat. 1171.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (1), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CODIFICATION

Act Aug. 24, 1935, struck out provisions of section 8(4) of act May 12, 1933, formerly appearing in section 608(4) of this title and added a new section 8d containing provisions appearing in text.

AMENDMENTS

1999—Subsec. (3). Pub. L. 106–78 added subsec. (3).

1985—Subsec. (2). Pub. L. 99–198, § 1663(1), extended confidentiality requirement to include information for marketing order programs that is categorized as trade secrets and commercial or financial information that is exempt from disclosure under section 552 of title 5.

Pub. L. 99–198, § 1663(2), inserted provisions directing that confidential information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains and that the Secretary notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses.

RELEASE OF INFORMATION

Pub. L. 103–111, title VII, § 715, Oct. 21, 1993, 107 Stat. 1079, provided that: ''Hereafter, none of the funds available to the Department of Agriculture may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended [see section 674 of this title]: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–341, title VII, § 721, Aug. 14, 1992, 106 Stat. 908.
Pub. L. 102–142, title VII, § 728, Oct. 28, 1991, 105 Stat. 914.
Pub. L. 101–506, title VI, § 630, Nov. 5, 1990, 104 Stat. 1349.
Pub. L. 101–161, title VI, § 630, Nov. 21, 1989, 103 Stat. 985.
Pub. L. 100–460, title VI, § 630, Oct. 1, 1988, 102 Stat. 2262.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

CROSS REFERENCES

Amendments to orders, section as applicable to, see section 608c of this title.
Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 610, 627, 672, 673, 855, 1392 of this title.

§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302(d), 62 Stat. 1258

Section, act May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 762; amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

EFFECTIVE DATE OF REPEAL

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

§ 608e–1. Import prohibitions on specified foreign produce

(a) Import prohibitions on tomatoes, avocados, limes, etc.

Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, table grapes, eggplants, kiwifruit, nectarines, plums, pistachios, or apples produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if[1] this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(b) Extension of time for marketing order; factors; review

(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

(A) to effectuate the purposes of this chapter; and

(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary);

(B) if the importation into the United States of such commodity did, or was likely to, cir-

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

cumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

(3) An additional period established by the Secretary in accordance with this subsection shall be—

(A) announced not later than 30 days before the date such additional period is to be in effect; and

(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.

(c) Notification of United States Trade Representative of import restrictions; advisement of Secretary of Agriculture

Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

(d) Proposed prohibition or regulation; authority of Secretary of Agriculture to proceed

The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of the United States Trade Representative within 60 days of the notification under subsection (c)(1) of this section.

(May 12, 1933, ch. 25, title I, § 8e, as added Aug. 28, 1954, ch. 1041, title IV, § 401(e), 68 Stat. 907; amended Aug. 31, 1954, ch. 1172, § 3(a), 68 Stat. 1047; Pub. L. 87–128, title I, § 141(5), Aug. 8, 1961, 75 Stat. 305; Pub. L. 91–670, title IV, § 401, Jan. 11, 1971, 84 Stat. 2047; Pub. L. 95–113, title X, § 1006, Sept. 29, 1977, 91 Stat. 951; Pub. L. 97–312, § 2, Oct. 14, 1982, 96 Stat. 1461; Pub. L. 100–418, title IV, § 4603, Aug. 23, 1988, 102 Stat. 1407; Pub. L. 101–624, title XIII, §§ 1307, 1308, Nov. 28, 1990, 104 Stat. 3561.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624, §§ 1307, 1308(1), substituted ''Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law,'' for ''Notwithstanding any other provision of law,'' and ''eggplants, kiwifruit, nectarines, plums, pistachios, or apples'' for ''or eggplants''.

Subsecs. (c), (d). Pub. L. 101–624, § 1308(2), added subsecs. (c) and (d).

1988—Pub. L. 100–418 designated existing provisions as subsec. (a) and added subsec. (b).

1982—Pub. L. 97–312 extended import prohibition to table grapes.

1977—Pub. L. 95–113 extended import prohibition to filberts.

1971—Pub. L. 91–670 extended import prohibition to raisins, olives (other than Spanish-style green olives), and prunes.

1961—Pub. L. 87–128 extended importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.

1954—Act Aug. 31, 1954, made section applicable to mangoes.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3(b) of act Aug. 31, 1954, provided that: ''The amendment made by this section [amending this section] shall become effective upon the enactment of this Act [Aug. 31, 1954] or upon the enactment of the Agricultural Act of 1954 [Aug. 28, 1954], whichever occurs later.''

§ 608f. Repealed. Pub. L. 89–106, § 9, Aug. 4, 1965, 79 Stat. 432

Section, act May 12, 1933, ch. 25, title I, § 8f, formerly § 8(5), 48 Stat. 34; renumbered § 8f and amended Aug. 24, 1935, ch. 641, § 7, 49 Stat. 762; Oct. 8, 1940, ch. 759, 54 Stat. 1019, prohibited, except in specified cases, the shipment of grain from public grain warehouses to other warehouse without cancellation of warehouse receipts to avoid conflict with other laws regulating warehousemen.

§ 609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering

(a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the market-

ing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b) of this section. Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that all payments authorized under section 608 of this title which are in effect are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932, act June 6, 1932, ch. 209, 47 Stat. 169–289, and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

(b)(1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this chapter, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 615(c) of this title with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity, which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on August 24, 1935, during the period from such date to December 31, 1937, both dates inclusive.

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 616 of this title shall not apply in the case of rye.

(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 616 of this title shall not apply in the case of barley.

(6)(A) Any rate of tax which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of

paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph.

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or is established pursuant to this paragraph, during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph, until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this chapter, any rate of tax prescribed in paragraphs (2) to (4) or (5) of this subsection or which is established pursuant to this paragraph shall be increased.

(E) Any tax, the rate of which is prescribed in paragraphs (2) to (4), or (5) of this subsection or which is established pursuant to this paragraph, shall terminate pursuant to proclamation as provided in subsection (a) of this section or pursuant to section 613 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in subsection (a) of this section shall again become effective at the rate prescribed in paragraphs (2) to (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph, from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in subsection (a) of this section, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to this section or terminated pursuant to section 613 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this chapter but not in this paragraph, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph, is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this chapter, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this chapter on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph), rates of tax fixed under paragraphs (2) to (4), or (5) of this subsection, and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in subsection (a) of this section or pursuant to section 613 of this title) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2) to (4), and (5) shall not be levied, assessed, collected or paid.

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the pro-

visions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001[1] of title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of title 19.

(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

(c) For the purposes of this chapter, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 602 of this title; and, in the case of all commodities where the base period is the prewar period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section.

(d) As used in this chapter—

(1) In case of wheat, rye, barley and corn, the term ''processing'' means the milling or other processing (except cleaning and drying) of wheat, rye, barley or corn for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only.

(2) In case of cotton, the term ''processing'' means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term ''cotton'' shall not include cotton linters.

(3) In case of tobacco, the term ''processing'' means the manufacturing or other processing (except drying or converting into insecticides and fertilizers) of tobacco.

(4) Repealed. June 26, 1934, ch. 759, §2(a), 48 Stat. 1242.

(5) Repealed. Aug. 24, 1935, ch. 641, §14(b), 49 Stat. 767.

(6) In the case of sugar beets and sugarcane—

(A) The term ''first domestic processing'' means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.

(B) The term ''sugar'' means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups, and any mixture containing sugar (except blackstrap molasses and beet molasses).

(C) The term ''blackstrap molasses'' means the commercially so-designated ''byproduct'' of the cane-sugar industry, not used for human consumption or for the extraction of sugar.

(D) The term ''beet molasses'' means the commercially so-designated ''byproduct'' of the beet-sugar industry, not used for human consumption or for the extraction of sugar.

(E) The term ''raw sugar'' means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or which shall be, further refined (or improved in quality, or further prepared for distribution or use).

(F) The term ''direct-consumption sugar'' means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

(G) The term ''raw value'' means a standard unit of sugar testing ninety-six sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of ''raw value'' and for purposes of quota and tax measurements all sugar shall be translated into terms of ''raw value'' according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof.

(7) In the case of rice—

(A) The term ''rough rice'' means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term ''processing'' means the cleaning shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term ''processing'' means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term ''cooperating producer'' means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term ''processor'', as used in subsection (b–1) of section 615 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

(8) In the case of any other commodity, the term ''processing'' means any manufacturing or

[1] See References in Text note below.

other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) For the purposes of this chapter, processing shall be held to include manufacturing.

(g) Nothing contained in this chapter shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint.

(May 12, 1933, ch. 25, title I, § 9, 48 Stat. 35; Apr. 7, 1934, ch. 103, § 3(a), 48 Stat. 528; May 9, 1934, ch. 263, §§ 2, 3, 5, 6, 9, 48 Stat. 670, 671, 675, 676; June 26, 1934, ch. 759, § 2, 48 Stat. 1242; Mar. 18, 1935, ch. 32, §§ 1–6, 49 Stat. 45, 46; Aug. 24, 1935, ch. 641, §§ 11–15, 49 Stat. 762–767.)

References in Text

Section 1001 of title 19, referred to in subsec. (b)(8), was repealed by Pub. L. 87–456, title I, § 101(a), May 24, 1962, 76 Stat. 72. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The treaty of commercial reciprocity concluded between the United States and Cuba on December 11, 1902, referred to in subsec. (b)(8), was terminated Aug. 21, 1963, pursuant to notice given by the United States on Aug. 21, 1962. See, Bevans, *Treaties and Other International Agreements of the United States of America, 1776–1949*, vol. VI, page 1106.

Sections 124 and 125 of title 19, referred to in subsec. (b)(8), have been omitted from the Code.

Phrase ''this amendment'' in subsec. (c) refers to amendments by act Aug. 24, 1935.

Amendments

1935—Subsec. (a). Act Aug. 24, 1935, § 11, struck out second sentence preceding semicolon and inserted in lieu thereof ''When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation.''

Act Mar. 18, 1935, §§ 1, 2, struck out comma after ''except that'' in second sentence and inserted in lieu thereof ''(i)'', and inserted ''and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935''.

Subsec. (b). Act Aug. 24, 1935, § 12, amended subsec. (b) generally.

Act Mar. 18, 1935, §§ 3, 4, among other changes inserted ''In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.''

Subsec. (c). Act Aug. 24, 1935, § 13, among other changes inserted ''The rate of tax upon the processing of any commodity, in effect on August 24, 1935, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to subsection (a) of this section.''

Subsec. (d). Act Aug. 24, 1935, § 14, inserted '', rye, barley'' after ''wheat'' wherever appearing and struck out par. (5).

Act Mar. 18, 1935, §§ 5, 6, struck out '', rice,'' in two places in par. (1), added par. (7), and renumbered former par. (7) as (8).

Subsec. (g). Act Aug. 24, 1935, § 15, added subsec. (g).

1934—Subsec. (a). Act May 9, 1934, § 9, struck out the period after ''proclamation'' and inserted in lieu thereof ''; except that, in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934.''

Subsec. (b). Act May 9, 1934, § 3, among other changes amended first two sentences and inserted ''In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001 of Title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of Title 19.''

Subsec. (d). Act June 26, 1934, § 2(a), struck out par. (4).

Act June 26, 1934, § 2(b), amended par. (7).

Act May 9, 1934, §§ 2, 5, amended par. (6) generally and renumbered former par. (6) as (7).

Act Apr. 7, 1934, added par. (5) and renumbered former par. (5) as (6).

Subsec. (f). Act May 9, 1934, § 6, added subsec. (f).

Unconstitutionality

This section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See *U.S. v. Butler*, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

Separability

Validity of remainder of this chapter as not affected should any of those provisions be declared unconstitutional, see section 614 of this title.

Cross References

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 619a, 673 of this title; title 12 section 1150a.

§ 610. Administration

(a) Appointment of officers and employees; impounding appropriations

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, and such experts, as are necessary to execute the functions vested in him by this chapter: *Provided*, That the Secretary shall establish the Agricultural Adjustment Administration in the Department of Agriculture for the administration of the functions vested in him by this chapter: And *provided further*, That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled ''An Act to maintain the credit of the United States Government,'' approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in this chapter.

(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this chapter, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2)(i) Each order relating to milk and its products issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order throughout the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(c) Regulations; penalty for violation

The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this chapter. Any violation of any regulation shall be subject to such penalty, not in excess of $100, as may be provided therein.

(d) Regulations of Secretary of the Treasury

The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this chapter.

(e) Review of official acts

The action of any officer, employee, or agent in determining the amount of and in making any payment authorized to be made under section 608 of this title shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(f) Geographical application

The provisions of this chapter shall be applicable to the United States and its possessions, except the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam; except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to

effectuate the declared policy of this chapter, is authorized by proclamation to make the provisions of this chapter applicable to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam.

(g) Officers; dealing or speculating in agricultural products; penalties

No person shall, while acting in any official capacity in the administration of this chapter, speculate, directly or indirectly, in any agricultural commodity or product thereof to which this chapter applies, or in contracts relating thereto, or in the stock or membership interest of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than two years, or both.

(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General

For the efficient administration of the provisions of this chapter, the provisions, including penalties, of sections 48, 49, and 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of this chapter, and to any person subject to the provisions of this chapter, whether or not a corporation. Hearings authorized or required under this chapter shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under this chapter, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) Cooperation with State authorities; imparting information

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this chapter and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 608d(1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d(2) of this title.

(j) Definitions

The term ''interstate or foreign commerce'' means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of this chapter (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word ''State'' includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(May 12, 1933, ch. 25, title I, § 10, 48 Stat. 37; June 16, 1933, ch. 98, title VIII, § 86, 48 Stat. 273; May 9, 1934, ch. 263, § 7, 48 Stat. 675; Aug. 24, 1935, ch. 641, §§ 16–18, 49 Stat. 767; Aug. 26, 1935, ch. 685, 49 Stat. 801; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; June 3, 1937, ch. 296, §§ 1, 2(g)–(i), 50 Stat. 246, 248; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352; Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

Section 8 of title II of the Act entitled ''An Act to maintain the credit of the United States Government,'', referred to in subsec. (a), means act Mar. 20, 1933, ch. 3, title II, § 8, 48 Stat. 15, which is not classified to the Code.

For definition of Canal Zone, referred to in subsec. (f), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (a), which authorized appointment of officers and employees without regard to the civil-service laws and regulations and which limited the maximum salary payable to any officer or employee to not more than $10,000 per annum, were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws en-

acted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

The salary limitation was superseded by the Classification Act of 1949.

References to the Philippine Islands in subsec. (f) of this section were omitted from the Code as obsolete in view of the independence of the Philippine Islands, proclaimed by the President of the United States in Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

1947—Subsec. (b)(2). Act Aug. 1, 1947, among other changes inserted subpar. (i), designated former first and second sentences of subsection as subpar. (ii) and inserted last sentence relating to the payment of assessments for the maintenance and functioning of such authority thereto, and designated former third and fourth sentences of subsection as subpar. (iii).

1937—Subsec. (c). Act June 3, 1937, §2(g), struck out last clause of first sentence which related to regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto.

Subsec. (f). Act June 3, 1937, §2(b), struck out sentence which authorized the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (j). Act June 3, 1937, §2(i), added subsec. (j).

1936—Subsec. (d). Act June 22, 1936, reenacted subsec. (d) for refund purposes.

1935—Subsec. (b). Act Aug. 24, 1935, §16, among other changes inserted ''The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

''(2) Each order issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.''

Subsec. (e). Act Aug. 24, 1935, §17, struck out ''rental or benefit payment'' and inserted in lieu thereof ''payment authorized to be made under section 8''.

Subsec. (f). Act Aug. 26, 1935, inserted sentence authorizing the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.

Subsec. (i). Act Aug. 24, 1935, §18, added subsec. (i).

1934—Subsec. (f). Act May 9, 1934, inserted exception provision.

1933—Subsec. (a). Act June 16, 1933, inserted ''*And provided further*, That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate'' at end of first sentence.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

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

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, transferred functions of Agricultural Adjustment Administration to Secretary of Agriculture. In his letter to Congress, the President stated that purpose of this transfer was to permit Secretary of Agriculture to continue consolidation already effected in Production and Marketing Administration. By temporary Executive Orders 9069 and 9577, and Ex. Ord. No. 9280, Dec. 5, 1942, 7 F.R. 10, 179, and Ex. Ord. No. 9322, Mar. 26, 1943, 8 F.R. 3807, as amended by Ex. Ord. No. 9334, Apr. 19, 1943, 8 F.R. 5423, the Agricultural Adjustment Administration had been successively consolidated into Agricultural Conservation and Adjustment Administration, Food Production Administration, and War Food Administration, which was terminated and its functions transferred to Secretary of Agriculture by said Ex. Ord. 9577. Secretary of Agriculture consolidated functions of Agricultural Adjustment Administration into Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, §1, affirmed, validated, and reenacted without change the provisions of subsecs. (a), (b)(2), (c), and (f) to (i) of this section, except for the amendments to subsecs. (c) and (f) by section 2 of the act. See note set out under section 601 of this title.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

EX. ORD. NO. 10199. REGULATIONS WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 10199, Dec. 21, 1950, 15 F.R. 9217, provided:

By virtue of the authority vested in me by the act of August 8, 1950, Public Law 673, 81st Congress [sections 301 to 303 of Title 3] I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by the Agricultural Marketing Agreement Act of 1937, as amended [this chapter].

HARRY S TRUMAN.

CROSS REFERENCES

Anti-hog-cholera serum and hog-cholera virus provisions, provisions of section as applicable to, see section 855 of this title.

Creditable service for retirement of employees of a committee or association of employees described by subsec. (b) of this section, see section 8332 of Title 5, Government Organization and Employees.

Member of agency as acting in an official capacity when compensated from United States funds, see section 608c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608c, 671, 672, 673, 855, 1392 of this title; title 5 sections 3502, 6312, 8332.

§ 611. "Basic agricultural commodity" defined; exclusion of commodities

As used in this chapter, the term ''basic agricultural commodity'' means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, potatoes, tobacco, sugar beets and sugarcane, peanuts, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this chapter, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this chapter can not be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. As used in this chapter, the term ''potatoes'' means all varieties of potatoes included in the species Solanum tuberosum.

(May 12, 1933, ch. 25, title I, § 11, 48 Stat. 38; Apr. 7, 1934, ch. 103, §§ 1, 3(b), 4, 5, 48 Stat. 528; May 9, 1934, ch. 263, § 1, 48 Stat. 670; Aug. 24, 1935, ch. 641, § 61, 49 Stat. 782.)

AMENDMENTS

1935—Act Aug. 24, 1935, inserted '', potatoes'' after ''rice'' and last sentence defining potatoes.

1934—Act May 9, 1934, inserted '', sugar beets and sugarcane'' after ''tobacco''.

Act Apr. 7, 1934, inserted '', cattle'' after ''hogs'', '', peanuts'' after ''tobacco'', '', rye, flax, barley'' after ''wheat'', and '', grain sorghums'' after ''field corn''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title; title 12 section 1150a.

§ 612. Appropriation; use of revenues; administrative expenses

(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this chapter, and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended.

To enable the Secretary of Agriculture to finance under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(b) In addition to the foregoing, for the purpose of effectuating the declared policy of this chapter, a sum equal to the proceeds derived from all taxes imposed under this chapter is appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this chapter, and (2) the following purposes under this chapter: Administrative expenses, payments authorized to be made under section 608 of this title, and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a) of this section, currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this chapter, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this chapter.

(May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, §§ 1, 2(j), 50 Stat. 246, 248.)

AMENDMENTS

1937—Subsec. (a). Act June 3, 1937, § 2(j), struck out ''and production adjustments'' after ''surplus reductions'' in second par.

1935—Subsec. (a). Act Aug. 24, 1935, § 19, substituted ''payments authorized to be made under section 608'' for ''rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title''.

Subsec. (b). Act Aug. 24, 1935, § 3, amended subsec. (b) generally.

1934—Subsec. (a). Act Apr. 7, 1934, added second par.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of subsecs. (a) and (c) of this section, except for the amendment to subsec.

(a) by section 2 of the act. See note set out under section 601 of this title.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made prior to January 6, 1936, under Agricultural Adjustment Act of 1933 or amendments thereto [this chapter] or under the appropriation ''Payments for Agricultural Adjustment'' in act Feb. 11, 1936, ch. 49, 49 Stat. 1116, upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

EX. ORD. NO. 10914. EXPANDED PROGRAM OF FOOD DISTRIBUTION TO NEEDY FAMILIES

Ex. Ord. No. 10914, Jan. 21, 1961, 26 F.R. 639, provided:

Whereas one of the most important and urgent problems confronting this Nation today is the development of a positive food and nutrition program for all Americans;

Whereas I have received the report of the Task Force on Area Redevelopment under the chairmanship of Senator Douglas, in which special emphasis is placed upon the need for additional food to supplement the diets of needy persons in areas of chronic unemployment;

Whereas I am also advised that there are now almost 7 million persons receiving some form of public assistance, that 4.5 million persons are reported as being unemployed and that a substantial number of needy persons are not recipients in the present food distribution program;

Whereas the variety of foods currently being made available is limited and its nutritional content inadequate; and

Whereas despite an abundance of food, farm income has been in a period of decline, and a strengthening of farm prices is desirable.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

The Secretary of Agriculture shall take immediate steps to expand and improve the program of food distribution throughout the United States, utilizing funds and existing statutory authority available to him, including section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612) [this section], so as to make available for distribution, through appropriate State and local agencies, to all needy families a greater variety and quantity of food out of our agricultural abundance.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 616, 672, 673, 724, 1392 of this title; title 12 section 1150a; title 31 section 1511.

§§ 612a, 612b. Omitted

CODIFICATION

Section 612a, act Apr. 7, 1934, ch. 103, §6, 48 Stat. 528; 1940 Reorg. Plan No. III, §5, 5 F.R. 2108, 54 Stat. 1232, authorized appropriation of $50,000,000 for purpose of dairy and beef products for distribution for relief purposes, and for elimination of diseased cattle.

Section 612b, act Aug. 24, 1935, ch. 641, §37, 49 Stat. 775, provided appropriations for elimination of disease in dairy and beef cattle to remain available until June 30, 1936.

§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products

There is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section. Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support under section 1446 of this title) and their products. The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over $300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of section 3690[1] of the Revised Statutes, and section 5[1] of the Act entitled ''An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy-five, and for other purposes''. A public or private nonprofit organiza-

[1] See References in Text note below.

tion that receives agricultural commodities or the products thereof under clause (2) of the second sentence may transfer such commodities or products to another public or private nonprofit organization that agrees to use such commodities or products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.

(Aug. 24, 1935, ch. 641, § 32, 49 Stat. 774; Feb. 29, 1936, ch. 104, § 2, 49 Stat. 1151; Feb. 16, 1938, ch. 30, title II, § 203, 52 Stat. 38; June 30, 1939, ch. 253, title I, 53 Stat. 975; July 3, 1948, ch. 827, title III, § 301, 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 411, 63 Stat. 1057; Jan. 30, 1954, ch. 2, § 5(b), 68 Stat. 7; Pub. L. 99–198, title XV, § 1561, Dec. 23, 1985, 99 Stat. 1589.)

REFERENCES IN TEXT

Section 3690 of the Revised Statutes, and section 5 of act June 30, 1875, referred to in text, which were classified to sections 712 and 713 of former Title 31, Money and Finance, were repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

CODIFICATION

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

AMENDMENTS

1985—Pub. L. 99–198 inserted sentence authorizing a public or private nonprofit organization that receives agricultural commodities or the products thereof under clause (2) of the second sentence to transfer such commodities or products to another public or private nonprofit organization that agrees to use such commodities or products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.

1954—Act Jan. 30, 1954, substituted ''(other than those receiving price support under section 1446 of this title)'' for ''(other than those designated in section 1446 of this title),'' in next to last sentence.

1949—Act Oct. 31, 1949, inserted sentence relating to perishable nonbasic agricultural commodities.

1948—Act July 3, 1948, inserted sentence providing for the accumulation of funds up to $300,000,000.

1939—Act June 30, 1939, in cl. (2), inserted ''or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low income groups as determined by the Secretary of Agriculture''.

1938—Act Feb. 16, 1938, inserted ''Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year.''

1936—Act Feb. 29, 1936, struck out cl. (3) and inserted in lieu thereof immediately preceding second proviso ''(3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section.''

EFFECTIVE DATE OF 1948 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

Federal Surplus Relief Corporation changed to Federal Surplus Commodities Corporation by amendment of its charter in 1935. It consolidated with Division of Marketing and Marketing Agreements of Agricultural Adjustment Administration to form Surplus Marketing Administration by 1940 Reorg. Plan No. III, § 5, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. By Executive orders under First War Powers Act, former section 601 et seq. of Appendix to Title 50, War and National Defense, Surplus Marketing Administration merged into Agricultural Marketing Administration, which consolidated into Food Distribution Administration, which consolidated into War Food Administration, which terminated and its functions transferred to Secretary of Agriculture. By Memorandum 1118, Secretary of Agriculture, Aug. 18, 1945, functions of Federal Surplus Commodities Corporation transferred to Production and Marketing Administration. 1946 Reorg. Plan No. 3, § 501(a), eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, transferred functions of Surplus Marketing Administration to Secretary of Agriculture. In his letter to Congress, the President stated that purpose of this transfer was to permit Secretary of Agriculture to continue the consolidation already effected in Production and Marketing Administration.

Federal Surplus Commodities Corporation and Division of Marketing and Marketing Agreements of Agricultural Adjustment Administration and their functions consolidated into Surplus Marketing Administration in Department of Agriculture by Reorg. Plan No. III, § 5, eff. June 30, 1940, set out in the Appendix to Title 5. See, also, sections 8 and 9 of said plan for provisions relating to transfer of records, property, personnel, and funds.

ADDITIONAL APPROPRIATIONS

Joint Res. July 1, 1941, ch. 266, § 34, 55 Stat. 407, appropriated, in addition to the funds already provided, $25,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act July 1, 1941, ch. 267, § 1, 55 Stat. 435, made the funds provided for in this section available for the fiscal year 1942.

Joint Res. June 26, 1940, ch. 432, § 41, 54 Stat. 627, appropriated, in addition to the funds already provided, $50,000,000, to be used by the Secretary of Agriculture, for the purpose of effectuating this section, subject to the provisions of law relating to the expenditure of such funds.

Act June 25, 1940, ch. 421, § 1, 54 Stat. 561, made the funds provided for in this section available for the fiscal year 1941.

Act June 30, 1939, besides amending clause 2, provided for the availability of funds provided by this section during the fiscal year 1940.

Act Aug. 25, 1937, ch. 757, title I, § 1, 50 Stat. 762, provided for availability of portions of funds available under this section in fiscal years 1938 and 1939, for expenditure for price-adjustment payments with respect to 1937 cotton crop.

USE OF APPROPRIATION

Section 301 of act July 30, 1947, ch. 356, title III, 61 Stat. 550, provided that, notwithstanding section 612c of this title, no more than $44,000,000 would be available during the fiscal year ending June 30, 1948, for use in effectuating this chapter; that $65,000,000 of the fiscal year 1948 appropriation were made available to carry out the National School Lunch Act of June 4, 1946,

without regard to the 25 per cent limitation in section 612c and exclusive of funds expended pursuant to the last sentence of section 9 of the National School Lunch Act: provided that no part of such funds were to be used for nonfood assistance under section 5 of said Act; and that the remainder of the fund appropriated by said Act for the fiscal year 1948 was rescinded effective July 1, 1947, carried to the surplus fund, and covered into the Treasury immediately thereafter.

CANCELLATION OR RESCISSION OF APPROPRIATION

Section 112(f) of act Apr. 3, 1948, ch. 169, title I, 62 Stat. 148, which provided in part for the rescission or cancellation of appropriations under this section as provided for in act July 30, 1947, ch. 356, title III, 61 Stat. 550, was repealed by act Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7 (c), 66 Stat. 144.

DOMESTIC FISH OR FISH PRODUCT COMPLIANCE WITH FOOD SAFETY STANDARDS OR PROCEDURES DEEMED TO HAVE MET REQUIREMENTS FOR FEDERAL COMMODITY PURCHASE PROGRAMS

Domestic fish or fish products produced in compliance with food safety standards or procedures accepted by Food and Drug Administration deemed to have met inspection requirements for program authorized by this section, except that lot inspections may be utilized, see section 733 of Pub. L. 104–180, set out as a note under section 342 of Title 21, Food and Drugs.

REPORT ON ENTITLEMENT COMMODITY PROCESSING

Pub. L. 101–624, title XVII, §1773(f), Nov. 28, 1990, 104 Stat. 3811, directed Comptroller General of the United States, not later than Jan. 1, 1992, to submit a report to Congress regarding processing of entitlement commodities used in child nutrition programs, with evaluation of extent to which processing of entitlement commodities occurs in the States, governmental requirements for participation in the processing vary among States, and entitlement commodity recipients are satisfied with access to and services provided through entitlement commodity processing, prior to repeal by Pub. L. 104–193, title VIII, §874, Aug. 22, 1996, 110 Stat. 2346.

SOUP KITCHENS AND OTHER EMERGENCY FOOD AID

Pub. L. 100–435, title I, §110, Sept. 19, 1988, 102 Stat. 1651, as amended by Pub. L. 101–624, title XVII, §1774(a), Nov. 28, 1990, 104 Stat. 3811; Pub. L. 102–237, title IX, §922(a), Dec. 13, 1991, 105 Stat. 1888; Pub. L. 104–127, title IV, §404, Apr. 4, 1996, 110 Stat. 1029, established formula so that amount, measured by their value, of additional commodities that were to be provided to each State for redistribution to soup kitchens and food banks could be precisely calculated for fiscal years 1989 through 2002, and further provided for definitions, appropriations through fiscal year 2002 to purchase additional commodities, mandatory allotments to States, maintenance of effort by States, authority of Secretary to establish different formula for allocation of commodities, priority system for State distribution of commodities, and settlement and adjustment of claims, prior to repeal by Pub. L. 104–193, title VIII, §873(1), Aug. 22, 1996, 110 Stat. 2346.

GLEANING CLEARINGHOUSES

Pub. L. 100–435, title I, §111, Sept. 19, 1988, 102 Stat. 1654, as amended by Pub. L. 101–624, title XVII, §1774(b), Nov. 28, 1990, 104 Stat. 3812, provided that:

''(a) DEFINITION OF GLEANING.—For purposes of this section, the term 'to glean' means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute the products to needy individuals, including unemployed and low-income individuals, and the term includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') is authorized to assist States and private nonprofit organizations in establishing Gleaning Clearinghouses (hereafter in this section referred to as a 'Clearinghouse').

''(2) ASSISTANCE.—The Secretary is authorized to provide technical information and other assistance considered appropriate by the Secretary to encourage public and nonprofit private organizations to—

''(A) initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may consider appropriate;

''(B) collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, quantities, and geographical locations of agricultural products not completely harvested;

''(C) gather, compile, and make available to public and nonprofit private organizations and to the public the statistics and other information collected under this paragraph, at reasonable intervals;

''(D) establish and operate a toll-free telephone line by which—

''(i) farmers, processors, and retailers may report to a Clearinghouse for dissemination information regarding unharvested crops and agricultural products available for gleaning, and may also report how they may be contacted;

''(ii) public and nonprofit organizations that wish to glean or to assist others to glean, may report to a Clearinghouse the kinds and amounts of products that are wanted for gleaning, and may also report how they may be contacted;

''(iii) persons who can transport crops or products may report the availability of free transportation for gleaned crops or products; and

''(iv) information about gleaning can be provided without charge by a Clearinghouse to the persons and organizations described in clauses (i), (ii), and (iii);

''(E) prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to—

''(i) organize groups to engage in gleaning; and

''(ii) distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned; or

''(F) advertise in print, on radio, television, or through other media, as the Secretary considers to be appropriate, the services offered by a Clearinghouse under this section.''

[Section 111 of Pub. L. 100–435 effective and implemented on Oct. 1, 1988, except that such section to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (c)(2) of Pub. L. 100–435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.]

CONTINUATION OF PROVISION OF CHEESE SUPPLIES

Pub. L. 100–435, title I, §130, Sept. 19, 1988, 102 Stat. 1655, was redesignated section 5(d)(2) of Pub. L. 93–86, set out below, by Pub. L. 101–624, title XVII, §1774(c)(2)(A), Nov. 28, 1990, 104 Stat. 3813.

ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES

Pub. L. 100–435, title II, §220, Sept. 19, 1988, 102 Stat. 1659, as amended by Pub. L. 101–624, title XVII,

§ 1772(h)(5), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 102–237, title IX, § 942, Dec. 13, 1991, 105 Stat. 1893, provided that, not later than 60 days after Sept. 19, 1988, Secretary of Agriculture was, to extent that Commodity Credit Corporation's inventory levels permitted, solicit applications for surplus commodities available for distribution under section 202 of Pub. L. 98–8 (7 U.S.C. 7502), and further provided for requirements for solicitations as well as review of applications, prior to repeal by Pub. L. 104–193, title VIII, § 873(2), Aug. 22, 1996, 110 Stat. 2346.

FOOD BANK DEMONSTRATION PROJECTS

Pub. L. 100–435, title V, § 502, Sept. 19, 1988, 102 Stat. 1671, authorized Secretary of Agriculture to carry out demonstration projects to provide and redistribute certain agricultural commodities to needy individuals and families through community food banks and other charitable food banks, authorized Secretary to determine quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks, and provided for report to Congress not later than July 1, 1990, as well as for termination of authority on Sept. 30, 1990, and appropriations to carry out projects, prior to repeal by Pub. L. 104–193, title VIII, § 873(3), Aug. 22, 1996, 110 Stat. 2346.

COMMODITY DISTRIBUTION REFORM

Pub. L. 100–237, §§ 1–4, 7, 13–18, Jan. 8, 1988, 101 Stat. 1733, 1739, 1740, 1742, 1743, as amended by Pub. L. 101–624, title XVII, §§ 1772(h)(3), (4), 1773(a)–(e), Nov. 28, 1990, 104 Stat. 3809–3811; Pub. L. 102–342, title IV, § 401, Aug. 14, 1992, 106 Stat. 914; Pub. L. 103–448, title III, § 303, Nov. 2, 1994, 108 Stat. 4750; Pub. L. 105–336, title III, §§ 301, 302, Oct. 31, 1998, 112 Stat. 3167, 3168; Pub. L. 106–78, title VII, § 752(b)(1), Oct. 22, 1999, 113 Stat. 1169, provided that:

''SECTION 1. SHORT TITLE.

''This Act [amending section 1431e of this title and sections 1755, 1769, and 1786 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 1786 of Title 42] may be cited as the 'Commodity Distribution Reform Act and WIC Amendments of 1987'.

''SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

''(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution reponds [sic] to the needs of the recipient agencies.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

''(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

''(2) is inextricably linked to the agricultural support and surplus removal programs; and

''(3) is an important mission of the Secretary of Agriculture.

''SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

''(a) COMMODITIES SPECIFICATIONS.—

''(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2), the Secretary shall—

''(A) consult with the advisory council established under paragraph (3);

''(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

''(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

''(i) of the quality, size, and form most usable by recipient agencies; and

''(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

''(2) APPLICABILITY.—Paragraph (1) shall apply to—

''(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86] (7 U.S.C. 612c note);

''(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

''(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

''(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

''(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

''(F) to the extent practicable—

''(i) the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (Public Law 100–237 [Pub. L. 98–8, title II]; 7 U.S.C. 612c note) [7 U.S.C. 7501 et seq.]; and

''(ii) programs under which food is donated to charitable institutions.

''(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than nine and not more than 15 members to the council, including—

''(i) representatives of recipient agencies, including food banks;

''(ii) representatives of food processors and food distributors;

''(iii) representatives of agricultural organizations;

''(iv) representatives of State distribution agency directors; and

''(v) representatives of State advisory committees.

''(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

''(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

''(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor [now Committee on Education and the Workforce] and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(E) The council shall expire on September 30, 1996.

''(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

''(1) before the end of the 270-day period beginning on the date of the enactment of this Act [Jan. 8, 1988]—

''(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection

(f)(2), taking into account the duty of the Secretary—

''(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

''(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.) [probably means section 32 of act Aug. 24, 1935, which is classified to section 612c of this title]; and

''(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

''(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86] (7 U.S.C. 612c note);

''(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

''(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

''(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

''(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

''(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

''(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act [Jan. 8, 1988] and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

''(3) before the end of the 120-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], implement a system under which the Secretary shall—

''(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

''(B) require State agencies to make such summaries available to recipient agencies on request;

''(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

''(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

''(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

''(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

''(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

''(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

''(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

''(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

''(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

''(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

''(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—On or before July 1, 1992, the Secretary shall by regulation require each State distribution agency to—

''(1) evaluate its system for warehousing and distributing donated commodities to recipient agencies designated in subparagraphs (A) and (B) of section 13(3) (hereafter referred to in this Act as 'child and elderly nutrition program recipient agencies');

''(2) in the case of State distribution agencies that require payment of fees by child and elderly nutrition program recipient agencies for any aspect of warehousing or distribution, implement the warehousing and distribution system that provides donated commodities to such recipient agencies in the most efficient manner, at the lowest cost to such recipient agencies, and at a level that is not less than a basic level of services determined by the Secretary;

''(3) in determining the most efficient and lowest cost system, use commercial facilities for providing warehousing and distribution services to such recipient agencies, unless the State applies to the Secretary for approval to use other facilities demonstrating that, when both direct and indirect costs incurred by such recipient agencies are considered, such other facilities are more efficient and provide services at a lower total cost to such recipient agencies;

''(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

''(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

''(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

''(B) develop a system for monitoring product acceptability.

''(e) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall provide by regulation for—

''(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and indus-

try charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

''(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

''(C) procedures for allocating donated commodities among the States; and

''(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

''(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

''(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c); and

''(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

''(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86] (7 U.S.C. 612c note);

''(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

''(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

''(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

''(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

''(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

''(A) regulations as required by paragraph (1)(D) before the end of the 90-day period beginning on the date of enactment of this Act [Jan. 8, 1988]; and

''(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

''(f) REVIEW OF PROVISION OF COMMODITIES.—

''(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act [Jan. 8, 1988], the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

''(2) INFORMATION FROM RECIPIENT AGENCIES.—

''(A) IN GENERAL.—The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful to persons participating in programs described in subsection (a)(2) is collected from recipient agencies operating the programs.

''(B) FREQUENCY.—The information shall be collected at least once every 2 years.

''(C) ADDITIONAL SUBMISSIONS.—The Secretary shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.

''(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

''(h) BUY AMERICAN PROVISION.—

''(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

''(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

''(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

''(B) for such other circumstances as the Secretary considers appropriate.

''(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands. The requirement established in paragraph (1) shall apply to recipient agencies in Hawaii only with respect to the purchase of pineapples.

''(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

''(j) [Amended section 1755(e) of Title 42, The Public Health and Welfare.]

''(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

''SEC. 3A. ADVANCE FUNDING FOR STATE OPTION CONTRACTS.

''(a) IN GENERAL.—The Secretary may use the funds of the Commodity Credit Corporation and funds made available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost, as agreed on with the State distribution agency, of food or the processing or packaging of food on behalf of a State distribution agency.

''(b) REIMBURSEMENT.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.

''SEC. 4. FOOD BANK PROJECT.

''(a) COMMUNITY FOOD BANKS.—The Secretary shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

''(b) RECORDKEEPING AND MONITORING.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

''(c) DETERMINATION OF QUANTITIES, VARIETIES, AND TYPES OF COMMODITIES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

''(d) EFFECTIVE PERIOD.—This section shall be effective for the period beginning on the date of enactment of this Act [Jan. 8, 1988].

''SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

''(a) ASSESSMENT.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act [see section 1 set out above].

''(b) REPORT.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act [Jan. 8, 1988], the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

''SEC. 13. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.

''(a) TRANSFER.—Subject to subsection (b), the Secretary may transfer any commodities purchased with appropriated funds for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.

''(b) REIMBURSEMENT.—The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.

''(c) CREDITING.—Any reimbursement made under subsection (b) shall—

''(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

''(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

''SEC. 14. AUTHORITY TO RESOLVE CLAIMS.

''(a) IN GENERAL.—The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.

''(b) WAIVER.—The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.

''(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.

''SEC. 15. PAYMENT OF COSTS ASSOCIATED WITH REMOVAL OF COMMODITIES THAT POSE A HEALTH OR SAFETY RISK.

''(a) IN GENERAL.—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with the removal of commodities distributed under any domestic food assistance program administered by the Secretary if the Secretary determines that the commodities pose a health or safety risk.

''(b) ALLOWABLE COSTS.—The costs—

''(1) may include costs for storage, transportation, processing, and destruction of the commodities described in subsection (a); and

''(2) shall be subject to the approval of the Secretary.

''(c) REPLACEMENT COMMODITIES.—

''(1) IN GENERAL.—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the commodities described in subsection (a).

''(2) RECOVERY.—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the commodities described in subsection (a).

''(d) CREDITING OF RECOVERED FUNDS.—Funds recovered from a supplier or other entity regarding the commodities described in subsection (a) shall—

''(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, ch. 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

''(2) remain available to carry out the purposes of section 32 of that Act until expended.

''(e) TERMINATION DATE.—The authority provided by this section terminates effective October 1, 2000.

''SEC. 16. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.

''(a) IN GENERAL.—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).

''(b) USE.—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.

''(c) PAYMENT.—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).

''SEC. 17. DEFINITIONS.

''For purposes of this Act:

''(1) The term 'donated commodities' means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

''(2) The term 'entitlement commodities' means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

''(3) The term 'recipient agency' means—

''(A) a school, school food service authority, or other agency authorized under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

''(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

''(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86] (7 U.S.C. 612c note);

''(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

''(E) an agency or organization distributing commodities under a program established in section 202 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) [7 U.S.C. 7502].

''(4) The term 'State distribution agency' means a State agency responsible for the intrastate distribution of donated commodities.

''(5) The term 'Secretary' means Secretary of Agriculture, unless the context specifies otherwise.

''SEC. 18. GENERAL EFFECTIVE DATE.

''Except as otherwise provided in this Act, this Act and the amendments made by this Act [see section 1

above] shall take effect on the date of the enactment of this Act [Jan. 8, 1988].''

[Pub. L. 106–78, § 752(b)(1), which directed amendment of section 13(3)(A) of Pub. L. 100–237, was executed by amending section 17(3)(A) of Pub. L. 100–237, set out above, to reflect the probable intent of Congress.]

FOOD BANK DEMONSTRATION PROJECT

Pub. L. 100–232, § 3, Jan. 5, 1988, 101 Stat. 1566, authorized Secretary of Agriculture to carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under this section to needy individuals and families through community food banks and to use State agency or any other food distribution system for such provision or redistribution of commodities and food products, further required each food bank participating in demonstration projects to establish record-keeping system and internal procedures to monitor use of agricultural commodities and food products, authorized Secretary to determine quantities, varieties, and types of agricultural commodities and food products to be made available, and further provided for termination of authority on Dec. 31, 1990, and annual progress reports by Secretary, prior to repeal by Pub. L. 104–193, title VIII, § 872, Aug. 22, 1996, 110 Stat. 2346.

CONTINUATION OF DISTRIBUTION OF AGRICULTURAL COMMODITIES TO LOW-INCOME ELDERLY AT EXISTING LEVELS

Section 1562(d) of Pub. L. 99–198 provided that: ''Notwithstanding any other provision of law, in implementing the commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86, set out as a note below], the Secretary of Agriculture shall allow agencies distributing agricultural commodities to low-income elderly people under such programs on the date of enactment of this Act [Dec. 23, 1985] to continue such distribution at levels no lower than existing caseloads.''

REPORT TO CONGRESS ON ACTIVITIES OF PROGRAM CONDUCTED UNDER TEMPORARY EMERGENCY FOOD ASSISTANCE ACT OF 1983

Section 1571 of Pub. L. 99–198 provided that not later than Apr. 1, 1987, Secretary of Agriculture was to report to Congress on activities of program conducted under Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.), which was to include information on volume and types of commodities distributed under program, types of State and local agencies receiving commodities for distribution under program, populations served under program and their characteristics, Federal, State, and local costs of commodity distribution operations under program (including transportation, storage, refrigeration, handling, distribution, and administrative costs), and amount of Federal funds provided to cover State and local costs under program, prior to repeal by Pub. L. 104–193, title VIII, § 871(f), Aug. 22, 1996, 110 Stat. 2345.

EMERGENCY FOOD ASSISTANCE ACT OF 1983

Pub. L. 98–8, title II, Mar. 24, 1983, 97 Stat. 35, as amended by Pub. L. 98–92, § 2, Sept. 2, 1983, 97 Stat. 608; Pub. L. 99–198, title XV, §§ 1562(e)(1), 1563–1566, 1567(c), 1568–1570, Dec. 23, 1985, 99 Stat. 1590–1594; Pub. L. 100–77, title VIII, §§ 811–814, July 22, 1987, 101 Stat. 536–538; Pub. L. 100–435, title I, §§ 101–105, Sept. 19, 1988, 102 Stat. 1647–1650; Pub. L. 101–624, title XVII, § 1772(a)–(h)(1), Nov. 28, 1990, 104 Stat. 3808, 3809; Pub. L. 102–237, title IX, § 922(b), Dec. 13, 1991, 105 Stat. 1888; Pub. L. 104–66, title I, § 1011(k), Dec. 21, 1995, 109 Stat. 710; Pub. L. 104–127, title IV, § 403, Apr. 4, 1996, 110 Stat. 1029; Pub. L. 104–193, title VIII, § 871(a)–(e), Aug. 22, 1996, 110 Stat. 2343–2345, known as the Emergency Food Assistance Act of 1983, and formerly set out as a note under this section, established temporary program authorizing Secretary of Agriculture to distribute excess food commodities to public or nonprofit organizations administering certain activities such as school lunch programs, elderly nutrition programs, activities of charitable institutions that serve meals to needy persons, and disaster relief programs. As amended by Pub. L. 104–193, the program became permanent, and title II of Pub. L. 98–8 was transferred to chapter 102 (§ 7501 et seq.) of this title.

AGRICULTURAL EXPORT PROMOTION

Pub. L. 97–253, title I, § 135, Sept. 8, 1982, 96 Stat. 772, authorized Secretary of Agriculture, for each of fiscal years 1983, 1984, and 1985, to use up to $190,000,000 of Commodity Credit Corporation funds to carry out export activities through Commodity Credit Corporation under provisions of law in effect on Sept. 8, 1982, including activities authorized under amendments made by section 405(d) of Pub. L. 98–623 to sections 1707a and 1732 of this title and section 714c(f) of Title 15, Commerce and Trade, even if those export activities were not included in budget program of Corporation.

[Amendments made by section 405(d) of Pub. L. 98–623, amending sections 1707a and 1732 of this title and section 714c(f) of Title 15, Commerce and Trade, to be considered as having taken effect before Sept. 8, 1982, for purposes of section 135 of Pub. L. 97–253, set out above, see section 405(d) of Pub. L. 98–623, set out as an Effective Date of 1984 Amendment note under section 714c of Title 15, Commerce and Trade.]

DISTRIBUTION OF COMMODITIES TO INDIVIDUALS IN CASES OF HARDSHIP

Pub. L. 106–78, title VII, § 709, Oct. 22, 1999, 113 Stat. 1161, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification], commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 [this section] price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.''

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105–277, div. A, § 101(a) [title VII, § 709], Oct. 21, 1998, 112 Stat. 2681, 2681–26.

Pub. L. 105–86, title VII, § 709, Nov. 18, 1997, 111 Stat. 2105.

Pub. L. 104–180, title VII, § 709, Aug. 6, 1996, 110 Stat. 1597.

Pub. L. 104–37, title VII, § 709, Oct. 21, 1995, 109 Stat. 330.

Pub. L. 103–330, title VII, § 709, Sept. 30, 1994, 108 Stat. 2467.

Pub. L. 103–111, title VII, § 710, Oct. 21, 1993, 107 Stat. 1079.

Pub. L. 102–341, title VII, § 715, Aug. 14, 1992, 106 Stat. 908.

Pub. L. 102–142, title VII, § 718, Oct. 28, 1991, 105 Stat. 913.

Pub. L. 101–506, title VI, § 619, Nov. 5, 1990, 104 Stat. 1347.

Pub. L. 101–161, title VI, § 619, Nov. 21, 1989, 103 Stat. 983.

Pub. L. 100–460, title VI, § 619, Oct. 1, 1988, 102 Stat. 2261.

Pub. L. 100–202, § 101(k) [title VI, § 619], Dec. 22, 1987, 101 Stat. 1329–322, 1329–355.

Pub. L. 99–500, § 101(a) [title VI, § 619], Oct. 18, 1986, 100 Stat. 1783, 1783–29, and Pub. L. 99–591, § 101(a) [title VI, § 619], Oct. 30, 1986, 100 Stat. 3341, 3341–29.

Pub. L. 99–190, § 101(a) [H.R. 3037, title VI, § 619], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, § 101(a) [H.R. 5743, title VI, § 619], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, § 101(d) [H.R. 3223, title VI, § 619], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title VI, § 620, Dec. 18, 1982, 96 Stat. 1811.

Pub. L. 97–103, title VI, § 620, Dec. 23, 1981, 95 Stat. 1490.

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES; FURNISHING COMMODITIES TO SUMMER CAMPS

Pub. L. 93–86, § 4, Aug. 10, 1973, 87 Stat. 249, as amended by Pub. L. 93–347, § 1, July 12, 1974, 88 Stat. 340; Pub. L. 94–273, § 2(1), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95–113, title XIII, §§ 1302(a)(1), 1304(a), Sept. 29, 1977, 91 Stat. 979, 980, Pub. L. 97–98, title XIII, § 1334, Dec. 22, 1981, 95 Stat. 1292; Pub. L. 98–8, title II, § 207, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98–92, § 3, Sept. 2, 1983, 97 Stat. 612; Pub. L. 99–198, title XV, § 1562(a), Dec. 23, 1985, 99 Stat. 1590; Pub. L. 101–624, title XVII, §§ 1771(a), (b)(1), (c)(1), 1772(h)(2), Nov. 28, 1990, 104 Stat. 3806, 3807, 3809; Pub. L. 104–127, title IV, § 402(a), Apr. 4, 1996, 110 Stat. 1028, provided that:

''(a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1991 through 2002, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants, and children or elderly persons, or both, wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 [section 2013(b) of this title]. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

''(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children 18 years of age and under so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.''

''(c) Whoever embezzles, willfully misapplies, steals or obtains by fraud any agricultural commodity or its products (or any funds, assets, or property deriving from donation of such commodities) provided under this section, or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1), or the Emergency Food Assistance Act of 1983 [7 U.S.C. 7501 et seq.], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property for personal use or gain, knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such commodities, products, funds, assets, or property are of value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.''

[Amendment by section 1771(a) of Pub. L. 101–624 effective Oct. 1, 1990, and amendments by sections 1771(b)(1), (c)(1), and 1772(h)(2) of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Section 1334 of Pub. L. 97–98 provided in part that the amendment of section 4 of Pub. L. 93–86 by Pub. L. 97–98 is effective Oct. 1, 1981.]

[Section 1302(b) and section 1304(a) in part, both of Pub. L. 95–113, provided that the amendment of subsecs. (a) and (b) of section 4 of Pub. L. 93–86 and the repeal of subsec. (c) of section 4 of Pub. L. 93–86 are effective Oct. 1, 1977.]

[Pub. L. 93–233, § 8(b)(1), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94–365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95–59, § 3(2), June 30, 1977, 91 Stat. 255, eff. July 1, 1977, provided that: ''Section 4(c) of Public Law 93–86 shall not be effective for the period ending September 30, 1978.''] [For repeal of section 4(c) of Pub. L. 93–86, see section 1304(a) of Pub. L. 95–113.].

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 5 of Pub. L. 93–86, as added by Pub. L. 95–113, title XIII, § 1304(b)(2), Sept. 29, 1977, 91 Stat. 980, and amended by Pub. L. 97–98, title XIII, § 1335, Dec. 22, 1981, 95 Stat. 1293; Pub. L. 98–8, title II, § 209, Mar. 24, 1983, 97 Stat. 36, as amended Pub. L. 98–92, § 2(8), Sept. 2, 1983, 97 Stat. 611; Pub. L. 99–198, title XV, § 1562(b), (c), (e)(2), Dec. 23, 1985, 99 Stat. 1590; Pub. L. 100–435, title I, § 130, redesignated § 5(d)(2) of Pub. L. 93–86 by Pub. L. 101–624, title XVII, § 1774(c)(2)(A), (B), Nov. 28, 1990, 104 Stat. 3813; Pub. L. 101–624, title XVII, §§ 1771(c)(2)–(f), 1774(c)(2)(C), Nov. 28, 1990, 104 Stat. 3807, 3808, 3813; Pub. L. 102–237, title I, § 118(a), title IX, § 922(c), Dec. 13, 1991, 105 Stat. 1841, 1889; Pub. L. 104–127, title IV, § 402(b), Apr. 4, 1996, 110 Stat. 1028; Pub. L. 104–193, title I, § 109(f), Aug. 22, 1996, 110 Stat. 2170; Pub. L. 105–33, title V, § 5514(b), Aug. 5, 1997, 111 Stat. 620, provided that:

''(a) In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program') under section 4 of this Act [set out as a note above], the Secretary (1) may institute two pilot projects directed at low-income elderly persons, including, where feasible, distribution of commodities to such persons in their homes; and (2) shall provide to the State agencies administering the commodity supplemental food program, for each of the fiscal years 1991 through 2002, funds appropriated from the general fund of the Treasury in amounts equal to the administrative costs of State and local agencies in operating the program, except that the funds provided to State agencies each fiscal year may not exceed 20 percent of the amount appropriated for the commodity supplemental food program.

''(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

''(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

''(d)(1) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 2002 to the Sec-

retary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

''(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.

''(f) The Secretary shall, in any fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate to the full extent that this can be done within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (g)) in areas in which the program is in effect.

''(g) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

''(h) Each State agency administering a commodity supplemental food program serving women, infants, and children shall—

''(1) ensure that written information concerning food stamps, the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

''(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

''(3) ensure that local agencies provide to pregnant, breast feeding and post partum women, and adults applying on behalf of infants or children, who apply to the commodity supplemental food program, or who reapply to such program, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the medicaid program, if the individuals are not participating in the medicaid program.

''(i) Each State agency administering a commodity supplemental food program serving elderly persons shall ensure that written information is provided on at least one occasion to each elderly participant in or applicant for the commodity supplemental food program for the elderly concerning—

''(1) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

''(2) the supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

''(3) medical assistance provided under title XIX of such Act (42 U.S.C. 1396 et seq.) (including medical assistance provided to a qualified medicare beneficiary (as defined in section 1905(p) of such Act (42 U.S.C. 1396d(5)))).

''(j)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

''(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

''(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

''(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

''(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

''(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

''(*l*) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.''

[Amendment by section 922(c) of Pub. L. 102–237 effective and implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Amendment by sections 1771(c)(2) and 1774(c) of Pub. L. 101–624 effective Nov. 28, 1990; amendment by section 1771(d) of Pub. L. 101–624 effective Oct. 1, 1990, and amendments by section 1771(e) and (f) of Pub. L. 101–624 effective and implemented the first day of the month beginning 120 days after the publication of implementing regulations which shall be promulgated not later than Oct. 1, 1991, see section 1781(a), (b)(1), (2) of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 2012 of this title.]

[Section 1335 of Pub. L. 97–98 provided in part that the amendment to section 5 of Pub. L. 93–86 by Pub. L. 97–98 is effective Oct. 1, 1981.]

[Section 1304(b) of Pub. L. 95–113 provided in part that section 5 of Pub. L. 93–86 is effective Oct. 1, 1977.]

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN AND LOW-INCOME PERSONS SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Section 6 of Pub. L. 92–32, June 30, 1971, 85 Stat. 86, authorized the Secretary of Agriculture to use during the fiscal year ending June 30, 1972, not to exceed $20,000,000 in funds from section 612c of this title, in addition to funds appropriated or otherwise available, to carry out in any area of the United States direct distribution or other programs, without regard to whether such area is under the food stamp program or a system of direct distribution, in order to provide in the vicinity of their residence an adequate diet to needy children and low income persons suffering, through no fault of their own, from general and continued hunger; provided that food made available to needy children was to be in addition to food made available under the National School Lunch Act or the Child Nutrition Act of 1966; and authorized payment of administrative costs incurred by state or local agencies in carrying out programs for needy children.

USE OF FUNDS FOR SCHOOL LUNCH PROGRAM UNDER SECTION 1753 OF TITLE 42

Use of funds appropriated under this section for implementing section 1753 of Title 42 till supplemental appropriation is made and reimbursement of such funds, see section 4(a) of Pub. L. 92–433, set out as a note under section 1753 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Authorization for transfer of funds under this section to assist schools in need of additional funds in school

breakfast program, see note set out under section 1773 of Title 42, The Public Health and Welfare.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES; SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under this section, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see note set out under section 1753 of Title 42, The Public Health and Welfare.

MEAL AND FLOUR FOR RELIEF

Act Aug. 9, 1955, ch. 671, 69 Stat. 608, authorized the Secretary of Agriculture upon specific request of the Governor of any State, during the period commencing Aug. 9, 1955 and ending June 30, 1957, to make available, pursuant to clause (2) of this section for distribution by State agencies, other than institutions and schools, directly to families and persons determined by appropriate State or local public welfare agencies to be in need, wheat flour and corn meal in such quantities as the Secretary of Agriculture determines can be effectively distributed and utilized within such period without regard to the requirement contained in this section, that such funds be devoted principally to perishable nonbasic agricultural commodities and their products.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING THE PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93–233, §8(b)(3), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, §3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94–365, §2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95–59, §3(2), June 30, 1977, 91 Stat. 255, provided that: ''For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42, The Public Health and Welfare], State supplementary payments described in section 1616 of such Act [section 1382e of Title 42], or payments of the type referred to in section 212(a) of Public Law 93–66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74–320 [this section], section 416 of the Agricultural Act of 1949 [section 1431 of this title], or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.''

[Amendment by Pub. L. 93–335 effective July 1, 1974, see section 1(c) of Pub. L. 93–335, set out as an Effective Date of 1974 Amendment note under section 1382 of Title 42. Section 3 of Pub. L. 95–59 provided in part that the amendment of section 8 of Pub. L. 93–233 by section 3(2) of Pub. L. 95–59 is effective July 1, 1977.]

FOOD STAMP PLAN

Acts June 25, 1940, ch. 421, §1, 54 Stat. 563; July 1, 1941, ch. 267, §1, 55 Stat. 438, provided: ''That said 25 per centum provision and the like provision in said section 32 [this section], as amended, shall not apply to amounts devoted to a stamp plan for the removal of surplus agricultural commodities from funds made available hereby and by said section 32 [this section], and, notwithstanding expenditures under such stamp plan, the 25 per centum provision shall continue to be calculated on the aggregate amount available hereunder and under said section 32 [this section].''

DISTRIBUTION OF SURPLUS COMMODITIES TO OTHER UNITED STATES AREAS

Extension of relief programs to areas under United States jurisdiction, see section 1431b of this title.

FISHERY PRODUCTS; USE OF FUNDS

Use of funds made available under this section for distribution of surplus fishery products, and for promotion of free flow of domestically produced fishery products, see sections 713c–2 and 713c–3 of Title 15, Commerce and Trade.

HOME ECONOMICS TRAINING

Authorization of schools to use surplus foods received under this section to train students in home economics, see note set out under section 1431 of this title.

CROSS REFERENCES

Secretary of Agriculture not precluded from carrying on programs under this section by International Wheat Agreement Act of 1949, see section 1641 of this title.

Supplemental appropriations to encourage exportation and domestic consumption of agricultural products, see section 1855 of this title.

Transfer of funds to Federal Surplus Commodities Corporation to effectuate clause (2) of this section, see section 713c of Title 15, Commerce and Trade.

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1392, 1421, 1424, 1431b, 1641, 1855, 2036, 2627, 4004, 5676, 7502 of this title; title 12 section 1150a; title 15 sections 713c, 713c–2, 713c–3; title 31 section 1511; title 40 section 474; title 42 sections 1755, 1758, 1761, 1762a, 1777, 1786, 3030a, 3045f, 5180.

§ 612c–1. Authorization for appropriations to increase domestic consumption of surplus farm commodities

On and after December 30, 1963, such sums (not in excess of $25,000,000 in any one year) as may be approved by the Congress shall be available for the purpose of increasing domestic consumption of any farm commodity or farm commodities determined by the Secretary of Agriculture to be in surplus supply, such authorization not to restrict authority in existing law, of which amount $11,000,000 shall remain available until expended for construction and equipping of research facilities determined to be needed as a result of a special survey.

(Pub. L. 88–250, title I, §101, Dec. 30, 1963, 77 Stat. 826.)

CODIFICATION

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

§ 612c–2. Technical support to exporters and importers of United States agricultural products; scope of support provided by Department of Agriculture

The Department of Agriculture shall provide technical support to exporters and importers of United States agricultural products when so requested. Such support shall include, but not be limited to, a review of the feasibility of the export proposal, adequacy of sources of supply,

compliance with trade regulations of the United States and the importing country and such other information or guidance as may be needed to expand and expedite United States agricultural exports by private trading interests.

(Pub. L. 91–524, title VIII, § 811, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238.)

CODIFICATION

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

§ 612c–3. Repealed. Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 91–524, title VIII, § 812, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 238, and amended Pub. L. 95–113, title X, § 1005, Sept. 29, 1977, 91 Stat. 951; Pub. L. 97–444, title II, § 238, Jan. 11, 1983, 96 Stat. 2326, required exporters to report export sales and restricted President from prohibiting or curtailing certain exports. See section 5712 of this title.

EFFECTIVE DATE OF REPEAL

Section 1578 of Pub. L. 101–624 provided that the repeal is effective on the effective date of regulations promulgated under section 5664 of this title. Implementing regulations were promulgated and published in the Federal Register as follows:

May 30, 1991, eff. July 8, 1991, 56 F.R. 25998.
June 3, 1991, eff. June 7, 1991, 56 F.R. 26323.
Aug. 16, 1991, eff. Aug. 27, 1991, 56 F.R. 42222.

§ 613. Termination date; investigations and reports

This chapter shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this chapter as he finds are not requisite to carrying out the declared policy with respect to such commodity. In the case of sugar beets and sugarcane, the taxes provided by this chapter shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate on December 31, 1937 unless this chapter ceases to be in effect at an earlier date, as hereinabove provided. The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

(May 12, 1933, ch. 25, title I, § 13, 48 Stat. 39; May 9, 1934, ch. 263, § 15, 48 Stat. 677; Aug. 24, 1935, ch. 641, § 20(a), 49 Stat. 768.)

AMENDMENTS

1935—Act Aug. 24, 1935, substituted ''on December 31, 1937'' for ''at the end of three years after the adoption of this amendment''.

1934—Act May 9, 1934, inserted second sentence relating to taxes on sugar beets and sugarcane.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 673 of this title.

§ 613a. Repealed. Sept. 1, 1937, ch. 898, title V, § 510, 50 Stat. 916

Section, act June 19, 1936, ch. 612, § 1, 49 Stat. 1539, related to termination of taxes on sugar beets and sugarcane.

§ 614. Separability

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this chapter and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby.

(May 12, 1933, ch. 25, title I, § 14, 48 Stat. 39; June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 672, 673, 1392 of this title.

§ 615. Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury

(a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such results will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this chapter with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products, or shall credit against any tax due and payable under this chapter the amount of tax

which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive.

(b) No tax shall be required to be paid on the processing of any commodity by or for the producer thereof for consumption by his own family, employees, or household; and the Secretary of Agriculture is authorized, by regulations, to exempt from the payment of the processing tax the processing of commodities by or for the producer thereof for sale by him where, in the judgment of the Secretary, the imposition of a processing tax with respect thereto is unnecessary to effectuate the declared policy.

(b–1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he had in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: *Provided*, That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: *And provided further*, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this chapter, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of taxpayment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so transferred, and was, if eligible, a cooperating producer.

(b–2) The warrants authorized and directed to be issued by subsection (b–1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

(b–3)(1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this chapter or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and

others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.

(c) Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this chapter subject to tax, be entitled to a refund of the amount of any tax due and paid under this chapter with respect to such product so delivered, or to a credit against any tax due and payable under this chapter of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however*, That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. The word ''State'' as used in this section shall include a State and any political subdivision thereof.

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors or producers thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this chapter applies, from any foreign country or from any possession of the United States to which this chapter does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: *Provided*, (1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this chapter does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control.

(f) The President, in his discretion, is authorized by proclamation to decree that all or part of the taxes collected from the processing of sugar beets or sugarcane in Puerto Rico, the Territory of Hawaii, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam (if the provisions of this chapter are made applicable thereto), and/or upon the processing in continental United States of sugar produced in, or coming from, said areas, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund, in the name of the respective area to which related, to be used and expended for the benefit of agriculture and/or paid as rental or benefit payments in connection with the reduction in the acreage, or reduction in the production for market, or both, of sugar beets and/or sugarcane, and/or used and expended for expansion of markets and for removal of surplus agricultural products in such areas, respectively, as the Secretary of Agriculture, with the approval of the President, shall direct.

(May 12, 1933, ch. 25, title I, § 15, 48 Stat. 39; May 9, 1934, ch. 263, §§ 8, 11, 48 Stat. 675, 676; June 16, 1934, ch. 551, 48 Stat. 973; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, §§ 8, 9, 49 Stat. 47, 48; Aug. 24, 1935, ch. 641, §§ 21–24, 49 Stat. 768; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (f), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Reference to the Philippine Islands in subsec. (f) was omitted as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsecs. (a), (c). Act June 22, 1936, reenacted subsecs. (a) and (c) only for the purpose of allowing refunds in cases where the delivery for charitable dis-

tribution or use, or the exportation, or the manufacture of large cotton bags, or the decrease in the rate of the processing tax, took place prior to Jan. 6, 1936.

1935—Subsec. (a). Act Aug. 24, 1935, § 21, inserted ''or shall credit against any tax due and payable under this chapter the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13, and July 7, 1934, both inclusive''.

Subsecs. (b–1) to (b–3). Act Mar. 18, 1935, § 8, added subsecs. (b–1) to (b–3).

Subsec. (e). Act Aug. 24, 1935, § 24, inserted ''into such an article'' after ''with respect to domestic processing of such commodity''.

Subsec. (e). Act Mar. 18, 1935, § 9, among other changes, inserted ''(1) That in the event any of the provisions of this chapter have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this chapter, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2)'' at beginning of proviso.

1934—Subsec. (a). Act June 26, 1934, among other changes, inserted ''and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products''.

Subsec. (c). Act June 16, 1934, among other changes, inserted proviso.

Subsec. (e). Act May 9, 1934, § 11, substituted ''partly'' for ''in chief value'', inserted ''whether imported as merchandise, or as a container of merchandise, or otherwise,'' after ''apply'', and inserted ''of such commodity'' after ''processing''.

Subsec. (f). Act May 9, 1934, § 8, added subsec. (f).

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

The office of Internal Revenue Collector was abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of the Bureau of Internal Revenue since the effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to the Secretary of the Treasury.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. The Collector and Commissioner of Internal Revenue, referred to in this section, are officers of the Treasury Department.

ADMISSION OF HAWAII TO STATEHOOD

Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 25, 1959, 24 F.R. 6868, 73 Stat. c74. For Hawaii statehood law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Appropriations for refunds, etc., see note under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 616, 673 of this title.

§ 616. Stock on hand when tax takes effect or terminates

(a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date. Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this chapter has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is not the processor liable for the payment of such tax, a sum

in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

(b) The tax imposed by subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.

(c)(1) Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934.

(d) The Secretary of Agriculture is authorized to purchase, out of such proceeds of taxes as are available therefor, during the period this chapter is in effect with respect to sugar beets and sugarcane, not in excess of three hundred thousand tons of sugar raw value from the surplus stocks of direct-consumption sugar produced in the United States beet-sugar area, at a price not in excess of the market price for direct consumption sugar on the date of purchase, and to dispose of such sugar by sale or otherwise, including distribution to any organization for the relief of the unemployed, under such conditions and at such times as will tend to effectuate the declared policy of section 608a of this title. The sugar so purchased shall not be included in the quota for the United States beet-sugar area. All proceeds received by the Secretary of Agriculture, in the exercise of the powers granted, are appropriated to be available to the Secretary of Agriculture for the purposes described in subsections (a) and (b) of section 612 of this title.

(e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

(1) Whenever, on or after June 1, 1934, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: *Provided, however*, That no such credit or refund shall be made in the case of hogs unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor stocks tax was paid prior to the adoption of this subsection. In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification

of the Secretary of Agriculture to the Secretary of the Treasury, under section 615(a) of this title, the provisions of subdivision (1) of this subsection shall become applicable.

(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 615(a) of this title, the provisions of paragraph (2) of this subsection shall become applicable.

(5) The provisions of this subsection shall be effective on and after June 1, 1934.

(f) The provisions of this section shall not be applicable with respect to rice.

(May 12, 1933, ch. 25, title I, § 16, 48 Stat. 40; May 9, 1934, ch. 263, §§ 10, 17, 48 Stat. 676, 678; June 26, 1934, ch. 759, § 1, 48 Stat. 1241; Mar. 18, 1935, ch. 32, § 10, 49 Stat. 48; Aug. 24, 1935, ch. 641, §§ 20(b), 25–27, 49 Stat. 768, 769; June 4, 1936, ch. 501, 49 Stat. 1464; June 22, 1936, ch. 690, § 601(a), (c), (g), 49 Stat. 1739, 1740.)

AMENDMENTS

1936—Subsec. (e)(1). Act June 22, 1936, § 601(a), (g), reenacted par. (1) for certain refund purposes only and substituted ''on or after June 1, 1934'' for ''subsequent to June 26, 1934'', respectively.

Act June 4, 1936, substituted ''on or after June 1, 1934'' for ''subsequent to June 26, 1934''.

Subsec. (e)(3). Act June 22, 1936, § 601(a), reenacted par. (3) for certain refund purposes only.

Subsec. (g). Act June 22, 1936, § 601(c), repealed subsec. (g) which related to the time for filing refunds.

1935—Subsec. (a)(2). Act Aug. 24, 1935, § 25, substituted a new par. (2) for former par. (2).

Subsec. (b). Act Aug. 24, 1935, § 26, amended second sentence generally.

Subsec. (c). Act Aug. 24, 1935, § 20(b), struck out last sentence.

Subsec. (e). Act Mar. 18, 1935, redesignated former subsec. (c) as (e).

Subsec. (e)(1). Act Aug. 24, 1935, § 27(a), inserted ''subsequent to June 26, 1934'' at beginning of paragraph, and ''in the case of hogs'' after ''made'' in proviso and inserted ''In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.''

Subsec. (f). Act Mar. 18, 1935, added subsec. (f).

Subsec. (g). Act Aug. 24, 1935, § 27(b), added subsec. (g).

1934—Subsec. (a)(1). Act May 9, 1934, § 10, inserted second sentence.

Subsec. (c). Act June 26, 1934, added subsec. (c).

Subsec. (c)(1). Act May 9, 1934, § 17, added par. (1).

Subsec. (d). Act May 9, 1934, § 17, added subsec. (d).

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional. See section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Section may be obsolete in view of the Supreme Court's holding that the processing and floor stock taxes provided for by the Agricultural Adjustment Act of 1933 are unconstitutional. See U.S. v. Butler, Mass. 1936, 56 S.Ct. 312, 297 U.S. 1, 80 L.Ed. 477, 102 A.L.R. 914.

APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 609, 621, 673 of this title.

§ 617. Refund on goods exported; bond to suspend tax on commodity intended for export

(a) Upon the exportation to any foreign country (and/or to the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this chapter which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this chapter with respect to sugar beets and sugarcane is not made applicable thereto. The term ''product'' includes any product exported as merchandise, or as a container for merchandise, or otherwise.

(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this chapter, or to hold for such exportation any article processed wholly or partly therefrom.

(May 12, 1933, ch. 25, title I, § 17, 48 Stat. 40; May 9, 1934, ch. 263, §§ 12, 13, 48 Stat. 676; Mar. 18, 1935, ch. 32, § 11, 49 Stat. 48; Aug. 24, 1935, ch. 641, § 28, 49 Stat. 770; June 22, 1936, ch. 690, § 601(a), 49 Stat. 1739; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

References to the Philippine Islands in subsec. (a) were omitted from the Code as obsolete in view of the independence proclaimed by the President of the United States by Proc. No. 2695, cited to text, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1936—Subsec. (a). Act June 22, 1936, reenacted subsec. (a) for refund purposes only.

1935—Subsec. (a). Act Aug. 24, 1935, struck out first two sentences and substituted ''Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax.''

Act Mar. 18, 1935, inserted third sentence.

1934—Subsec. (a). Act May 9, 1934, amended subsec. (a) generally.

Subsec. (b). Act May 9, 1934, § 13, substituted ''partly'' for ''in chief value''.

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan. No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

APPROPRIATIONS

Appropriations for refunds, etc., see note set out under section 610 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 618. Existing contracts; imposition of tax on vendee; collection

(a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any commodity is first imposed under this chapter, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this chapter. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall cause collections of such taxes to be made from the vendee.

(May 12, 1933, ch. 25, title I, § 18, 48 Stat. 41.)

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 619. Collection of tax; provisions of internal revenue laws applicable; returns

(a) The taxes provided in this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable in respect of taxes imposed by this chapter: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of not exceeding three-fourths of the amount of the taxes covered by any return under this chapter, but postpone-

ment of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.

(c) Repealed. June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this chapter to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this chapter, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax.

(May 12, 1933, ch. 25, title I, § 19, 48 Stat. 41; June 26, 1934, ch. 759, § 3, 48 Stat. 1242; Aug. 24, 1935, ch. 641, § 29, 49 Stat. 770; June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208.)

REFERENCES IN TEXT

Provisions of section 600 of the Revenue Act of 1926 and section 626 of the Revenue Act of 1932, referred to in subsec. (b), were incorporated in sections 2700, 2704, and 3448 of Title 26, Internal Revenue Code, 1939. See sections 4181, 4182, 4216, 4224, 5831, 6151 and 6601 of Title 26, Internal Revenue Code, 1986.

AMENDMENTS

1947—Subsec. (c). Act June 30, 1947, repealed subsec. (c) which related to loans by Reconstruction Finance Corporation.

1935—Subsec. (b). Act Aug. 24, 1935, § 29(a), among other changes, inserted at end of proviso ''but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month''.

Subsec. (d). Act Aug. 24, 1935, § 29(b), added subsec. (d).

1934—Subsec. (b). Act June 26, 1934, substituted ''one hundred and eighty'' for ''ninety''.

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Office of Internal Revenue Collector abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue was established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. Collector and Commissioner of Internal Revenue, referred to in this section, are officers of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Processing and compensating taxes not to be levied or collected, see section 673 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 623, 673 of this title.

§ 619a. Cotton tax, time for payment

The processing tax authorized by section 609 of this title, when levied upon cotton, shall be payable ninety days after the filing of the processor's report: *Provided*, That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed six months from the date of the filing of the report.

(May 17, 1935, ch. 131, title I, § 2, 49 Stat. 281.)

CODIFICATION

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

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

§ 620. Falsely ascribing deductions or charges to taxes; penalty

(a) Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this chapter, or which is to be subjected to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this chapter, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this chapter, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(b) Whoever in connection with the processing of any commodity subject to any tax under this chapter, whether commercially, for toll, upon an

exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this chapter, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(c) Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any product or byproduct thereof, subject to any tax under this chapter, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this chapter, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this chapter, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment for not exceeding six months, or both.

(May 12, 1933, ch. 25, title I, § 20, as added May 9, 1934, ch. 263, § 16, 48 Stat. 677.)

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Misdemeanor, defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 673 of this title.

§ 621. Machinery belting processed from cotton; exemption from tax

The provisions of section 616 of this title, shall not apply to articles of machinery belting processed wholly or in chief value from cotton, if such processing was completed prior to January 1, 1930.

(June 26, 1934, ch. 753, § 1, 48 Stat. 1223.)

CODIFICATION

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

§ 622. Omitted

CODIFICATION

Section, act June 26, 1934, ch. 753, § 2, 48 Stat. 1223, related to refunding or crediting of taxes paid under section 616 of this title.

§ 623. Actions relating to tax; legalization of prior taxes

(a) Action to restrain collection of tax or obtain declaratory judgment forbidden

No suit, action, or proceeding (including probate, administration, and receivership proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this chapter on or after August 24, 1935, or (2) of obtaining a declaratory judgment under sections 2201 and 2202 of title 28 in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) Taxes imposed prior to August 24, 1935, legalized and ratified

The taxes imposed under this chapter, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to August 24, 1935, are legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which had accrued and remained unpaid August 24, 1935, shall be assessed and collected pursuant to section 619 of this title, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to August 24, 1935.

(c) Rental and benefit payments, agreements, and programs made prior to August 24, 1935, legalized and ratified

The making of rental and benefit payments under this chapter, prior to August 24, 1935, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 608(1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this chapter, and rental and benefit payments made pursuant thereto, are legalized and ratified, and the making of all such

agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior act of Congress.

(May 12, 1933, ch. 25, title I, § 21, as added Aug. 24, 1935, ch. 641, § 30, 49 Stat. 770; amended June 22, 1936, ch. 690, §§ 601(c), 901, 49 Stat. 1740, 1747; Pub. L. 95–598, title III, § 304, Nov. 6, 1978, 92 Stat. 2673.)

REFERENCES IN TEXT

Subsection (d) of this section, referred to in subsec. (a), was repealed by section 901 of act June 22, 1936. See 1936 Amendment note set out below.

CODIFICATION

''Sections 2201 and 2202 of title 28'' was substituted for ''the Federal Declaratory Judgments Act'', which had enacted section 400 of former Title 28, Judicial Code and Judiciary, on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure.

Another section 21 of act May 12, 1933, enacted sections 992 and 993 of Title 12, Banks and Banking.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–598 struck out '', and bankruptcy'' after ''receivership'' in first sentence, and struck out ''bankruptcy,'' after ''receivership'' in second sentence.

1936—Subsecs. (d) to (g). Act June 22, 1936, § 901, repealed subsec. (d) relating to prohibition on making certain refunds, subsec. (e) providing for access to books, and subsec. (g) providing for recovery of taxes erroneously collected, and act June 22, 1936, § 601(c), repealed subsec. (f) relating to time for filing claim for refund.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SEPARABILITY

Validity of remainder of this chapter as not affected should any of the provisions of this chapter be declared unconstitutional, see section 614 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

CROSS REFERENCES

Other refund provisions, see section 615 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 615, 673 of this title.

§ 624. Limitation on imports; authority of President

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590a et seq.], or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States International Trade Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under

this section without awaiting the recommendations of the International Trade Commission, such action to continue in effect pending the report and recommendations of the International Trade Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No quantitative limitation or fee shall be imposed under this section with respect to any article that is the product of a WTO member (as defined in section 3501(10) of title 19).

(May 12, 1933, ch. 25, title I, § 22, as added Aug. 24, 1935, ch. 641, § 31, 49 Stat. 773; amended Feb. 29, 1936, ch. 104, § 5, 49 Stat. 1152; June 3, 1937, ch. 296, § 1, 50 Stat. 246; Jan. 25, 1940, ch. 13, 54 Stat. 17; July 3, 1948, ch. 827, title I, § 3, 62 Stat. 1248; June 28, 1950, ch. 381, § 3, 64 Stat. 261; June 16, 1951, ch. 141, § 8(b), 65 Stat. 75; Aug. 7, 1953, ch. 348, title I, § 104, 67 Stat. 472; Pub. L. 93–618, title I, § 171(b), Jan. 3, 1975, 88 Stat. 2009; Pub. L. 100–449, title III, § 301(c), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103–465, title IV, § 401(a)(1), Dec. 8, 1994, 108 Stat. 4957.)

REFERENCES IN TEXT

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

The Tariff Act of 1930, referred to in subsec. (c), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended, which is classified generally to chapter 4 (§ 1202 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

CODIFICATION

Another section 22 of act May 12, 1933, amended section 781 of Title 12, Banks and Banking.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–465 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section.''

1988—Subsec. (f). Pub. L. 100–449 inserted before period at end ''; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section''.

1975—Subsecs. (a), (b). Pub. L. 93–618 substituted ''United States International Trade Commission'' for ''United States Tariff Commission''.

1953—Subsec. (b) amended by subsec. (c) of section 8 of act June 16, 1951, as added to section 8 by act Aug. 7, 1953, which added second paragraph to subsec. (b).

1951—Subsec. (f). Act June 16, 1951, amended subsec. (f) generally to provide that no trade agreement concessions can be construed to interfere with the operation of agricultural programs.

1950—Subsec. (a). Act June 28, 1950, placed upon the Secretary of Agriculture the responsibility of notifying the President whenever the Secretary believes or has reason to believe that any article or articles are being or practically certain to be brought into this country so as to render, or tend to render ineffective or materially interfere with programs undertaken under this chapter.

Subsecs. (b) to (e). Act June 28, 1950, reenacted subsecs. (b) to (e) without change.

Subsec. (f). Act June 28, 1950, made certain that future international agreements or amendments to existing agreements give effect to this section within the framework of the general agreements on tariffs and trade.

1948—Act July 3, 1948, amended section generally to extend authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program; to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country's average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.

1940—Subsecs. (a) to (c). Act Jan. 25, 1940, amended subsecs. (a) to (c) generally.

1936—Act Feb. 29, 1936, inserted ''or the Soil Conservation and Domestic Allotment Act, as amended'' after ''this chapter'' wherever appearing, and substituted ''any'' for ''an adjustment'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 401(a)(2) of Pub. L. 103–465 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except that with respect to wheat, that amendment shall take effect on the later of such date or September 12, 1995.''

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement en-

ters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of title I of act July 3, 1948, provided that: ''This title [enacting provisions set out as notes under sections 1281, 1282, and 1312 of this title and section 713a–8 of Title 15, Commerce and Trade] shall take effect on January 1, 1949, except that sections 3 and 4 [amending this section and section 590h of Title 16, Conservation] shall take effect on the date of enactment of this Act [July 3, 1948].''

CONSTITUTIONALITY

Unconstitutionality of processing and floor stock taxes, see note set out under section 616 of this title.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

REPORT TO CONGRESS ON TERMINATION OR SUSPENSION OF QUANTITATIVE LIMITATIONS OR FEES

Pub. L. 101–624, title XV, §1554, Nov. 28, 1990, 104 Stat. 3697, directed Secretary of Agriculture to report to Congress before effective date of suspension or termination of any quantitative limitations or fees in effect under 7 U.S.C. 624 on consequences of lifting of limitations or fees, prior to repeal by Pub. L. 104–127, title II, §281(a), Apr. 4, 1996, 110 Stat. 980.

INTERFERENCE WITH TOBACCO PRICE SUPPORT PROGRAM

Pub. L. 100–418, title IV, §4609, Aug. 23, 1988, 102 Stat. 1411, provided that: ''It is the sense of Congress that—

''(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

''(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 and 1445–2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.''

DAIRY IMPORT STUDY BY SECRETARY OF AGRICULTURE; REPORT TO CONGRESS BY JAN. 1, 1975

Pub. L. 91–524, title II, §205, as added Pub. L. 93–86, §1(6), Aug. 10, 1973, 87 Stat. 223; amended Pub. L. 93–125, §1(a)(i), Oct. 18, 1973, 87 Stat. 450, authorized the Secretary of Agriculture to determine the effect upon domestic dairy producers, handlers, and processors and upon consumers of increases in the level of imports, if any, of dairy products and report his findings, together with any recommendations he may have with respect to import quotas or other matters, to the Congress of the United States no later than Jan. 1, 1975, defined dairy products as including (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use, and excluded from the definition of dairy products (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles.

PROC. NO. 3178. QUOTA ON BUTTER SUBSTITUTES

Proc. No. 3178, Apr. 17, 1957, 22 F.R. 2701, provided:

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the Secretary of Agriculture advised me that there was reason to believe that butter substitutes, including butter oil, containing 45 per centum or more of butterfat, which are dutiable under paragraph 709 of the Tariff Act of 1930, as amended, are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which such program of the Department of Agriculture is being undertaken; and

WHEREAS on November 17, 1956, under the authority of the said section 22, I caused the United States Tariff Commission [now the United States International Trade Commission] to make an investigation with respect to this matter; and

WHEREAS, in accordance with the said section 22, as implemented by Executive Order No. 7233 of November 23, 1935, the said Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the said investigation and report of the Tariff Commission, I find that butter substitutes, including butter oil, containing 45 per centum or more of butterfat and classifiable under paragraph 709 of the Tariff Act of 1930 are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the said price-support program with respect to milk and butterfat, and to reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which said price-support program is being undertaken; and

WHEREAS I find and declare that the imposition of the quantitative limitations hereinafter proclaimed is shown by such investigation of the said Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of such butter substitutes, including butter oil, will not materially interfere with the said price-support program or reduce substantially the amount of products processed in the United States from domestic milk and butterfat with respect to which the said price-support program is being undertaken:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22 of the Agricultural Adjustment Act [this section], do hereby proclaim that the total aggregate quantity of butter substitutes, including butter oil, containing 45 per centum or more of butterfat and classifiable under paragraph 709 of the Tariff Act of 1930, as amended, which shall be permitted to be entered, or withdrawn from warehouse, for consumption during the calendar year 1958 and each subsequent calendar year shall not exceed 1,200,000 pounds. The specified quantities of the named articles which may be entered, or withdrawn from warehouse, for consumption are not proportionately less than 50 per centum of the total quantities of such articles entered, or withdrawn from warehouse, for consumption during the representative period from January 1, 1956, to December 31, 1956, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifteenth day of April in the year of our Lord nineteen hundred and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

DWIGHT D. EISENHOWER.

PROCLAMATION NO. 3306

Proc. No. 3306, Aug. 7, 1959, 24 F.R. 6407, which provided for quotas on imports of rye, rye flour, and rye meal terminated on June 30, 1961.

PROCLAMATION NO. 3378

Proc. No. 3378, Oct. 31, 1960, 25 F.R. 10449, relating to quotas on imports of tung oil and tung nuts, was terminated by Proc. No. 3471, May 2, 1962, 27 F.R. 4271.

PROC. NO. 3428. IMPORT RESTRICTIONS ON CERTAIN COTTON PRODUCTS

Proc. No. 3428, Sept. 11, 1961, 26 F.R. 8535, provided:

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), the Secretary of Agriculture advised the President that he had reason to believe that certain cotton products produced in any stage preceding the spinning into yarn are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof, or to reduce substantially the amount of cotton processed in the United States from cotton or products thereof with respect to which any such program or operation is being undertaken; and

WHEREAS, on January 18, 1961, under the authority of the said section 22, the President requested the United States Tariff Commission [now the United States International Trade Commission] to make an investigation with respect to this matter; and

WHEREAS, in accordance with the said section 22, as implemented by Executive Order No. 7233 of November 23, 1935, the Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of the investigation and report of the Tariff Commission, I find that the articles with respect to which import restrictions are hereinafter proclaimed are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof; and

WHEREAS I find and declare that the important restrictions hereinafter proclaimed are shown by such investigation of the Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption of the said articles will not render or tend to render ineffective, or materially interfere with, the price-support program and other programs or operations undertaken by the Department of Agriculture with respect to cotton or products thereof;

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority vested in me by section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that the total aggregate quantity of cotton products produced in any stage preceding the spinning into yarn, except cotton wastes, which may be entered, or withdrawn from warehouse, for consumption in any 12-month period, beginning September 11 in 1961 and in subsequent years shall not exceed 1,000 pounds, which permissible total quantity I find and declare to be proportionately not less than 50 per centum of the total quantity of such articles entered, or withdrawn from warehouse, for consumption during the representative period from January 1, 1940, to December 31, 1953, inclusive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 11th day of September in the year of our Lord nineteen hundred and sixty-one, and of the Independence of the United States of America the one hundred and eighty-sixth.

[SEAL]

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 625, 672, 673, 1359a, 1392, 1854 of this title; title 19 sections 1360, 1366, 1887, 2581, 2703, 3011, 3203, 3333, 3391.

§ 625. Review of Burley tobacco imports by Secretary of Agriculture; price-support levels; excessive stocks

The Secretary of Agriculture shall review, pursuant to section 624 of this title, the effects of imports of Burley tobacco on the Department of Agriculture's Burley tobacco price-support program whenever (1) the level of price support for any crop of Burley tobacco is increased by less than 65 per centum of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with section 1445(b) of this title, or (2) stocks of Burley tobacco held by producer-owned cooperative marketing associations having loan agreements with the Commodity Credit Corporation exceed 20 per centum of the national marketing quota proclaimed by the Secretary for any such crop of Burley tobacco.

(Pub. L. 98–59, § 3, July 25, 1983, 97 Stat. 296.)

CODIFICATION

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

§ 626. Import inventory

(a) Compilation and report on imports

The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) Compilation and report on consumption

The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) Issuing of data

The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after August 23, 1988.

(Pub. L. 100–418, title IV, § 4502, Aug. 23, 1988, 102 Stat. 1403.)

CODIFICATION

Section was enacted as part of the Agricultural Competitiveness and Trade Act of 1988 and also as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of the Agricultural Adjustment Act which comprises this chapter.

§ 627. Dairy forward pricing pilot program

(a) Pilot program required

Not later than 90 days after November 29, 1999, the Secretary of Agriculture shall establish a temporary pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) Minimum milk price requirements

Payments made by milk handlers to milk producers and cooperatives, and prices received by milk producers and cooperatives, under the forward contracts shall be deemed to satisfy—

(1) all regulated minimum milk price requirements of paragraphs (B) and (F) of subsection (5) of section 608c of this title; and

(2) the requirement of paragraph (C) of such subsection regarding total payments by each handler.

(c) Milk covered by pilot program

(1) Covered milk

The pilot program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) Relation to Class I milk

To assist milk handlers in complying with the limitation in paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the handler's obligations with regard to Class I milk usage.

(d) Duration

The authority of the Secretary of Agriculture to carry out the pilot program shall terminate on December 31, 2004. No forward price contract entered into under the program may extend beyond that date.

(e) Study and report on effect of pilot program

(1) Study

The Secretary of Agriculture shall conduct a study on forward contracting between milk producers and cooperatives and milk handlers to determine the impact on milk prices paid to producers in the United States. To obtain information for the study, the Secretary may use the authorities available to the Secretary under section 608d of this title, subject to the confidentiality requirements of subsection (2) of such section.

(2) Report

Not later than April 30, 2002, the Secretary shall submit to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report containing the results of the study.

(May 12, 1933, ch. 25, title I, § 23, as added Pub. L. 106–113, div. B, § 1000(a)(8) [§ 3], Nov. 29, 1999, 113 Stat. 1536, 1501A–519.)

CODIFICATION

Another section 23 of act May 12, 1933 amended former section 781 of Title 12, Banks and Banking.

SUBCHAPTER IV—REFUNDS

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CROSS REFERENCES

Abatements, credits, and refunds of internal revenue taxes, see section 6401 et seq. of Title 26, Internal Revenue Code.

§§ 641 to 659. Omitted

CODIFICATION

Section 641, act June 22, 1936, ch. 690, § 601, 49 Stat. 1739, related to refunds in cases where exports, deliveries for charitable distribution or use, manufacture of large cotton bags, or the decrease in rate of processing tax took place prior to January 6, 1936, specified persons entitled to refunds, and filing and determination of claims.

Section 642, acts June 22, 1936, ch. 690, § 602, 49 Stat. 1740; Aug. 10, 1939, ch. 666, title IX, § 911, 53 Stat. 1402, specified amount of refunds on articles processed wholly or in chief value from a commodity subject to processing tax, defined certain terms, prohibited payments with respect to retail floor stocks with some exceptions, and made final determinations of Commissioner of Internal Revenue with respect to such payments.

Section 643, act June 22, 1936, ch. 690, § 603, 49 Stat. 1742, made applicable proclamations, certificates, and regulations of this chapter for purpose of determining amount of refunds or payments authorized by sections 641 and 642.

Section 644, acts June 22, 1936, ch. 690, § 902, 49 Stat. 1747; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(e), 56 Stat. 957, 968, conditioned allowance of refunds on a showing by claimant that he bore burden of tax or that he repaid such amount unconditionally to his vendee.

Section 645, acts June 22, 1936, ch. 690, § 903, 49 Stat. 1747; June 29, 1939, ch. 247, title IV, § 405, 53 Stat. 884, prohibited refunds except where claims were filed after June 22, 1936, and prior to January 1, 1940, and provided for regulations relating to filing of such claims.

Section 646, act June 22, 1936, ch. 690, § 904, 49 Stat. 1747, provided that no action could be brought before expiration of eighteen months from date of filing of a claim, or after expiration of two years from date of mailing to claimant of a notice disallowing the claim.

Section 647, act June 22, 1936, ch. 690, § 905, 49 Stat. 1748, provided for District Courts of the United States to have concurrent jurisdiction with Court of Claims or refund cases regardless of amount in controversy.

Section 648, acts June 22, 1936, ch. 690, § 906, 49 Stat. 1748; Oct. 21, 1942, ch. 619, title V, §§ 504(a), (c), 510(b), (f)(1), (g)–(j), 56 Stat. 957, 967; June 25, 1948, ch. 646, § 32, 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107, re-

lated to procedure on claims for refunds of processing taxes, review of actions of Commissioner of Internal Revenue by Tax Court, and review of Tax Court decisions by Courts of Appeals.

Section 649, act June 22, 1936, ch. 690, § 907, 49 Stat. 1751, related to evidence and presumptions.

Section 650, act June 22, 1936, ch. 690, § 908, 49 Stat. 1753, placed limitations on allowance of claims and interest.

Section 651, act June 22, 1936, ch. 690, § 909, 49 Stat. 1753, provided that, in absence of fraud or mistake, findings of fact and conclusions of law of Commissioner was conclusive on any other administrative or accounting officer.

Section 652, act June 22, 1936, ch. 690, § 910, 49 Stat. 1753, related to liability of collectors.

Section 653, act June 22, 1936, ch. 690, § 911, 49 Stat. 1753, made provisions of former sections 644–659 of this title inapplicable to certain refunds.

Section 654, act June 22, 1936, ch. 690, § 912, 49 Stat. 1754, provided that suits or proceedings, and claims barred on June 22, 1936, shall remain barred.

Section 655, act June 22, 1936, ch. 690, § 913, 49 Stat. 1754, defined ''tax'', ''processing tax,'' ''commodity'', ''article'', ''refund'', and ''Agricultural Adjustment Act''.

Section 656, act June 22, 1936, ch. 690, § 914, 49 Stat. 1754, related to authority of Commissioner of Internal Revenue.

Section 657, act June 22, 1936, ch. 690, § 915, 49 Stat. 1755, relating to salaries and administrative expenses, made funds available until June 30, 1937, and was not extended.

Section 658, act June 22, 1936, ch. 690, § 916, 49 Stat. 1755, provided that Commissioner of Internal Revenue, with approval of Secretary of Agriculture, prescribe rules and regulations for carrying out provisions of sections 644 to 659 of this title.

Section 659, act June 22, 1936, ch. 690, § 917, 49 Stat. 1755, related to personnel.

CHAPTER 26A—AGRICULTURAL MARKETING AGREEMENTS

Sec.

671. Arbitration of disputes concerning milk.
(a) Application.
(b) Conduct of meetings.
(c) Approval of award.
(d) Exemption from antitrust laws.
672. Agreements; licenses, regulations, programs, etc., unaffected.
673. Taxes under Agricultural Adjustment Act; laws unaffected.
674. Short title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 499b–1 of this title; title 50 App. section 2166.

§ 671. Arbitration of disputes concerning milk

(a) Application

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610(j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended, would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers, or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of the Agricultural Adjustment Act, as amended, relating to orders for milk and its products.

(b) Conduct of meetings

Meeting held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

(c) Approval of award

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.

(d) Exemption from antitrust laws

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States.

(June 3, 1937, ch. 296, § 3, 50 Stat. 248.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in subsec. (a), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The antitrust laws, referred to in subsec. (d), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 672. Agreements; licenses, regulations, programs, etc., unaffected

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], or any amendment thereof, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as reenacted and amended by this Act, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 2 or 8c(18) of the Agricultural Adjustment Act [7

U.S.C. 602 or 608c(18)], as reenacted and amended by this Act.

(June 3, 1937, ch. 296, § 4, 50 Stat. 249; July 3, 1948, ch. 827, title III, § 302(e), 62 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, known as the Agricultural Marketing Agreement Act of 1937. For complete classification of this Act to the Code, see Tables.

The Agricultural Adjustment Act, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

AMENDMENTS

1948—Act July 3, 1948, designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1948 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 673. Taxes under Agricultural Adjustment Act; laws unaffected

No processing taxes or compensating taxes shall be levied or collected under the Agricultural Adjustment Act [7 U.S.C. 601 et seq.], as amended. Except as provided in the preceding sentence, nothing in this Act shall be construed as affecting provisions of the Agricultural Adjustment Act, as amended, other than those enumerated in section 1 of Act of June 3, 1937, ch. 296, 50 Stat. 246. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of the Agricultural Adjustment Act, this Act, and other provisions of law to which they have been heretofore made applicable.

(June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, known as the Agricultural Marketing Agreement Act of 1937. For complete classification of this Act to the Code, see Tables.

Section 1 of act June 3, 1937, ch. 296, 50 Stat. 246, referred to in text, amended sections 601, 602, 608a, 608b, 608c, 608d, 608e, 610, 612, 614, and 624 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 674. Short title

This Act may be cited as the ''Agricultural Marketing Agreement Act of 1937''.

(June 3, 1937, ch. 296, § 6, 50 Stat. 249.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which among other things enacted this chapter. For complete classification of this Act to the Code, see Tables.

CHAPTER 27—COTTON MARKETING

§§ 701 to 723. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, acts Apr. 21, 1934, ch. 157, §§ 1–2, 48 Stat. 598–606; Aug. 9, 1935, ch. 504, 49 Stat. 570; Aug. 24, 1935, ch. 641, §§ 39(a)–(e), 40–42, 49 Stat. 777, 778, related to placing of cotton industry on a sound commercial basis, to preventing unfair competition and practices in putting cotton into channels of interstate and foreign commerce and to providing funds for paying additional benefits under the Agricultural Adjustment Act.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed sections 701 to 723, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

§ 724. Omitted

CODIFICATION

Section, act Apr. 21, 1934, ch. 157, § 24, 48 Stat. 607, authorized Secretary of Agriculture to develop new and extended uses for cotton, and made available not to exceed $500,000 out of funds available to Secretary under section 612 of this title.

§ 725. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Section, act Apr. 21, 1934, ch. 157, § 25, as added June 20, 1934, ch. 687, 48 Stat. 1184, related to issuance of tax exemption certificates.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, which repealed this section provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were cancelled and released.

§ 726. Omitted

CODIFICATION

Section, act June 6, 1934, ch. 409, 48 Stat. 911, related to administration of oaths for tax exemption certificates, and was rendered inoperative by repeal of sections 721 to 723 and 725 of this title by act Feb. 10, 1936, ch. 42, 49 Stat. 1106.

CHAPTER 28—TOBACCO INDUSTRY

§§ 751 to 766. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, act June 28, 1934, ch. 866, §§ 1–16, 48 Stat. 1275–1280, as amended by act Aug. 24, 1935, ch. 641, §§ 44

to 54, 49 Stat. 778 to 780, related to marketing and taxation of tobacco.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 219; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 29—POTATO ACT OF 1935

§§ 801 to 833. Repealed. Feb. 10, 1936, ch. 42, 49 Stat. 1106

Sections, act Aug. 24, 1935, ch. 641, §§201–233, 49 Stat. 782–793, related to potato control.

COLLECTION OF UNPAID TAXES

Act Mar. 2, 1936, ch. 112, 49 Stat. 1155, amending act Feb. 10, 1936, ch. 42, 49 Stat. 1106, provided that no tax, civil penalty, or interest which accrued under any provision of law repealed by said act Feb. 10, 1936, and which was uncollected on date of enactment of said act Feb. 10, 1936, was to be collected; and all liens for taxes, civil penalties, or interest arising out of taxes under such provisions of law were canceled and released.

APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, §1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, §1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, §1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, §1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, §1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

CHAPTER 30—ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Sec.
851. Declaration of policy.
852. Marketing agreements with handlers; exemption from antitrust laws.
853. Terms and conditions of marketing agreements.
854. Order regulating handlers; issuance and terms.
855. Applicability of other laws.

§ 851. Declaration of policy

It is declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

(Aug. 24, 1935, ch. 641, §56, 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 853, 855 of this title.

§ 852. Marketing agreements with handlers; exemption from antitrust laws

In order to effectuate the policy declared in section 851 of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as ''handlers.'' The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

(Aug. 24, 1935, ch. 641, §57, 49 Stat. 781.)

REFERENCES IN TEXT

Antitrust laws of the United States, referred to in text, are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 853, 854, 855 of this title.

§ 853. Terms and conditions of marketing agreements

Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have in inventory in his own possession on April 1 of each year a reserve supply of completed serum equivalent to not less than 40 per centum of his previous year's sales of all serum, except that any marketing agreement may provide that upon written application by a manufacturer filed before September 1 of the preceding year, the Secretary may fix another date between January 1 and May 1 on which such manufacturer shall have such inventory if the Secretary finds that such actions will tend to effectuate the purposes of section 851 of this title. The Secretary may impose such terms and conditions upon granting any such application as he finds necessary to effectuate the purposes of section 851 of this title. Serum used in computing the required reserve supply of any manufacturer shall not again be used in computing the required reserve supply of any other manufacturer.

(Aug. 24, 1935, ch. 641, §58, 49 Stat. 781; Pub. L. 85–574, July 31, 1958, 72 Stat. 454.)

REFERENCES IN TEXT

Section 851 of this title, referred to in clause (b), was in the original ''this Act'', meaning act Aug. 24, 1935. For complete classification of act Aug. 24, 1935, to the Code, see Tables.

AMENDMENTS

1958—Cl. (b). Pub. L. 85–574 substituted ''in inventory in his own possession on April 1'' for ''available on May 1'', inserted exception provision for changing minimum inventory date under certain terms and conditions, and inserted prohibition against reusing serum in computation of required reserve supply for different manufacturers.

§ 854. Order regulating handlers; issuance and terms

Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

(Aug. 24, 1935, ch. 641, § 59, 49 Stat. 781.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 852, 855 of this title.

§ 855. Applicability of other laws

Subject to the policy declared in section 851 of this title, the provisions of subsections (6) to (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b)(2), (c), (f), (h), and (i) of section 610 of this title, are made applicable in connection with the administration of this chapter.

(Aug. 24, 1935, ch. 641, § 60, 49 Stat. 782.)

FEDERAL RULES OF CIVIL PROCEDURE

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CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

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SUBCHAPTER I—RURAL ELECTRIFICATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 901. Short title

This chapter may be cited as the ''Rural Electrification Act of 1936''.

(May 20, 1936, ch. 432, title I, §1, 49 Stat. 1363; 1939 Reorg. Plan No. II, §5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Pub. L. 103–354, title II, §235(a)(1), Oct. 13, 1994, 108 Stat. 3220.)

AMENDMENTS

1994—Pub. L. 103–354 added section catchline and text and struck out former text which read as follows: ''There is hereby created and established an agency of the United States to be known as the 'Rural Electrification Administration', all of the powers of which shall be exercised by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and who shall receive a salary of $10,000 per year. This chapter may be cited as the 'Rural Electrification Act of 1936'.''

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–129, §1, Nov. 1, 1993, 107 Stat. 1356, provided that: ''This Act [enacting sections 936d, 936e, and 2008e of this title, amending sections 902, 904, 913, 918, 924, 935, 936c, 937, 939, 940d, 946, 948, 1926, and 2006f of this title, and enacting provisions set out as a note below] may be cited as the 'Rural Electrification Loan Restructuring Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–428, §1, Oct. 21, 1992, 106 Stat. 2183, provided that: ''This Act [amending section 936b of this title] may be cited as the 'Rural Electrification Administration Improvement Act of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XXIII, §2351(a), Nov. 28, 1990, 104 Stat. 4038, provided that: ''This subtitle [subtitle F (§§2351–2368) of title XXIII of Pub. L. 101–624, enacting sections 918 and 925 to 928 of this title, amending sections 924, 932, 935, 936, 939, 945, 946, 948, and 950 of this title, and enacting provisions set out as notes under this section and section 946 of this title] may be cited as the 'Rural Telecommunications Improvements Act of 1990'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–570, §1, Oct. 20, 1976, 90 Stat. 2701, provided: ''That this Act [amending sections 931 and 935 of this title and enacting provisions set out as a note under section 935 of this title] may be cited as the 'Rural Electrification Administration Technical Amendments Act of 1976'.''

REGULATIONS

Pub. L. 103–129, §6, Nov. 1, 1993, 107 Stat. 1367, provided that: ''Except as provided in section 2(b) of the Rural Electrification Act of 1936 [7 U.S.C. 902(b)] and section 370 of the Consolidated Farm and Rural Development Act [7 U.S.C. 2008e], as added by sections 2(c)(1)(C) and 5 of this Act, not later than 45 days after the date of enactment of this Act [Nov. 1, 1993], interim final regulations shall be issued by—

''(1) the Administrator of the Rural Electrification Administration to carry out the amendments made by this Act [see Short Title of 1993 Amendment note above] to programs administered by the Administrator;

''(2) the Administrator of the Rural Development Administration to carry out the amendments made by this Act to programs administered by the Administrator; and

''(3) the Secretary of Agriculture to carry out the amendments made by this Act to programs administered by the Farmers Home Administration.''

TRANSFER OF FUNCTIONS

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

Rural Electrification Administration and its functions and activities transferred to Department of Agriculture, to be administered therein by Administrator under general direction and supervision of Secretary of Agriculture, by 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of that plan for provisions relating to transfer of functions, records, property, personnel, and funds.

FINDINGS; STATEMENT OF POLICY

Pub. L. 101–624, title XXIII, §2352, Nov. 28, 1990, 104 Stat. 4038, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

''(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

''(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.''

§ 902. General authority of Secretary of Agriculture

(a) Loans

The Secretary of Agriculture (referred to in this chapter as the ''Secretary'') is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

(b) Investigations and reports

The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.

(May 20, 1936, ch. 432, title I, § 2, 49 Stat. 1363; Oct. 28, 1949, ch. 776, §§ 2, 3, 63 Stat. 948; Pub. L. 103–129, § 2(c)(1), Nov. 1, 1993, 107 Stat. 1363; Pub. L. 103–354, title II, § 235(a)(2), (13), Oct. 13, 1994, 108 Stat. 3220, 3221; Pub. L. 104–127, title VII, § 771, Apr. 4, 1996, 110 Stat. 1149.)

AMENDMENTS

1996—Pub. L. 104–127, § 771(1), inserted section catchline.

Subsec. (a). Pub. L. 104–127, § 771(1), (2), inserted heading, substituted ''The Secretary of Agriculture (referred to in this chapter as the 'Secretary') is'' for ''The Secretary of Agriculture is'', struck out ''and the furnishing of electric energy to persons in rural areas who are not receiving central station service'' after ''rural electrification'', and substituted ''systems.'' for ''systems; to make, or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.''

Subsec. (b). Pub. L. 104–127, § 771(3), added subsec. (b) and struck out former subsec. (b) which read as follows: ''By January 1, 1994, the Secretary shall issue interim regulations to implement the authority contained in subsection (a) of this section to make loans for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. If the regulations are not issued by January 1, 1994, the Secretary shall consider any demand side management, energy conservation, or renewable energy program, system, or activity that is approved by a State agency to be eligible for the loans.''

1994—Pub. L. 103–354 substituted ''Secretary of Agriculture'' for ''Administrator'' in subsec. (a) and ''Secretary'' for ''Administrator'' in two places in subsec. (b).

1993—Pub. L. 103–129 designated existing provisions as subsec. (a), substituted ''electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems;'' for ''telephone service in rural areas, as hereinafter provided;'', and added subsec. (b).

1949—Act Oct. 28, 1949, authorized loans to furnish and improve rural telephone service; and inserted ''title I,'' in credit of act May 20, 1936.

§ 903. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(May 20, 1936, ch. 432, title I, § 3, 49 Stat. 1364; June 21, 1938, ch. 554, title IV, § 401, 52 Stat. 818; Sept. 21, 1944, ch. 412, title V, §§ 501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, title I, § 1, 61 Stat. 546; Oct. 28, 1949, ch. 776, §§ 2, 4(a)–(d), 63 Stat. 948; June 15, 1955, ch. 139, § 1, 69 Stat. 131; Pub. L. 92–12, § 3(a), May 7, 1971, 85 Stat. 37; Pub. L. 93–32, § 3, May 11, 1973, 87 Stat. 70; Pub. L. 103–354, title II, § 235(a)(3), (13), Oct. 13, 1994, 108 Stat. 3220, 3221; Pub. L. 104–127, title VII, § 772(a), Apr. 4, 1996, 110 Stat. 1149.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, inserting section catchline and substituting current provisions for provisions relating to funds of Secretary, including provisions for loans by Secretary of the Treasury, authorization of appropriations, allotment of funds for loans in States, loans of unallotted funds, and unexpended funds and limitation on use.

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator, upon the request and approval of the Secretary of Agriculture,'' and for ''Administrator appointed pursuant to the provisions of this chapter or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037'' in first sentence of subsec. (a) and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1973—Subsec. (f). Pub. L. 93–32 struck out subsec. (f) which made provision for the disposition of payments on loans that had been made by the Administrator.

1971—Subsec. (f). Pub. L. 92–12 inserted introductory text ''Except as otherwise provided in sections 931 and 946(a) of this title''.

1955—Subsec. (c). Act June 15, 1955, reduced the funds which may be allotted for loans from fifty to twenty-five per centum of the available or appropriated sum, and inserted two provisos.

Subsec. (d). Act June 15, 1955, substituted ''75 per centum'' for ''50 per centum'', and ''25 per centum'' for ''10 per centum''.

Subsec. (e). Act June 15, 1955, substituted ''25 per centum'' for ''10 per centum''.

1949—Act Oct. 28, 1949, § 2, inserted ''title I,'' in credit of act May 20, 1936.

Subsec. (a). Act Oct. 28, 1949, § 4(a), authorized loans for financing facilities to render telephone service.

Subsec. (c). Act Oct. 28, 1949, § 4(b), substituted ''for loans for rural electrification pursuant to sections 904 and 905 of this title'' for ''for the purposes of this chapter''.

Subsec. (d). Act Oct. 28, 1949, § 4(c), inserted ''rural electrification'' after ''available for''.

Subsec. (e). Act Oct. 28, 1949, § 4(d), inserted ''for rural electrification loans'' after ''sums'' in proviso.

1947—Subsec. (a). Act July 30, 1947, amended subsec. (a) generally, and among other things transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury the power to make loans.

Subsec. (f). Act July 30, 1947, substituted Secretary of the Treasury for Reconstruction Finance Corporation.

1944—Subsec. (a). Act Sept. 21, 1944, struck out ''The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon his request approved by the President, not exceeding in aggregate amounts $50,000,000 for the fiscal year ending June 30, 1937, and $100,000,000 for the fiscal year ending June 30, 1939, with interest at 3 per centum per annum'' and inserted in lieu thereof ''The Reconstruction Finance Corporation is hereby authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1945, as the Congress may from time to time determine to be necessary, with interest at a rate of 1¾ per centum per annum'', changed colon to period following ''numbered 70037'', inserted ''Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to the effective date of this amendment shall be adjusted to a rate of 1¾ per centum per annum'', inserted sentence ''The amount of the notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions hereof'', and substituted ''thirty-five years'' for ''twenty-five years'' in second proviso.

Subsec. (b). Act Sept. 21, 1944, struck out subsec. (b) limiting amount of appropriation and renewal of appropriations to eight years after June 30, 1938, and inserted a new subsec. (b).

Subsec. (e). Act Sept. 21, 1944, struck out ''and provided further, that no loans shall be made by the Reconstruction Finance Corporation to the Administrator after June 30, 1939'', and changed colon to period after ''territories''.

1938—Subsecs. (a), (e). Act June 21, 1938, inserted ''and $100,000,000 for the fiscal year ending June 30, 1939'' after ''June 30, 1937,'' in subsec. (a), and substituted ''June 30, 1939'' for ''June 30, 1937'' in subsec. (e).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–12 effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as an Effective Date note under section 921a of this title.

RESTRICTIONS ON BORROWER

Section 401 of act June 21, 1938, as amended by Pub. L. 103–182, title III, § 381(d), Dec. 8, 1993, 107 Stat. 2129; Pub. L. 103–354, title II, § 235(b)(3), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 103–465, title III, § 342(g), Dec. 8, 1994, 108 Stat. 4954, in addition to amending subsecs. (a) and (e), provided in part as follows: ''In making loans pursuant to this title [title IV of such act] and pursuant to the Rural Electrification Act of 1936 [this chapter], the Secretary of Agriculture shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an 'eligible country' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.''

[Amendment by section 342(g) of Pub. L. 103–465 to section 401 of act June 21, 1938, set out above, effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 344(b) of Pub. L. 103–465, set out as an Effective Date of 1994 Amendment note under section 2512 of Title 19, Customs Duties.]

[Amendment by subsec. 381(d) of Pub. L. 103–182 to section 401 of act June 21, 1938, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 381(e) of Pub. L. 103–182, set out as an Effective Date of 1993 Amendment note under section 2511 of Title 19, Customs Duties.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 907, 922 of this title.

§ 904. Loans by Secretary of Agriculture for electrical plants and transmission lines; preferences; consent of State authorities

The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under section 903 of this title, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owned by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended [16 U.S.C. 831 et seq.]: *Provided*, That the Secretary, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this chapter. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income, except that no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

(May 20, 1936, ch. 432, title I, § 4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, §§ 502(a), 503, 58 Stat. 739, 740; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, §§ 2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, § 2, 69 Stat. 132; Pub. L. 103–129, § 2(c)(2), Nov. 1, 1993, 107 Stat. 1363; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, § 773, Apr. 4, 1996, 110 Stat. 1149.)

REFERENCES IN TEXT

The Tennessee Valley Authority Act of 1933, as amended, referred to in text, is act May 18, 1933. ch. 32. 48 Stat. 58, as amended, which is classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

AMENDMENTS

1996—Pub. L. 104–127, in first sentence, struck out ''for the furnishing of electric energy to persons in rural areas who are not receiving central station service and'' after ''transmission and distribution lines or systems'' and substituted ''section 903 of this title,'' for ''the provisions of sections 903(d) and 903(e) of this title but without regard to the 25 per centum limitation therein contained,'', in second sentence, substituted '', except that'' for '': *Provided, further*, That all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: *And provided further*, That'', and in third sentence, struck out ''and section 905 of this title'' before ''shall not be made''.

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1993—Pub. L. 103–129 inserted ''and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems'' after ''central station service''.

1955—Act June 15, 1955, substituted ''25 per centum'' for ''10 per centum''.

1949—Act Oct. 28, 1949, inserted ''for rural electrification'' after ''to make loans'' in first sentence, and inserted ''title I,'' in credit of act May 20, 1936.

1948—Act June 29, 1948, permitted certain municipalities to refinance with R.E.A. their indebtedness with T.V.A.

1944—Act Dec. 23, 1944, inserted provision authorizing loans to cooperative associations to enable them to discharge or refinance debts owed to the Tennessee Valley Authority.

Act Sept. 21, 1944, extended limit of self-liquidating period from 25 to 35 years and changing the rate of interest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 922, 931, 932, 936b, 948 of this title; title 16 section 2708.

§ 905. Repealed. Pub. L. 104–127, title VII, § 774(a), Apr. 4, 1996, 110 Stat. 1150

Section, acts May 20, 1936, ch. 432, title I, § 5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, title V, § 502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(13), 108 Stat. 3221, related to loans for electrical and plumbing equipment and persons eligible for such loans.

§ 906. Funding for administrative expenses

For the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary.

(May 20, 1936, ch. 432, title I, § 6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Pub. L. 94–124, § 3, Nov. 4, 1975, 89 Stat. 677; Pub. L. 103–437, § 4(a)(3), Nov. 2, 1994, 108 Stat. 4581; Pub. L. 104–127, title VII, § 775, Apr. 4, 1996, 110 Stat. 1150.)

AMENDMENTS

1996—Pub. L. 104–127 struck out at end ''On or before February 15, of each calendar year beginning with calendar year 1976, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purpose of administering this chapter and for the purpose of making the studies, investigations, publications, and reports herein authorized.''

1994—Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1975—Pub. L. 94–124 inserted requirement that the Secretary of Agriculture testify before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry each calendar year on or before February 15th or other date specified by the Committees to provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year.

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 911 of this title.

§ 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.

(Pub. L. 93–32, § 10, May 11, 1973, 87 Stat. 71.)

CODIFICATION

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 907. Acquisition of property pledged for loans; disposition; sale of pledged property by borrower

The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this chapter; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 903 of this title; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof; and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable.

No borrower of funds under sections 904 or 922 of this title shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid.

(May 20, 1936, ch. 432, title I, § 7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1949—Act Oct. 28, 1949, inserted ''or section 922'' after ''904'' in second par., and inserted ''title I,'' in credit of act May 20, 1936.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 932 of this title.

§ 908. Repealed. Pub. L. 104–127, title VII, § 776, Apr. 4, 1996, 110 Stat. 1150

Section, acts May 20, 1936, ch. 432, title I, § 8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(4), 108 Stat. 3221, related to transfer of functions of Rural Electrification Administration created by Executive Order No. 7037.

§ 909. Administration on nonpolitical basis; dismissal of officers or employees for violating provision

This chapter shall be administered entirely on a nonpartisan basis, and in the appointment of

officials, the selection of employees, and in the promotion of any such officials or employees, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Secretary herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Secretary who is found guilty of a violation of this chapter shall be removed by the Secretary.

(May 20, 1936, ch. 432, title I, § 9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

§ 910. Repealed. Pub. L. 104–127, title VII, § 777, Apr. 4, 1996, 110 Stat. 1150

Section, acts May 20, 1936, ch. 432, title I, § 10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Apr. 21, 1976, Pub. L. 94–273, § 11(1), 90 Stat. 378; Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(13), 108 Stat. 3221, required Secretary to present annually to Congress, not later than Apr. 20, report of Secretary's activities under this chapter.

§ 911. Acceptance of services of Federal or State officers; application of civil service laws; expenditures for supplies and equipment

In order to carry out the provisions of this chapter the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may appoint and fix the compensation of attorneys, engineers, and experts and he may, subject to the civil-service laws, appoint such other officers and employees as he may find necessary and prescribe their duties. The Secretary is authorized, from sums appropriated pursuant to section 906 of this title, to make such expenditures (including expenditures for personal services; supplies and equipment; lawbooks and books of reference; directories and periodicals; travel expenses; rental at the seat of government and elsewhere; the purchase, operation, or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this chapter.

(May 20, 1936, ch. 432, title I, § 11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions which authorized the appointment and fixing of compensation of attorneys, engineers, and experts ''without regard to the provisions of the civil service laws applicable to officers and employees of the United States'' were omitted from the Code as obsolete and superseded. Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in two places.

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

§ 911a. Repealed. Pub. L. 103–354, title II, § 235(a)(5), Oct. 13, 1994, 108 Stat. 3221

Section, act May 20, 1936, ch. 432, title I, § 11A, as added Nov. 28, 1990, Pub. L. 101–624, title XXIII, § 2350, 104 Stat. 4037; amended Dec. 13, 1991, Pub. L. 102–237, title VII, § 703(a), 105 Stat. 1881, related to Assistant Administrator for Economic Development.

§ 912. Extension of time for repayment of loans

(a) The Secretary is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Secretary pursuant to this chapter, except that, with respect to any loan made under section 904 or 922 of this title, the payment of interest or principal shall not be extended more than five years after such payment shall have become due.

(b)(1) Subject to limitations established in appropriations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this chapter under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a) of this section, except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the borrower.

(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the

total amount of such payments shall be equal to the amount of the payment deferred.

(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this chapter and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 940c of this title in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 940c(b)(2)(A) of this title.

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.

(May 20, 1936, ch. 432, title I, § 12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §§ 2, 4(f), 63 Stat. 948; Pub. L. 101–624, title XXIII, § 2344, Nov. 28, 1990, 104 Stat. 4028; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, § 774(b), Apr. 4, 1996, 110 Stat. 1150.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted '', except that, with respect to any loan'' for '': *Provided, however*, That with respect to any loan'' and struck out '', and with respect to any loan made under section 905 of this title, the payment of principal or interest shall not be extended more than two years after such payment shall have become due: *And provided further*, That the provisions of this section shall not apply to any obligations or the security therefor which may be held by the Reconstruction Finance Corporation under the provisions of section 903 of this title'' after ''such payment shall have become due''.

1994—Subsecs. (a), (b)(1), (4). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).

1949—Act Oct. 28, 1949, inserted ''or section 922'' after ''904'' in first proviso, and inserted ''title I,'' in credit of act May 20, 1936.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912a of this title.

§ 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 912 of this title, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Secretary under this chapter, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(Pub. L. 91–606, title II, § 236(a), Dec. 31, 1970, 84 Stat. 1754; Pub. L. 103–354, title II, § 235(b)(1), Oct. 13, 1994, 108 Stat. 3221.)

CODIFICATION

Section was enacted as part of the Disaster Relief Act of 1970, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter. Section was formerly classified to section 4455(a) of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary under this chapter'' for ''Rural Electrification Administration''.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 913. Definitions

As used in this chapter the term ''rural area'', except as provided in section 924(b) of this title, shall be deemed to mean any area of the United States not included within the boundaries of any urban area, as defined by the Bureau of the Census, and such term shall be deemed to include both the farm and nonfarm population thereof; the term ''farm'' shall be deemed to mean a farm as defined in the publications of the Bureau of the Census; the term ''person'' shall be deemed to mean any natural person, firm, corporation, or association; the term ''Territory'' shall be deemed to include any insular possession of the United States; and the term ''Secretary'' shall be deemed to mean the Secretary of Agriculture.

(May 20, 1936, ch. 432, title I, § 13, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948; Pub. L. 103–129, § 2(c)(3), Nov. 1, 1993, 107 Stat. 1363; Pub. L. 103–354, title II, § 235(a)(6), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 inserted before period at end ''; and the term 'Secretary' shall be deemed to mean the Secretary of Agriculture''.

1993—Pub. L. 103–129 inserted '', except as provided in section 924(b) of this title,'' before ''shall be deemed to mean'' and substituted ''urban area, as defined by the Bureau of the Census'' for ''city, village, or borough having a population in excess of fifteen hundred inhabitants,''.

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

§ 914. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(May 20, 1936, ch. 432, title I, § 14, 49 Stat. 1367; Oct. 28, 1949, ch. 776, § 2, 63 Stat. 948.)

AMENDMENTS

1949—Act Oct. 28, 1949, inserted ''title I,'' in credit of act May 20, 1936.

§ 915. Purchase of financial and credit reports

The Secretary of Agriculture is authorized to purchase such financial and credit reports as may be necessary to carry out the Secretary's authorized work: *Provided*, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title V, § 505, 58 Stat. 740; Pub. L. 103–354, title II, § 235(b)(2), Oct. 13, 1994, 108 Stat. 3221.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Organic Act of 1944, and not as part of the Rural Electrification Act of 1936 which constitutes this chapter.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary of Agriculture'' for ''Rural Electrification Administration'' and ''the Secretary's'' for ''its''.

§ 916. Criteria for loans

In order to insure coordination of electric generation and transmission financing under this chapter with the national energy policy, the Secretary in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, § 16, as added Pub. L. 95–91, title VII, § 709(f), Aug. 4, 1977, 91 Stat. 608; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' before ''in making''.

§ 917. Prohibition on restricting water and waste facility services to electric customers

(a) Prohibition

Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a) of this section.

(c) "Rural development programs" defined

In this section, the term ''rural development program'' means the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 [7 U.S.C. 2008j] and subtitle E [7 U.S.C. 2009 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G [7 U.S.C. 5901] of title XVI and sections 2281 [42 U.S.C. 5177a], 2333, and 2381 [7 U.S.C. 950aaa–2, 3125b] of the Food, Agriculture, Conservation, and Trade Act of 1990.

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) Title V [7 U.S.C. 2661 et seq.] and section 603(c) [7 U.S.C. 2204a] of the Rural Development Act of 1972.

(6) Sections 905 and 940a[1] of this title and subchapter IV of this chapter.

(d) Regulations

Not later than 60 days after April 4, 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a) of this section.

(May 20, 1936, ch. 432, title I, § 17, as added Pub. L. 104–127, title VII, § 778, Apr. 4, 1996, 110 Stat. 1150.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in subsec. (c)(1), is Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle E of the Act is classified generally to subchapter V (§ 2009 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (c)(2), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. Subtitle G of title XVI of the Act, known as the Alternative Agricultural Research and Commercialization Act of 1990, is classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendments note set out under section 1421 of this title and Tables.

The Rural Development Act of 1972, referred to in subsec. (c)(5), is Pub. L. 92–419, Aug. 30, 1972, 86 Stat. 657, as amended. Title V of the Act is classified generally to subchapter II (§ 2661 et seq.) of chapter 59 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

Sections 905 and 940a of this title, referred to in subsec. (c)(6), were repealed by Pub. L. 104–127, title VII, §§ 774(a), 780, Apr. 4, 1996, 110 Stat. 1150, 1151.

PRIOR PROVISIONS

A prior section 917, act May 20, 1936, ch. 432, title I, § 17, as added Nov. 28, 1990, Pub. L. 101–624, title XXIII, § 2343, 104 Stat. 4027, related to establishment of tech-

[1] See References in Text note below.

nical assistance unit to provide advice and technical assistance to electric and telephone borrowers under this chapter, prior to repeal by Pub. L. 102–237, title VII, § 703(b), Dec. 13, 1991, 105 Stat. 1881.

§ 918. General prohibitions

(a) No consideration of borrower's level of general funds

The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this chapter based on a borrower's level of general funds.

(b) Loan origination fees

The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this chapter in connection with any loan made or guaranteed under this chapter.

(c) Consultants

(1) In general

To facilitate timely action on applications by borrowers for financial assistance under this chapter and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

(2) Conflicts of interest

The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

(3) Payment of costs

The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

(4) Contracts, grants, and agreements

The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

(5) Use of consultants

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

(May 20, 1936, ch. 432, title I, § 18, as added Pub. L. 101–624, title XXIII, § 2353, Nov. 28, 1990, 104 Stat. 4039; amended Pub. L. 103–129, § 2(c)(4), Nov. 1, 1993, 107 Stat. 1364; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–129 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

SUBCHAPTER II—RURAL TELEPHONE SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 931, 939 of this title.

§ 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

(Oct. 28, 1949, ch. 776, § 1, 63 Stat. 948.)

CODIFICATION

Section is composed of the first sentence of section 1 of act Oct. 28, 1949. The second sentence of section 1 of that act, which provided that: ''In order to effectuate this policy, the Rural Electrification Act of 1936 [this chapter] is amended as hereinafter provided'', is omitted from the Code.

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises subchapter II of this chapter.

§ 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

(Pub. L. 92–12, § 1, May 7, 1971, 85 Stat. 29.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–12 provided that: ''In order to effectuate this policy, the Rural Electrification Act of 1936, as amended (7 U.S.C. 921–924), is amended as hereinafter provided.''

Section was not enacted as part of title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 7 of Pub. L. 92–12 provided that: ''This Act [enacting sections 921a, 931, 932, and 941 to 950b of this title and amending sections 903(f) and 922 of this title] shall take effect upon enactment [May 7, 1971].''

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92–12

Section 6 of Pub. L. 92–12 provided that: ''The right to repeal, alter, or amend this Act [enacting sections 921a, 931, 932, and 941 to 950b of this title, amending sections 903 and 922 of this title and sections 856 and 868 of former Title 31, and enacting provisions set out as notes under sections 856 and 868 of former Title 31] is expressly reserved.''

§ 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should

have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

(Pub. L. 92–324, § 1, June 30, 1972, 86 Stat. 390.)

CODIFICATION

The last sentence of section 1 of Pub. L. 92–324 provided that: ''The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided.''

Section was not enacted as part of the title II of the Rural Electrification Act of 1936 which comprises this subchapter.

EFFECTIVE DATE

Section 4 of Pub. L. 92–324 provided that: ''This Act [enacting this section and amending section 947 of this title] shall take effect upon enactment [June 30, 1972].''

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 92–324

Section 3 of Pub. L. 92–324 provided that: ''The right to repeal, alter, or amend this Act [enacting this section and amending section 947 of this title] is expressly reserved.''

§ 922. Loans for rural telephone service

From such sums as are from time to time made available by the Congress to the Secretary for such purpose, pursuant to section 903 of this title, the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this subchapter, such loans shall be made under the same terms and conditions as are provided in section 904 of this title, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems to furnish and improve telephone service in rural areas: *Provided, however*, That the Secretary, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas, and to cooperative, nonprofit, limited, dividend, or mutual associations: *And provided further*, That for a period of one year from and after October 28, 1949, applications for loans received by the Secretary from persons who on October 28, 1949, are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially the same subscribers. The Secretary in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Secretary to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: *Provided*, That such refinancing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: *And provided further*, That such refinancing shall constitute not more than 40 per centum of any loan made under this subchapter. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Secretary shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(May 20, 1936, ch. 432, title II, § 201, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended Pub. L. 92–12, § 3(b), May 7, 1971, 85 Stat. 37; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1971—Pub. L. 92–12 inserted '', to public bodies now providing telephone service in rural areas'' after ''areas'' in first sentence and after ''areas'' in first proviso of second sentence.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–12 effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as an Effective Date note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 907, 912, 927, 931, 932, 946, 948, 950b of this title.

§ 923. State regulation of telephone service

Nothing contained in this chapter shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of 1934 [47 U.S.C. 151 et seq.], including the rates for such service.

(May 20, 1936, ch. 432, title II, § 202, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§ 151 et seq.) of Title 47, Telegraphs, Telephones, and Radio-

telegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

§ 924. Definition of telephone service and rural area

(a) As used in this subchapter, the term ''telephone service'' shall be deemed to mean any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 153(*o*)[1] of title 47.

(b) As used in this subchapter, the term ''rural area'' shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

(May 20, 1936, ch. 432, title II, § 203, as added Oct. 28, 1949, ch. 776, § 5, 63 Stat. 948; amended Pub. L. 87–862, Oct. 23, 1962, 76 Stat. 1140; Pub. L. 101–624, title XXIII, § 2354, Nov. 28, 1990, 104 Stat. 4039; Pub. L. 103–129, § 2(c)(5), Nov. 1, 1993, 107 Stat. 1364.)

REFERENCES IN TEXT

Section 153 of title 47, referred to in subsec. (a), was subsequently amended and no longer contains a subsec. (*o*). However, the term ''broadcasting'' is defined elsewhere in that section.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–129 substituted ''5,000'' for ''one thousand five hundred''.

1990—Subsec. (a). Pub. L. 101–624 inserted ''or reception'' after ''transmission'' and ''data,'' after ''voice,'', and substituted ''by wire, fiber, radio, light, or other visual or electromagnetic means'' for ''through the use of electricity between the transmitting and receiving apparatus''.

1962—Subsec. (a). Pub. L. 87–862 included the transmission of sounds, signals, pictures, writing, or signs of all kinds within ''telephone service'', and substituted ''message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes'' for ''telegraph services or facilities''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 913, 948 of this title.

§ 925. Loan feasibility

The Secretary and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

(1) increase the rates charged to the applicant's customers or subscribers; or

(2) increase the applicant's ratio of—

(A) net income or margins before interest; to

(B) the interest requirements on all of the applicant's outstanding and proposed loans.

(May 20, 1936, ch. 432, title II, § 204, as added Pub. L. 101–624, title XXIII, § 2355, Nov. 28, 1990, 104 Stat. 4039; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

§ 926. Certain rural development investments by qualified telephone borrowers not treated as dividends or distributions

(a) In general

The Secretary and the Governor of the telephone bank shall not—

(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 2204b(c)(2) of this title (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed ⅓ of the net worth of the borrower; or

(2) require a qualified telephone borrower to obtain the approval of the Secretary or the Governor of the telephone bank in order to make an investment described in paragraph (1).

(b) "Qualified telephone borrower" defined

As used in subsection (a) of this section, the term ''qualified telephone borrower'' means a person—

(1) to whom a telephone loan has been made or guaranteed under this chapter; and

(2) whose net worth is at least 20 percent of the total assets of such person.

(May 20, 1936, ch. 432, title II, § 205, as added Pub. L. 101–624, title XXIII, § 2356, Nov. 28, 1990, 104 Stat. 4039; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in two places.

§ 927. General duties and prohibitions

(a) Duties

The Secretary and the Governor of the telephone bank shall—

(1) notwithstanding section 553(a)(2) of title 5, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this chapter other than those relating to agency management and personnel;

(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

(A) with respect to items for which the regulatory authority with jurisdiction over

[1] See References in Text note below.

the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this chapter;

(3) annually determine and publish the average described in paragraph (2)(B); and

(4) make loans for all purposes for which telephone loans are authorized under section 922 or 948 of this title, to the extent of qualifying applications therefor.

(b) Prohibitions

The Secretary and the Governor of the telephone bank shall not—

(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this chapter without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this chapter have been accomplished with funds provided under this chapter;

(2) regulate the order or sequence of advances of funds under telephone loans made under this chapter to any borrower who has received any combination of telephone loans from the Secretary, the Rural Telephone Bank, or the Federal Financing Bank; or

(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this chapter for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5.

(May 20, 1936, ch. 432, title II, § 206, as added Pub. L. 101–624, title XXIII, § 2357, Nov. 28, 1990, 104 Stat. 4040; amended Pub. L. 103–354, title II, § 235(a)(7), (13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in subsecs. (a) and (b) and ''Secretary'' for ''Rural Electrification Administration'' in subsec. (b)(2).

§ 928. Prompt processing of telephone loans

Within ten days after the end of the second and fourth calendar quarters of each year, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

(1) identifying each completed application for a telephone loan under section 935 of this title, a guarantee of a telephone loan under section 936 of this title, or a loan under section 948 of this title, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.

(May 20, 1936, ch. 432, title II, § 207, as added Pub. L. 101–624, title XXIII, § 2358, Nov. 28, 1990, 104 Stat. 4041; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

SUBCHAPTER III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 948 of this title.

§ 930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives.

(Pub. L. 93–32, § 1, May 11, 1973, 87 Stat. 65.)

CODIFICATION

The last sentence of section 1 of Pub. L. 93–32 provided that: ''The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided.''

Section was not enacted as part of the Rural Electrification Act of 1936 which comprises this chapter.

EFFECTIVE DATE

Section 12 of Pub. L. 93–32 provided that: ''This Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] shall take effect upon enactment [May 11, 1973].''

RESERVATION OF RIGHT TO REPEAL, ALTER, OR AMEND PUB. L. 93–32

Section 11 of Pub. L. 93–32 provided that: ''The right to repeal, alter, or amend, this Act [enacting sections 906a, 930, and 933 to 940 of this title, amending sections 903, 931, 932, 945, 946, 947, and 948 of this title, and enacting provisions set out as notes under this section] is expressly reserved.''

§ 931. Rural Electrification and Telephone Revolving Fund

There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the ''fund''), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Secretary pursuant to loans heretofore or hereafter made under sections 904, 905,[1] and 922 of this title and under this subchapter, as of May 11, 1973, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the funds;

(2) undisbursed balances of electric and telephone loans made under sections 904, 905,[1] and

[1] See References in Text note below.

922 of this title, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under subchapters I and II of this chapter and under this subchapter, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this subchapter which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item ''Rural Electrification Administration'' in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 934(a) of this title;

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 946(a) of this title and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of subchapter IV of this chapter, which said shares and moneys shall be assets of the fund.

(May 20, 1936, ch. 432, title III, § 301, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 29; amended Pub. L. 93–32, § 2, May 11, 1973, 87 Stat. 66; Pub. L. 94–570, § 2, Oct. 20, 1976, 90 Stat. 2701; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, § 772(b)(1), Apr. 4, 1996, 110 Stat. 1149.)

REFERENCES IN TEXT

Section 905 of this title, referred to in pars. (1) and (2), was repealed by Pub. L. 104–127, title VII, § 774(a), Apr. 4, 1996, 110 Stat. 1150.

AMENDMENTS

1996—Pub. L. 104–127 struck out ''(a)'' before ''There is hereby'' in introductory provisions and struck out ''notwithstanding section 903(a) of this title,'' before ''all collections'' in par. (3).

1994—Subsec. (a)(1). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1976—Subsec. (a)(4). Pub. L. 94–570 provided for inclusion in the fund the unobligated balances of any funds made available for loans under item ''Rural Electrification Administration'' in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriation Acts.

1973—Pub. L. 93–32 substituted provisions establishing the Rural Electrification and Telephone Revolving Fund and enumerating its constituent parts, for provisions establishing a rural telephone account in the United States Treasury.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–570 effective Oct. 20, 1976, see section 4 of Pub. L. 94–570, set out as a note under section 935 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 946 of this title.

§ 931a. Level of loan programs under Rural Electrification and Telephone Revolving Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Rural Electrification and Telephone Revolving Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102–142, title III, Oct. 28, 1991, 105 Stat. 903.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

§ 932. Liabilities and uses of Rural Electrification and Telephone Revolving Fund

(a) Liabilities and obligations of fund

The notes of the Secretary to the Secretary of the Treasury to obtain funds for loans under sections 904, 905,[1] and 922 of this title, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

(b) Uses of fund assets

The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this subchapter, and for advances in connection with such loans and loans previously made, as of May 11, 1973, under sections 904, 905,[1] and 922 of this title;

(2) payment of principal when due (without interest) on outstanding loans to the Secretary from the Secretary of the Treasury for electrification and telephone purposes and payment of principal and interest when due on loans to the Secretary from the Secretary of the Treasury pursuant to section 934(a) of this title;

(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note of the Secretary at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Secretary;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments

[1] See References in Text note below.

in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction, inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 907 of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this chapter;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 907 of this title.

(c) Separate electric and telephone accounts

(1) The Secretary shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

(2)(A) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

(B) The Secretary shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this chapter.

(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this chapter (other than under subchapter IV of this chapter).

(May 20, 1936, ch. 432, title III, §302, as added Pub. L. 92–12, §2, May 7, 1971, 85 Stat. 30; amended Pub. L. 93–32, §2, May 11, 1973, 87 Stat. 66; Pub. L. 101–624, title XXIII, §2359, Nov. 28, 1990, 104 Stat. 4041; Pub. L. 103–354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, §772(b)(2), Apr. 4, 1996, 110 Stat. 1149.)

REFERENCES IN TEXT

Section 905 of this title, referred to in subsecs. (a) and (b)(1), was repealed by Pub. L. 104–127, title VII, §774(a), Apr. 4, 1996, 110 Stat. 1150.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–127 struck out ''pursuant to section 903(a) of this title'' after ''purposes''.

1994—Subsecs. (a), (b)(2), (4), (5), (c)(1), (2). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1990—Subsec. (c). Pub. L. 101–624 added subsec. (c).

1973—Pub. L. 93–32 substituted provisions setting out the liabilities of the Rural Electrification and Telephone Revolving Fund and the allowable purposes for which fund assets shall be available, for provisions, that the monies in the rural telephone account should remain on deposit in the Treasury of the United States until disbursed.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§933. Moneys in the Rural Electrification and Telephone Revolving Fund

Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

(May 20, 1936, ch. 432, title III, §303, as added Pub. L. 93–32, §2, May 11, 1973, 87 Stat. 67.)

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§934. Authorized financial transactions; interim notes; purchase of obligations for resale; sale of notes and certificates; liens

(a) The Secretary is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: *Provided*, *however*, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Secretary. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and not lending (budget outlays) of the United States.

(c) The Secretary may, on an insured basis or otherwise, sell and assign any notes in the fund

or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Secretary of notes individually or in blocks shall be treated as a sale of assets for the purposes of chapter 11 of title 31, notwithstanding the fact that the Secretary, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Secretary in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

(May 20, 1936, ch. 432, title III, § 304, as added Pub. L. 93–32, § 2, May 11, 1973, 87 Stat. 67; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

CODIFICATION

In subsecs. (a) and (c), ''chapter 31 of title 31'', ''such chapter'', and ''chapter 11 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'', ''such Act, as amended'', and ''the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.]'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 932, 939 of this title.

§ 935. Insured loans; interest rates and lending levels

(a) In general

The Secretary is authorized to make insured loans under this subchapter and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided*, That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: *And provided further*, That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Insured loans

Loans made under this section shall be insured by the Secretary when purchased by a lender. As used in this chapter, an insured loan is one which is made, held, and serviced by the Secretary, and sold and insured by the Secretary hereunder; such loans shall be sold and insured by the Secretary without undue delay.

(c) Insured electric loans

(1) Hardship loans

(A) In general

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(B) Severe hardship loans

In addition to hardship loans that are made under subparagraph (A), the Secretary may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Secretary, the applicant has experienced a severe hardship.

(C) Limitation

Except as provided in subparagraph (D), the Secretary may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(D) Extremely high rates

In addition to hardship loans that are made under subparagraphs (A) and (B), the Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan whose residential revenue exceeds 15.0 cents per kilowatt-hour sold. A qualifying application from such an applicant for the purpose of furnishing or improving electric service to a consumer located outside of an urbanized area shall not be subject to the conditions or limitation of subparagraph (A) or (C).

(2) Municipal rate loans

(A) In general

The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

(B) Interest rate

(i) In general

Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

(I) the interest rate determined by the Secretary to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 1927(a)(3)(A) of this title that is based on the current market yield on outstanding municipal obligations; plus

(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

(ii) Maximum rate

The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(iii) Exception

Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(C) Loan term

(i) In general

Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

(ii) Maximum term

(I) Applicant

The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

(II) Secretary

The Secretary may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

(D) Call provision

The Secretary shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

(3) Other source of credit not required in certain cases

The Secretary may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

(d) Insured telephone loans

(1) Hardship loans

(A) In general

The Secretary shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(iii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

(B) Authority to waive tier requirement

The Secretary may waive the requirement of subparagraph (A)(ii) in any case in which

the Secretary determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under subchapter IV of this chapter.

(2) Cost-of-money loans

(A) In general

The Secretary may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(ii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this subchapter, the applicant is a participant in the plan.

(B) Concurrent loan authority

On request of any applicant for a loan under this paragraph during any fiscal year, the Secretary shall—

(i) consider the application to be for a loan under this paragraph and a loan under section 948 of this title; and

(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 948 of this title, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 948 of this title for the fiscal year.

(C) Effect of lack of funds

On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 936 of this title.

(3) State telecommunications modernization plans

(A) Approval

If, not later than 1 year after final regulations are promulgated to carry out this paragraph, any State, either by statute or through the public utility commission of the State, develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Secretary shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Secretary shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this subchapter who are located in the State.

(B) Requirements

For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

(i) The plan must provide for the elimination of party line service.

(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

(iv) The plan must provide for—

(I) subscribers in rural areas to be able to receive through telephone lines—

(aa) conference calling;

(bb) video images; and

(cc) data at a rate of at least 1,000,000 bits of information per second; and

(II) the proper routing of information to subscribers.

(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

(vi) The plan must provide for such additional requirements for service standards as may be required by the Secretary.

(C) Finality of approval

A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (1)(A)(iii) and (2)(A)(iii),[1] and section 948(b)(4)(C)[2] of this title, the Secretary and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Secretary if the loan is made less than 1 year after the Secretary has adopted final regulations implementing this paragraph.

(May 20, 1936, ch. 432, title III, § 305, as added Pub. L. 93–32, § 2, May 11, 1973, 87 Stat. 68; amended Pub. L. 94–570, § 3, Oct. 20, 1976, 90 Stat.

[1] So in original. Probably should be paragraph ''(2)(A)(ii)''.

[2] So in original. Probably should be section ''948(b)(4)(B)''.

2701; Pub. L. 97–35, title I, § 165(a), Aug. 13, 1981, 95 Stat. 379; Pub. L. 101–624, title XXIII, § 2361, Nov. 28, 1990, 104 Stat. 4042; Pub. L. 103–129, § 2(a)(1), (c)(6), Nov. 1, 1993, 107 Stat. 1356, 1364; Pub. L. 103–354, title II, § 235(a)(8), (13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in heading for subsec. (c)(2)(C)(ii)(II) and wherever appearing in text.

1993—Pub. L. 103–129, § 2(c)(6)(A), amended section catchline generally.

Subsec. (a). Pub. L. 103–129, § 2(c)(6)(A), inserted heading.

Subsec. (b). Pub. L. 103–129, § 2(a)(1)(A), (B), (c)(6)(B), redesignated subsec. (c) as (b), inserted heading, and struck out former subsec. (b) which read as follows: ''Insured loans made under this subchapter shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator's sole discretion, the Administrator finds that the borrower—

''(1) has experienced extreme financial hardship; or

''(2) cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of this chapter.''

Subsec. (c). Pub. L. 103–129, § 2(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 103–129, § 2(a)(1)(A), (C), added subsec. (d) and struck out former subsec. (d) which read as follows: ''The Administrator shall make a telephone loan under this subchapter to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b) of this section) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans.''

1990—Subsec. (d). Pub. L. 101–624 added subsec. (d).

1981—Subsec. (b). Pub. L. 97–35 substituted provisions establishing an interest rate at 5 per centum per annum and a lower rate, but not less than 2 per cent, under the enumerated criteria, for provisions establishing standard and special rates, with special rates applicable under enumerated criteria.

1976—Subsec. (b). Pub. L. 94–570 struck out from introductory text ''meets either of the following conditions'' after ''borrower which''; limited par. (1) to the telephone borrowers, substituting provision for an average subscriber density of three or fewer per mile at the end of the most recent calendar year ending at least six months before approval of the loan for prior provision for an average consumer or subscriber density of two or fewer per mile; substituted in par. (2) provision, limited to electric borrowers, respecting having an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0 at end of the most recent calendar year ending at least six months before approval of the loan, determination of such ratio, and defining sum of distribution plant and general plant, gross revenue, and cost of power for prior provision for and average gross revenue per mile which is at least $450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers; and inserted in proviso of par. (2) ''to a telephone or electric borrower'' after ''make a loan''.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 165(d) of Pub. L. 97–35 provided that: ''The amendments made by subsection (a) of this section [amending this section] shall apply to loans the applications for which are received by the Rural Electrification Administration after July 24, 1981.''

EFFECTIVE DATE OF 1976 AMENDMENT; INTEREST RATE

Section 4 of Pub. L. 94–570 provided that: ''This Act [amending this section and section 931 of this title] shall take effect upon enactment [Oct. 20, 1976] except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act [Oct. 20, 1976], shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act [former provisions of subsec. (b) of this section].''

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 936b, 939, 940, 940d, 948 of this title.

§ 936. Guaranteed loans; accommodations and subordination of liens; interest rates; assignability of guaranteed loans and related guarantees

The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Secretary as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. The Secretary shall not provide such assistance to any borrower of a telephone loan under this chapter unless the borrower specifically applies for such assistance. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. With respect to guarantees issued by the Secretary under this section, on the request of the borrower of any such loan so guaranteed, the loan shall be made by the Federal Financing Bank and at a rate of interest that is not more than the rate of interest applicable to other similar loans then being made or purchased by the Bank. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with an insured loan. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided*, That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this subchapter a guaranteed loan is one which is initially made,

held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Secretary under this subchapter; the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee.

(May 20, 1936, ch. 432, title III, § 306, as added Pub. L. 93–32, § 2, May 11, 1973, 87 Stat. 69; amended Pub. L. 94–124, § 1, Nov. 4, 1975, 89 Stat. 677; Pub. L. 97–35, title I, § 165(b), Aug. 13, 1981, 95 Stat. 379; Pub. L. 101–624, title XXIII, § 2362, Nov. 28, 1990, 104 Stat. 4042; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1990—Pub. L. 101–624 inserted provisions prohibiting Administrator from providing assistance to telephone borrower unless borrower specifically applies therefor.

1981—Pub. L. 97–35 inserted provisions relating to loans made by Federal Financing Bank with respect to guarantees issued under this section, and substituted ''an insured loan'' for ''a loan insured at the standard rate''.

1975—Pub. L. 94–124 authorized assignment of guaranteed loans and their related guarantees and inserted ''initially'' before ''made, held, and serviced'' in provision defining guaranteed loans as that term is used in this subchapter.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

PREPAYMENT OF LOANS

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 713, related to the prepayment of loans made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, prior to repeal by Pub. L. 99–509, title I, § 1011(b), Oct. 21, 1986, 100 Stat. 1876.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 928, 935, 936a, 936c, 939 of this title.

§ 936a. Prepayment of loans

(a) Conditions for prepayment

Except as provided in subsection (c) of this section, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 936 of this title may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if—

(1) the loan is outstanding on July 2, 1986;

(2) private capital, with the existing loan guarantee, is used to replace the loan; and

(3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

(b) Charges on prepayment prohibited

No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of such prepayment against the borrower, the fund, or the Secretary.

(c) Disqualification for prepayment on finding of adverse affect on Federal Financing Bank

(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed $2,017,500,000.

(d) Amount of permissible prepayments; establishment of eligibility criteria

(1) The Secretary shall permit, subject to subsection (a) of this section, prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99–349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than $2,017,500,000.

(2) The Secretary shall establish—

(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Secretary; and

(B) such other eligibility criteria as the Secretary determines are necessary to carry out this subsection.

(e) Assignability and transferability of guarantees of loans

Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 936 of this title and transferable. However, the Secretary may require that any such guarantee, if transfered[1] or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with nonguaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

(May 20, 1936, ch. 432, title III, § 306A, as added Pub. L. 99–509, title I, § 1011(a), Oct. 21, 1986, 100 Stat. 1875; amended Pub. L. 103–354, title II, § 235(a)(7), (13), Oct. 13, 1994, 108 Stat. 3221.)

REFERENCES IN TEXT

Public Law 99–349, referred to in subsec. (d)(1), is Pub. L. 99–349, July 2, 1986, 100 Stat. 710, known as the Urgent Supplemental Appropriations Act, 1986. Provisions of title I of Pub. L. 99–349 relating to prepayment of loans were set out as a note under section 936 of this title and were repealed by Pub. L. 99–509, title I, § 1011(b), Oct. 21, 1986, 100 Stat. 1876. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Rural Electrification Administration'' in subsec. (b) and ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (d) and (e).

PREPAYMENT OF RURAL ELECTRIFICATION LOANS DURING FISCAL YEAR 1988

Pub. L. 100–203, title I, § 1401, Dec. 22, 1987, 101 Stat. 1330–20, provided that:

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

''(a) ELIGIBILITY TO PREPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a(c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepayment that would cause the total amount of such prepayments during fiscal year 1988 to exceed $2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

''(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

''(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act [Dec. 22, 1987], to be eligible to prepay, or that prepaid, an advance under section 306A of such Act [7 U.S.C. 936a] (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

''(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

''(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

''(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed $2,000,000,000, the Administrator shall—

''(A) base the determination on the date on which prepayment applications have been submitted; or

''(B) permit partial prepayment by two or more borrowers.

''(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act [Dec. 22, 1987], the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry at this section.

''(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

''(1) study—

''(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

''(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

''(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

''(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.''

PREPAYMENT OF GUARANTEED LOANS; RESTRICTIONS

Pub. L. 100–202, §101(k) [title VI, §633], Dec. 22, 1987, 101 Stat. 1329–322, 1329–356, provided that: ''Hereafter, notwithstanding section 306A(c), (d), and (e) of the Rural Electrification Act of 1936, as amended [7 U.S.C. 936a(c), (d), (e)], a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A(a) and (b) of such Act: *Provided*, That any prepayment in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.''

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 429, provided in part that: ''Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.''

REGULATIONS

Section 1011(c) of Pub. L. 99–509 provided that: ''The Secretary of Agriculture shall issue regulations to implement this section [enacting sections 936a and 936b of this title and repealing provisions set out as a note under section 936 of this title] within 60 days after the date of enactment of this Act [Oct. 21, 1986]. Such regulations—

''(1) shall facilitate prepayment of loans under section 306A of the Rural Electrification Act of 1936 [this section], as added by subsection (a); and

''(2) may not require any rural utility that is a borrower of loans subject to section 306A to make unreasonable reductions in rates to its customers as a condition of such prepayment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

§ 936b. Sale or prepayment of direct or insured loans

(a) Discounted prepayment by borrowers of electric loans

(1) In general

Except as provided in paragraph (2), a direct or insured loan made under this chapter shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

(2) Exception

On request of the borrower, an electric loan made under this chapter, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

(3) Discount rate

The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

(4) Tax exempt financing

If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

(5) Eligibility

(A) In general

A borrower that has prepaid an insured or direct loan shall under this chapter in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after October 21, 1992, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this chapter during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before October 21, 1992, at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

(B) Effect on existing agreements

If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this chapter.

(C) Distribution borrowers

A distribution borrower not in default on the repayment of loans made or insured under this chapter shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this chapter, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

(6) Definitions

As used in this subsection:

(A) Direct loan

The term ''direct loan'' means a loan made under section 904 of this title.

(B) Insured loan

The term ''insured loan'' means a loan made under section 935 of this title.

(b) Mergers of electric borrowers

Notwithstanding subsection (a) of this section, a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term ''direct loan'' means a loan made under section 904 of this title.

(May 20, 1936, ch. 432, title III, § 306B, as added Pub. L. 99–509, title I, § 1011(a), Oct. 21, 1986, 100 Stat. 1876; amended Pub. L. 101–624, title XXIII, § 2387, Nov. 28, 1990, 104 Stat. 4051; Pub. L. 102–428, § 2, Oct. 21, 1992, 106 Stat. 2183; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

CODIFICATION

October 21, 1992, referred to in subsec. (a)(5)(A), (B), was in the original ''the date of enactment of this subsection'', which was translated as meaning the date of enactment of Pub. L. 102–428, which amended subsec. (a) generally, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1992—Subsec. (a). Pub. L. 102–428, § 2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''A direct or insured loan made under this chapter shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.''

Subsec. (b). Pub. L. 102–428, § 2(b), inserted heading.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 501.

§ 936c. Refinancing and prepayment of FFB loans

(a) In general

A borrower of a loan made by the Federal Financing Bank and guaranteed under section 936

of this title may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

(b) Penalty

(1) Determination of penalty

A penalty shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

(C)(i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

(2) Limitation

(A) In general

Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

(B) Exception

In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or

(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

(3) Financing of penalty

(A) In general

In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

(i) making a payment in the amount of the required penalty at the time of the refinancing; or

(ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.

(B) Increased principal

If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

(c) Loan terms and conditions after refinancing

(1) In general

On the payment of a penalty as provided by subsection (b) of this section, the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

(2) Interest rate

The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3), except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section.

(3) Loan term

Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

(A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and

(B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

(4) Maximum term

The borrower may not select a term pursuant to paragraph (3) that ends after the matu-

rity date set for the loan before the refinancing of the loan under this section.

(5) Existing loans

In the case of the refinancing of a loan of a borrower pursuant to this section and the inclusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section—

(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

(d) Maximum rate option

(1) In general

Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan advance, or any portion of the loan or advance, that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

(2) Limitation

A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 936 of this title.

(3) Fee

A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b) of this section.

(4) Sunset

The option provided under paragraph (1) shall not be available in the case of any loan or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.

(May 20, 1936, ch. 432, title III, § 306C, as added Pub. L. 103–66, title I, § 1201(a), Aug. 10, 1993, 107 Stat. 327; amended Pub. L. 103–129, § 2(c)(10), Nov. 1, 1993, 107 Stat. 1365; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

REFERENCES IN TEXT

The Rural Electrification Loan Restructuring Act of 1993, referred to in subsec. (d)(4), is Pub. L. 103–129, Nov. 1, 1993, 107 Stat. 1356. Section 6 of Pub. L. 103–129 relates to the issuance of regulations to carry out amendments made by the Act and is set out as a note under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 901 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b)(3)(A)(ii), (d)(4). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1993—Subsec. (c)(2). Pub. L. 103–129, § 2(c)(10)(A), inserted before period at end '', except that such rate shall not be greater than 7 percent per year, subject to subsection (d) of this section''.

Subsec. (d). Pub. L. 103–129, § 2(c)(10)(B), added subsec. (d).

REGULATIONS

Section 1201(b) of Pub. L. 103–66 provided that: ''Not later than 45 days after the date of enactment of this section [Aug. 10, 1993], the Administrator of the Rural Electrification Administration shall issue interim final regulations to carry out the amendment made by subsection (a) [enacting this section].''

§ 936d. Eligibility of distribution borrowers for loans, loan guarantees, and lien accommodations

For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this chapter for a loan, loan guarantee, or lien accommodation under this subchapter, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

(1) be considered a default by the distribution borrower;

(2) reduce the eligibility of the distribution borrower for assistance under this chapter; or

(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

(May 20, 1936, ch. 432, title III, § 306D, as added Pub. L. 103–129, § 2(c)(7), Nov. 1, 1993, 107 Stat. 1364.)

§ 936e. Administrative prohibitions applicable to certain electric borrowers

(a) In general

For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Secretary, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Secretary, to minimize those approval rights, requirements, restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations of such a borrower.

(b) Subordination or sharing of liens

At the request of a private lender providing financing to such a borrower for a capital investment, the Secretary shall, expeditiously, either offer to share the government's lien on the borrower's system or offer to subordinate the gov-

ernment's lien on that property financed by the private lender.

(c) Issuance of regulations

In issuing regulations implementing this section, the Secretary may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this chapter is reasonably adequate.

(d) Authority of Secretary

Nothing in this section limits the authority of the Secretary to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this chapter or to take any other action specifically authorized by law.

(May 20, 1936, ch. 432, title III, §306E, as added Pub. L. 103–129, §2(c)(7), Nov. 1, 1993, 107 Stat. 1365; amended Pub. L. 103–201, §1, Dec. 17, 1993, 107 Stat. 2342; Pub. L. 103–354, title II, §235(a)(8), (13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in heading of subsec. (d) and wherever appearing in text.

1993—Pub. L. 103–201 inserted ''certain'' before ''electric'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this chapter whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.''

REGULATIONS

Section 2 of Pub. L. 103–201 provided that: ''The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act [amending this section] not later than 180 days after enactment [Dec. 17, 1993]. If the regulations are not issued within such period of time, the Administrator may not, until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 [7 U.S.C. 90 et seq.] whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.''

§ 937. Loans from other credit sources

When it appears to the Secretary that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of this chapter's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with an insured loan, subject, however, to full use being made by the Secretary of the funds made available hereunder for such insured loans under this subchapter. The Secretary may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.

(May 20, 1936, ch. 432, title III, §307, as added Pub. L. 93–32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 97–35, title I, §165(c), Aug. 13, 1981, 95 Stat. 379; Pub. L. 103–129, §2(c)(8), Nov. 1, 1993, 107 Stat. 1365; Pub. L. 103–354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1993—Pub. L. 103–129 inserted at end ''The Administrator may not request any applicant for an electric loan under this chapter to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.''

1981—Pub. L. 97–35 substituted ''an insured loan'' for ''a loan insured at the standard rate''.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 938. Full faith and credit of the United States

Any contract of insurance or guarantee executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(May 20, 1936, ch. 432, title III, §308, as added Pub. L. 93–32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 94–124, §2, Nov. 4, 1975, 89 Stat. 677; Pub. L. 103–354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1975—Pub. L. 94–124 substituted ''of which the holder had actual knowledge at the time it became a holder'' for ''of which the holder has actual knowledge''.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

§ 939. Loan terms and conditions

Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in subchapters I and II of this chapter except as otherwise provided in sections 933 to 938 inclusive. The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.

(May 20, 1936, ch. 432, title III, §309, as added Pub. L. 93–32, §2, May 11, 1973, 87 Stat. 70; amended Pub. L. 101–624, title XXIII, §2360, Nov. 28, 1990, 104 Stat. 4042; Pub. L. 103–129, §2(b)(2), Nov. 1, 1993, 107 Stat. 1363; Pub. L. 104–127, title VII, §779, Apr. 4, 1996, 110 Stat. 1151.)

AMENDMENTS

1996—Pub. L. 104–127 struck out subsec. (a) designation and heading ''In general'' and heading and text of subsec. (b). Prior to amendment, text read as follows: ''The term of any telephone loan made under this sub-

chapter shall be determined by the borrower at the time the loan application is submitted.''

1993—Subsec. (a). Pub. L. 103–129 inserted at end ''The preceding sentence shall not be construed to make section 948(b)(2) or 950b of this title applicable to this subchapter.''

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 940. Refinancing of rural development loans

At the request of the borrower, the Secretary is authorized and directed to refinance with loans which will be insured under this chapter at the interest rates provided in section 935 of this title any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.].

(May 20, 1936, ch. 432, title III, § 310, as added Pub. L. 93–32, § 2, May 11, 1973, 87 Stat. 70; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of this title. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as a note under section 930 of this title.

§ 940a. Repealed. Pub. L. 104–127, title VII, § 780, Apr. 4, 1996, 110 Stat. 1151

Section, act May 20, 1936, ch. 432, title III, § 311, as added Oct. 18, 1986, Pub. L. 99–500, § 101(m) [title VI, § 623], 100 Stat. 1783–308, 1783–333, and Oct. 30, 1986, Pub. L. 99–591, § 101(m) [title VI, § 623], 100 Stat. 3341–308, 3341–333; amended Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(7), (13), 108 Stat. 3221, related to privatization demonstration program.

§ 940b. Use of funds

A borrower of an insured or guaranteed electric loan under this chapter may, without restriction or prior approval of the Secretary, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

(May 20, 1936, ch. 432, title III, § 312, as added Pub. L. 100–203, title I, § 1402, Dec. 22, 1987, 101 Stat. 1330–21; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950aa of this title.

§ 940c. Cushion of credit payments program

(a) Establishment

(1) In general

The Secretary shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

(2) Interest

Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

(3) Balance

A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this chapter.

(b) Uses of cushion of credit payments

(1) In general

(A) Cash balance

Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

(B) Interest

All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

(C) Credits

The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

(2) Rural economic development subaccount

(A) Maintenance of account

The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

(B) Grants

The Secretary is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this chapter for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator

projects, and other reasonable expenses for the purpose of fostering rural development.

(C) Repayments

In the case of zero interest loans, the Secretary shall establish such reasonable repayment terms as will ensure borrower participation.

(D) Proceeds

All proceeds from the repayment of such loans shall be returned to the subaccount.

(E) Number of grants

Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.

(May 20, 1936, ch. 432, title III, § 313, as added Pub. L. 100–203, title I, § 1403, Dec. 22, 1987, 101 Stat. 1330–21; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a)(1), (b)(2)(A) to (C). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 912, 6944 of this title.

§ 940d. Limitations on authorization of appropriations

(a) "Adjustment percentage" defined

As used in this section, the term ''adjustment percentage'' means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of title 26) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

(b) Fiscal years 1994 through 1998

In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

(1) Electric hardship loans

For loans under section 935(c)(1) of this title—

(A) for fiscal year 1994, $125,000,000; and

(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(2) Electric municipal rate loans

For loans under section 935(c)(2) of this title—

(A) for fiscal year 1994, $600,000,000; and

(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

(3) Telephone hardship loans

For loans under section 935(d)(1) of this title—

(A) for fiscal year 1994, $125,000,000; and

(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(4) Telephone cost-of-money loans

For loans under section 935(d)(2) of this title—

(A) for fiscal year 1994, $198,000,000; and

(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

(c) Funding levels

The Secretary shall make insured loans under this subchapter for the purposes, in the amounts, and for the periods of time specified in subsection (b) of this section, as provided in advance in appropriations Acts.

(d) Availability of funds for insured loans

Amounts made available for loans under section 935 of this title are authorized to remain available until expended.

(May 20, 1936, ch. 432, title III, § 314, as added Pub. L. 101–508, title I, § 1201, Nov. 5, 1990, 104 Stat. 1388–7; amended Pub. L. 103–129, § 2(b)(1), Nov. 1, 1993, 107 Stat. 1362; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1993—Pub. L. 103–129 amended section generally, substituting provisions authorizing appropriations for the cost of electric hardship loans, electric municipal rate loans, telephone hardship loans, and telephone cost-of-money loans under section 935 of this title for fiscal years 1994 through 1998 for provisions directing the Administrator to make insured loans from the Rural Electrification and Telephone Revolving Fund under section 931 of this title for fiscal years 1991 through 1995, to reduce the amounts of such loans to obtain funds to guarantee the loans, and to guarantee the loans upon request of the borrower at 90 percent of the principal and interest.

EFFECTIVE DATE

Section effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as an Effective Date of 1990 Amendment note under section 511r of this title.

SUBCHAPTER IV—RURAL TELEPHONE BANK

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 917, 931, 932, 935 of this title.

§ 941. Telephone Bank

(a) Establishment

There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) General purposes

The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 948 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) Status; payments in lieu of property taxes

The telephone bank shall be deemed to be an instrumentality of the United States, and shall,

for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial, and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.

(May 20, 1936, ch. 432, title IV, § 401, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 942. General powers

To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate; (d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: *Provided*, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: *Provided further*, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers, attorneys, agents, and employees, vest them with such powers and duties, fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this subchapter.

(May 20, 1936, ch. 432, title IV, § 402, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 30.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 943. Special provisions governing telephone bank as a Federal agency until conversion of ownership, control, and operation

Until the ownership, control, and operation of the telephone bank is converted as provided in section 950(a) of this title and not thereafter—

(a) Supervision and direction of Secretary of Agriculture; free postage and priority of debts restrictions

the telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): *Provided, however*, That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates;

(b) Use of facilities and services of employees of Secretary of Agriculture

in order to perform its responsibilities under this subchapter, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Secretary, without cost to the telephone bank;

(c) Wholly owned Government corporation

the telephone bank shall be subject to the provisions of chapter 91 of title 31, in the same manner and to the same extent as if it were included in the definition of ''wholly owned Government corporation'' as set forth in section 9101 of title 31;

(d) Appointment and compensation of personnel

the telephone bank may without regard to the civil service[1] classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

(e) Tort claims and litigation

the telephone bank shall be subject to the provisions of sections 517, 519, and 2679 of title 28.

(May 20, 1936, ch. 432, title IV, § 403, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 31; amended Pub. L. 103–354, title II, § 235(a)(9), Oct. 13, 1994, 108 Stat. 3221.)

REFERENCES IN TEXT

The civil service classification laws, referred to in subsec. (d), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

CODIFICATION

In subsec. (c), ''chapter 91 of title 31'' and ''section 9101 of title 31'' substituted for ''the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.)'' and ''section 101 of said Act (31 U.S.C. 846)'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

[1] So in original. The word ''and'' probably should appear after ''civil service''.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–354 substituted ''Secretary'' for ''Rural Electrification Administration or of any other agency of the Department of Agriculture''.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 944. Governor of telephone bank; functions, powers, and duties

Subject to the provisions of section 950 of this title, the Secretary shall designate an official of the Department of Agriculture who shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this subchapter, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

(May 20, 1936, ch. 432, title IV, § 404, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 31; amended Pub. L. 103–354, title II, § 235(a)(10), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''the Secretary shall designate an official of the Department of Agriculture who'' for ''the Administrator of the Rural Electrification Administration''.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 944a. Publication of rural telephone bank policies and regulations

Notwithstanding the exemption contained in section 553(a)(2) of title 5, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

(Pub. L. 100–203, title I, § 1414, Dec. 22, 1987, 101 Stat. 1330–27.)

CODIFICATION

Section was enacted as part of the Agricultural Reconciliation Act of 1987 and as part of the Omnibus Budget Reconciliation Act of 1987, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

§ 945. Board of directors

(a) In general

The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this subchapter referred to as the ''Telephone Bank Board'').

(b) Membership

The Telephone Bank Board shall consist of thirteen individuals, as follows:

(1) Presidential appointees

The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Secretary; and

(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

(2) Cooperative members

The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(3) Commercial members

The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(c) Elections

(1) Validity

An election under paragraph (2) or (3) of subsection (b) of this section shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

(2) Balloting

Balloting in an election under paragraph (2) or (3) of subsection (b) of this section shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

(3) No cumulative voting

Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b) of this section.

(d) Compensation

(1) In general

Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(2) Exceptions

The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) of this section shall not receive compensation by reason of their service on the Telephone Bank Board.

(e) Succession

A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

(f) Chairperson

The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.

(g) Bylaws

The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law exercised and enjoyed.

(h) Meetings

The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) Annual report

The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this subchapter and any other matters relating to the effectuation of the policies of this subchapter, including recommendations for legislation.

(j) Open meetings

For purposes of section 552b of title 5, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.

(May 20, 1936, ch. 432, title IV, § 405, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 32; amended Pub. L. 93–32, § 4, May 11, 1973, 87 Stat. 70; Pub. L. 101–624, title XXIII, § 2363(a), (b)(1), (c), Nov. 28, 1990, 104 Stat. 4042–4044; Pub. L. 103–354, title II, § 235(a)(7), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (b)(1)(A). Pub. L. 103–354 substituted ''Secretary'' for ''Rural Electrification Administration''.

1990—Pub. L. 101–624, § 2363(a), substituted ''Board of directors'' for ''Telephone Bank Board'' in section catchline.

Subsecs. (a) to (f). Pub. L. 101–624, § 2363(a), struck out subsecs. (a) to (f) and inserted new subsecs. (a) to (f): in subsec. (a) struck out provisions relating to size of board, in subsec. (b) substituted provisions relating to size of board and to appointment and election of all board members for provisions naming Administrator of Rural Electrification Administration and Governor of Farm Credit Administration to board, and authorizing presidential appointment of 5 other members, in subsec. (c) substituted provisions relating to election of 6 cooperative and commercial members for provisions authorizing presidential appointment of initial 6 cooperative and commercial members, in subsec. (d) substituted provisions relating to compensation for provisions relating to interim election of 6 cooperative and commercial members, in subsec. (e) substituted provisions relating to succession for provisions relating to regular election of 6 cooperative and commercial members, and in subsec. (f) substituted provisions relating to chairperson for provisions relating to service after expiration of term, compensation and expenses.

Subsecs. (g) to (i). Pub. L. 101–624, § 2363(b)(1), inserted headings.

Subsec. (j). Pub. L. 101–624, § 2363(c), added subsec. (j).

1973—Subsec. (e). Pub. L. 93–32 substituted provisions directing that the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class and that the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, elect three directors to represent their class by a majority of the stockholders voting in such class, for provisions that three directors be elected from among the directors, managers, and employees of cooperative-type entities and organizations controlled by such entities holding class B or class C stock and that three directors be elected from among the directors, managers, and employees of commercial-type entities and organizations controlled by such entities holding class B or class C stock, and inserted provisions prohibiting cumulative voting.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 950 of this title.

§ 946. Capitalization

(a) Federal and borrower subscriptions; Federal limitation; report to President, transmittal to Congress; net collection proceeds

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter but not later than fiscal year 1991, the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed $30,000,000 annually, for such purchase until such class A stock shall equal $600,000,000: *Provided*, That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 931 of this title, the term ''net collection proceeds'' shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 922 of this title, less an amount representing interest payable to the Secretary of the Treasury on loans to the Secretary for telephone purposes.

(b) Stock classification; voting stock; one vote rule

The capital stock of the telephone bank shall consist of three classes, class A, class B, and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified,

not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) Class A stock; issuance to Secretary of Agriculture and redemption; cumulative return

Class A stock shall be issued only to the Secretary on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a) of this section, and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1995, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: *Provided*, That the minimum amount of class A stock that shall be retired each year after said date shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) Class B stock; borrowers as holders; dividend prohibition; patronage refunds

Class B stock shall be held only by recipients of loans under section 948 of this title. Borrowers receiving loan funds pursuant to section 948(a)(1) or (2) of this title shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided, by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance. No dividends shall be payable on class B stock. All holders of class B shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

(e) Class C stock; borrowers as purchasers; dividends

Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 948 of this title, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) Special fund equivalents

If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this subchapter to capital stock, or to class B, or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B, or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) Patronage refunds from remaining earnings after provision for operating expenses, reserves for losses, payments in lieu of taxes, and returns on class A and C stock

After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for the reserve for loan losses, and making payments in lieu of taxes, and returns on class A stock as provided in subsection (c) of this section, and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.

(h) Reserve for losses due to interest rate fluctuations

There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after December 22, 1987, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of December 22, 1987. All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Omnibus Budget Reconciliation Act of 1987.

(i) Investment of RTB Equity Fund

The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the ''RTB Equity Fund'').

(May 20, 1936, ch. 432, title IV, § 406, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 33; amended Pub. L. 93–32, § 5, May 11, 1973, 87 Stat. 70; Pub. L. 94–273, § 2(2), Apr. 21, 1976, 90 Stat. 375; Pub. L. 97–98, title XVI, § 1607, Dec. 22, 1981, 95 Stat. 1347; Pub. L. 100–203, title I, § 1413(a), (c), Dec. 22, 1987, 101 Stat. 1330–26; Pub. L. 101–624, title XXIII, §§ 2364, 2367(a), Nov. 28, 1990, 104 Stat. 4044; Pub. L. 103–129, § 2(c)(9), Nov. 1, 1993, 107 Stat. 1365; Pub. L. 103–354, title II, § 235(a)(11), (13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, § 772(b)(3), Apr. 4, 1996, 110 Stat. 1149.)

REFERENCES IN TEXT

Section 1413(b) of the Omnibus Budget Reconciliation Act of 1987, referred to in subsec. (h), is section 1413(b) of Pub. L. 100–203, title I, Dec. 22, 1987, 101 Stat. 1330–26, which is not classified to the Code, and which mandated a study by the General Accounting Office of the operations of the telephone bank and directed that GAO report recommendations to Congress within 180 days of Dec. 22, 1987.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 struck out ''pursuant to section 903(a) of this title'' after ''telephone purposes'' in last sentence.

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator'' in last sentence of subsec. (a) and ''Secretary'' for ''Administrator of the Rural Electrification Administration'' in subsec. (c).

1993—Subsec. (i). Pub. L. 103–129 added subsec. (i).

1990—Subsec. (d). Pub. L. 101–624, § 2364, inserted before period at end of second sentence '', by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance''.

Subsec. (h). Pub. L. 101–624, § 2367(a), inserted after second sentence ''All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies.'' and substituted ''Omnibus Budget Reconciliation'' for ''Rural Telephone Bank Borrowers Fairness''.

1987—Subsec. (g). Pub. L. 100–203, § 1413(c), substituted ''the reserve for loan losses'' for ''reserves for losses'', and inserted at end ''The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h) of this section.''

Subsec. (h). Pub. L. 100–203, § 1413(a), added subsec. (h).

1981—Subsec (a). Pub. L. 97–98, § 1607(1), inserted ''but not later than fiscal year 1991'' after ''thereafter,'' and substituted ''$600,000'' for ''$300,000''.

Subsec. (c). Pub. L. 97–98, § 1607(2), substituted ''September 30, 1995'' for ''September 30, 1985'', and struck out ''and after the amount of class A and class B stock totals $400,000,000'' after ''said date''.

1976—Subsec. (c). Pub. L. 94–273 substituted ''September'' for ''June''.

1973—Subsec. (a). Pub. L. 93–92 struck out ''from net collection proceeds in the rural telephone account created under subchapter III of this chapter'' after ''appropriated''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2368 of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle [subtitle F (§§ 2351–2368) of title XXIII of Pub. L. 101–624, enacting sections 918 and 925 to 928 of this title, amending this section and sections 924, 932, 935, 936, 939, 945, 948, and 950 of this title and enacting provisions set out as notes under section 901 of this title] shall take effect on the date of enactment of this Act [Nov. 28, 1990].

''(b) TECHNICAL AMENDMENTS.—The amendments made by section 2367 [amending this section and section 948 of this title] shall take effect as if such amendments had been included in chapter 2 [§§ 1411–1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100–203] on the date of enactment of such chapter [Dec. 22, 1987].''

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 931, 948, 950 of this title.

§ 947. Borrowing power; telephone debentures; issuance; interest rates; terms and conditions; ratio to paid-in capital and retained earnings; investments in debentures; debentures as security; purchase and sale of debentures by the Secretary of the Treasury; treatment as public debt transactions of the United States; exclusion of transactions from budget totals

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: *Provided*, *however*, That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest, from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31 as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of

this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(May 20, 1936, ch. 432, title IV, § 407, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 34; amended Pub. L. 92–324, § 2, June 30, 1972, 86 Stat. 390; Pub. L. 93–32, §§ 6, 7, May 11, 1973, 87 Stat. 70.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–32, § 6, increased from eight times the paid-in capital and retained earnings of the telephone bank to twenty times the paid-in capital and retained earnings of the telephone bank the amount of telephone debentures which may be outstanding at any one time and struck out provisions directing the insertion by the telephone bank in all its telephone debentures of appropriate language indicating that such telephone debentures together with interest thereon are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the telephone bank.

Subsec. (c). Pub. L. 93–32, § 7, added subsec. (c).

1972—Pub. L. 92–324 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 92–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–324 effective June 30, 1972, see section 4 of Pub. L. 92–324, set out as an Effective Date note under section 921b of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 948 of this title.

§ 948. Lending power

(a) Loans for prescribed purposes; requisite conditions

The Governor of the telephone bank shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 922 of this title, or which have been certified by the Secretary to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 922 of this title, (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, and (3) for the purchase of class B stock required to be purchased under section 946(d) of this title but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency, effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Terms and conditions of loans; restrictions on loans

Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) Amortization period

All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) Preference in loans; election of loans for telephone system with certain subscriber density per mile

Funds to be loaned under this chapter to any borrower shall be loaned under this section in preference to section 922 of this title if the borrower is eligible for such a loan and funds are available therefor. Notwithstanding the foregoing or any other provision of law, all loans made pursuant to this chapter for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 922 of this title; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) Interest rate

(A) Loans under this section shall bear interest at the ''cost of money rate''. The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(B) On and after December 22, 1987, advances made on or after December 22, 1987, under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

(C) The rate determined under this subparagraph shall be—

(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 946(c) of this title, to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 946(d) of this title, to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year. For purposes of the calculation under this subparagraph, such rate shall be zero.

(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 946(e) of this title, to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(iv)(I) The sum of the results of the calculations described in subclause (II).

(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(II) For purposes of this clause, the term ''historic cost of money rate'', with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

For advances made in—	The cost of money rate shall be—
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent.

For purposes of this paragraph, the term ''fiscal year'' means the 12-month period ending on September 30 of the designated year.

(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before December 22, 1987, part or all of the proceeds of which have not been advanced as of December 22, 1987, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after December 22, 1987, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

(ii)(I) If the telephone bank, pursuant to section 947(b) of this title, issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made

under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

(II) For purposes of subclause (I), the term ''the period applicable to the advance'' means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

(III) For purposes of subclause (I), the term ''the amount applicable to the advance'' means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5; and

(ii) furnish a copy of the determination to the Comptroller General of the United States.

(I) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.

(4) Required qualifications of applicants

The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(B) The Secretary has approved, under section 935(d)(3) of this title, a telecommunications modernization plan for the State in which the applicant is located and, if the plan was developed by telephone borrowers under subchapter III of this chapter, the applicant is a participant in the plan.

(5) Certificate of convenience and necessity required from State regulatory agency or statement of telephone bank's Governor of nonduplication of lines, facilities, or systems

No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) Definitions: telephone service; telephone lines, facilities, or systems

As used in this section, the term telephone service shall have the meaning prescribed for this term in section 924(a) of this title, and the term telephone lines, facilities, or systems shall mean lines, facilities, or systems used in the rendition of such telephone service.

(7) Sale or disposal of property, rights, or franchises prior to repayment of loan

No borrower of funds under this section shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this chapter, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

(8) Prepayment without penalty

(A) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993.

(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 947(b) of this title, the Governor of the telephone bank shall—

(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 947(b) of this title before October 1, 1991, to the extent any such obligations are outstanding; and

(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest.

(9) Applications considered under this section and section 935(d)(2)

On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

(A) consider the application to be for a loan under this section and a loan under section 935(d)(2) of this title; and

(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 935(d)(2) of this title, as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 935(d)(2) of this title for the fiscal year.

(10) Applications considered under section 935(d)(2)

On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 935(d)(2) of this title.

(c) Payment schedule; adjustment; loan period

The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: *Provided, however*, That no adjustment shall extend the period of such loans beyond fifty years.

(d) Borrowers to determine amortization period for rural telephone bank loans

(1) Except as provided in paragraph (2), the term of any loan made under this subchapter shall be determined by the borrower at the time the application for the loan is submitted.

(2) The term of any loan made under this subchapter shall not exceed the maximum term for which a loan may be made under section 904 of this title.

(e) Interest on loans and advances

Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before November 1, 1993. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.

(May 20, 1936, ch. 432, title IV, § 408, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 35; amended Pub. L. 93–32, §§ 8, 9, May 11, 1973, 87 Stat. 70, 71; Pub. L. 100–203, title I, §§ 1411(b)(1), (c), 1412, Dec. 22, 1987, 101 Stat. 1330–22, 1330–23, 1330–26; Pub. L. 101–624, title XXIII, §§ 2365, 2366, 2367(b), Nov. 28, 1990, 104 Stat. 4044; Pub. L. 103–129, § 2(a)(2), Nov. 1, 1993, 107 Stat. 1361; Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–66, title I, § 1011(y), Dec. 21, 1995, 109 Stat. 711.)

AMENDMENTS

1995—Subsec. (b)(3)(I), (J). Pub. L. 104–66 redesignated subpar. (J) as (I) and struck out former subpar. (I) which read as follows: ''The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.''

1994—Subsecs. (a), (b)(4)(B). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

1993—Subsec. (a)(2). Pub. L. 103–129, § 2(a)(2)(A), substituted ''acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service'' for ''purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, in order to improve the efficiency, effectiveness, or financial stability of borrowers financed under section 922 of this title and this section''.

Subsec. (b)(4). Pub. L. 103–129, § 2(a)(2)(B)(i), added par. (4) and struck out former par. (4) which related to adequacy of security and capacity for repayment of loans made under this section.

Subsec. (b)(8)(A). Pub. L. 103–129, § 2(a)(2)(B)(ii), designated existing provisions as subpar. (A), substituted ''except for any prepayment penalty provided for in a loan agreement entered into before November 1, 1993'' for ''if such prepayment is not made later than September 30, 1988'', and added subpar. (B).

Subsec. (b)(9), (10). Pub. L. 103–129, § 2(a)(2)(B)(iii), added pars. (9) and (10).

Subsec. (e). Pub. L. 103–129, § 2(a)(2)(C), added subsec. (e).

1990—Subsec. (a). Pub. L. 101–624, § 2365, substituted ''shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and'' for ''is authorized on behalf of the telephone bank to make loans,''.

Subsec. (b)(3)(B). Pub. L. 101–624, § 2367(b)(1), substituted ''the date of enactment of this subparagraph'' for ''the date of enactment of this paragraph'' in the original text before ''advances'', which was translated as ''December 22, 1987'', requiring no change in text.

Subsec. (b)(3)(D)(ii). Pub. L. 101–624, § 2367(b)(2), inserted ''For purposes of the calculation under this subparagraph, such rate shall be zero.''

Subsec. (b)(3)(E). Pub. L. 101–624, § 2367(b)(3), substituted ''paragraph'' for ''subparagraph'' after ''of this''.

Subsec. (d). Pub. L. 101–624, § 2366, added subsec. (d).

1987—Subsec. (b)(3). Pub. L. 100–203, § 1411(c), designated existing provisions as subpar. (A) and added subpars. (B) to (J).

Subsec. (b)(4). Pub. L. 100–203, § 1412, inserted at end ''For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.''

Subsec. (b)(8). Pub. L. 100–203, § 1411(b)(1), added par. (8).

1973—Subsec. (a). Pub. L. 93–32, § 8, inserted ''or which have been certified by the Administrator to be eligible for such a loan or loan commitments,'' preceding cl. (1) and inserted provision that loans and advances not be included in the totals of the budget of the United States Government and that such loans and advances be exempt from any general limitation imposed by statute expenditures and net lending (budget outlays) of the United States.

Subsec. (b)(3). Pub. L. 93–32, § 9, substituted provisions for a ''cost of money rate'' of interest with a ''not less than 5 per centum per annum'' limit on such rate, for provisions for interest ''at the highest rate which meets the requirements set forth in paragraph (4), con-

sistent with the borrower's ability to pay such interest rate and with achievement of the objectives of this chapter'' with a ''not less than 4 per centum per annum'' limit on such rate.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 2367(b) of Pub. L. 101–624 effective as if included in chapter 2 [§§1411–1414] of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, see section 2368(b) of Pub. L. 101–624, set out as a note under section 946 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–32 effective May 11, 1973, see section 12 of Pub. L. 93–32, set out as an Effective Date note under section 930 of this title.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

CONGRESSIONAL FINDINGS COVERING INTEREST RATES AND LOAN PREPAYMENTS

Section 1411(a) of Pub. L. 100–203 provided that: ''Congress finds that—

''(1) overcharging of Rural Telephone Bank borrowers has resulted in $179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

''(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936 [subsec. (b)(3)(G) of this section], as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

''(3) any reduction in Federal Government expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c) [amending this section], should be included in all calculations of the budget of the United States Government, authorized under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 [title I of Pub. L. 100–119, see Short Title of 1987 Amendment note set out under section 901 of Title 2, The Congress].''

PREPAYMENT REGULATIONS

Section 1411(b)(2) of Pub. L. 100–203 provided that: ''The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) [amending this section] within 30 days after the date of enactment of this Act [Dec. 22, 1987]. Such regulations shall implement the amendment made by paragraph (1) without the addition of any restrictions not set forth in such amendment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 928, 935, 939, 941, 946, 950, 950b of this title.

§ 949. Telephone bank receipts; availability for obligations and expenditures

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.

(May 20, 1936, ch. 432, title IV, §409, as added Pub. L. 92–12, §2, May 7, 1971, 85 Stat. 36.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 950. Conversion of ownership, control, and operation of telephone bank

(a) Transfer of powers and authority from Secretary of Agriculture to Telephone Bank Board; cessation of Presidential appointees as Board members and reduction in number of Board members; status of telephone bank

Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 946(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Secretary by this subchapter shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 945(b)(1)(A) of this title shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this subchapter except such as shall have lapsed pursuant to the provisions of this subchapter.

(b) Restrictions of section 948(a)(2) of this title inapplicable to loans upon redemption and retirement of class A stock

When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisos to section 948(a)(2) of this title.

(c) Congressional review

Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

(May 20, 1936, ch. 432, title IV, §410, as added Pub. L. 92–12, §2, May 7, 1971, 85 Stat. 36; amended Pub. L. 94–273, §2(2), Apr. 21, 1976, 90 Stat. 375; Pub. L. 101–624, title XXIII, §2363(b)(2), Nov. 28, 1990, 104 Stat. 4043; Pub. L. 103–354, title II, §235(a)(11), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–354 substituted ''Secretary'' for ''Administrator of the Rural Electrification Administration''.

1990—Subsec. (a)(2). Pub. L. 101–624 substituted ''section 945(b)(1)(A) of this title'' for ''section 945(b) of this title''.

1976—Subsec. (a). Pub. L. 94–273 substituted ''September'' for ''June''.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 943, 944 of this title; title 31 sections 9101, 9108.

§ 950a. Liquidation or dissolution of telephone bank

In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

(May 20, 1936, ch. 432, title IV, § 411, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 37.)

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

§ 950b. Borrower net worth

Except as provided in subsection (b)(2) of section 948 of this title, notwithstanding any other provision of law, a loan shall not be made under section 922 of this title to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Secretary finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

(May 20, 1936, ch. 432, title IV, § 412, as added Pub. L. 92–12, § 2, May 7, 1971, 85 Stat. 37; amended Pub. L. 103–354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective May 7, 1971, see section 7 of Pub. L. 92–12, set out as a note under section 921a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 939 of this title.

SUBCHAPTER V—RURAL ECONOMIC DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6944 of this title.

§ 950aa. Additional powers and duties

The Secretary shall—

(1) provide advice and guidance to electric borrowers under this chapter concerning the effective and prudent use by such borrowers of the investment authority under section 940b of this title to promote rural development;

(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this chapter;

(3) establish and administer various pilot projects through electric and telephone borrowers that the Secretary determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this chapter concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers under this chapter concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

(6) promote local partnerships and other coordination between borrowers under this chapter and community organizations, States, counties, or other entities, to improve rural development.

(May 20, 1936, ch. 432, title V, § 501, as added Pub. L. 101–624, title XXIII, § 2345, Nov. 28, 1990, 104 Stat. 4029; amended Pub. L. 102–237, title VII, § 703(c), Dec. 13, 1991, 105 Stat. 1881; Pub. L. 103–354, title II, § 235(a)(12), (13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 104–127, title VII, § 781(b), Apr. 4, 1996, 110 Stat. 1151.)

AMENDMENTS

1996—Par. (7). Pub. L. 104–127 struck out par. (7) which read as follows: ''administer a Rural Business Incubator Fund (as established under section 950aa–1 of this title) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.''

1994—Pub. L. 103–354 struck out ''of REA Administrator'' at end of section catchline and substituted ''Secretary'' for ''Administrator'' in introductory provisions and par. (3).

1991—Pars. (6) to (8). Pub. L. 102–237 inserted ''and'' at end of par. (6), redesignated par. (8) as (7), and struck out former par. (7) which read as follows: ''review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(8) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 950aa–1. Repealed. Pub. L. 104–127, title VII, § 781(a), Apr. 4, 1996, 110 Stat. 1151

Section, act May 20, 1936, ch. 432, title V, § 502, as added Nov. 28, 1990, Pub. L. 101–624, title XXIII, § 2345, 104 Stat. 4030; amended Dec. 13, 1991, Pub. L. 102–237, title VII, § 703(d), 105 Stat. 1881; Oct. 13, 1994, Pub. L. 103–354, title II, § 235(a)(13), 108 Stat. 3221, provided for establishment of Rural Business Incubator Fund.

CHAPTER 31A—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

Sec.
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TERMINATION OF CHAPTER

For termination of chapter by section 1(b) of Pub. L. 102–551, see note set out under section 950aaa of this title.

§ 950aaa. Purpose

The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

(Pub. L. 101–624, title XXIII, § 2331, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1108.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out below.

PRIOR PROVISIONS

A prior section 950aaa, Pub. L. 101–624, title XXIII, § 2331, Nov. 28, 1990, 104 Stat. 4017, provided purposes of chapter, prior to the general amendment of this chapter by Pub. L. 104–127.

TERMINATION OF CHAPTER

Pub. L. 102–551, § 1(b), Oct. 28, 1992, 106 Stat. 4100, provided that: ''Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section [enacting section 950aaa–5 of this title and amending section 950aaa–4 of this title], shall be effective until September 30, 1997.''

§ 950aaa–1. Definitions

In this chapter:

(1) Construct

The term ''construct'' means to construct, acquire, install, improve, or extend a facility or system.

(2) Cost of money loan

The term ''cost of money loan'' means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 101–624, title XXIII, § 2332, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1108.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out under section 950aaa of this title.

PRIOR PROVISIONS

A prior section 950aaa–1, Pub. L. 101–624, title XXIII, § 2332, Nov. 28, 1990, 104 Stat. 4017; Pub. L. 102–237, title VII, § 702(g), Dec. 13, 1991, 105 Stat. 1880, provided goal of Federal Government to make affordable advanced telecommunications available to rural residents, prior to the general amendment of this chapter by Pub. L. 104–127.

§ 950aaa–2. Telemedicine and distance learning services in rural areas

(a) Services to rural areas

The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

(b) Financial assistance

(1) In general

Financial assistance shall consist of grants or cost of money loans, or both.

(2) Form

The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

(c) Recipients

(1) In general

The Secretary may provide financial assistance under this chapter to—

(A) entities using telemedicine services or distance learning services; and

(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

(2) Electric or telecommunications borrowers

(A) Loans to borrowers

Subject to subparagraph (B), the Secretary may provide a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). A borrower receiving a cost of money loan under this paragraph shall—

(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a) of this section; or

(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a) of this section.

(B) Limitations

A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.] shall—

(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

(3) Appeal

If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

(4) Assistance to provide or improve services

Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

(d) Priority

The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

(1) the need for the assistance in the affected rural area;

(2) the financial need of the applicant;

(3) the population sparsity of the affected rural area;

(4) the local involvement in the project serving the affected rural area;

(5) geographic diversity among the recipients of financial assistance;

(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

(7) the portion of total project financing provided by the applicant from the funds of the applicant;

(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

(9) the joint utilization of facilities financed by other financial assistance;

(10) the coordination of the proposed project with regional projects or networks;

(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

(12) conformity with the State strategic plan as prepared under section 2009c of this title; and

(13) other factors determined appropriate by the Secretary.

(e) Maximum amount of assistance to individual recipients

The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

(f) Use of funds

Financial assistance provided under this chapter shall be used for—

(1) the development and acquisition of instructional programming;

(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

(4) other uses that are consistent with this chapter, as determined by the Secretary.

(g) Salaries and expenses

Notwithstanding subsection (f) of this section, financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

(h) Expediting coordinated telephone loans

(1) In general

The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

(2) Deadline imposed on Secretary

Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application.

(i) Notification of local exchange carrier

(1) Applicants

Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

(2) Secretary

The Secretary shall—

(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

(B) make the applications available for inspection.

(Pub. L. 101–624, title XXIII, § 2333, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1109.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out under section 950aaa of this title.

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsecs. (c)(2) and (h)(1), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

PRIOR PROVISIONS

A prior section 950aaa–2, Pub. L. 101–624, title XXIII, § 2333, Nov. 28, 1990, 104 Stat. 4017; Pub. L. 103–354, title II, § 235(b)(4)(A), (C), Oct. 13, 1994, 108 Stat. 3221, 3222, provided definitions for chapter, prior to the general amendment of this chapter by Pub. L. 104–127.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917 of this title.

§ 950aaa–3. Administration

(a) Nonduplication

The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

(b) Loan maturity

The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) Loan security and feasibility

The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) Encouraging consortia

The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

(e) Coordination with other agencies

The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(f) Informational efforts

The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

(Pub. L. 101–624, title XXIII, § 2334, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1111.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out under section 950aaa of this title.

PRIOR PROVISIONS

A prior section 950aaa–3, Pub. L. 101–624, title XXIII, § 2334, Nov. 28, 1990, 104 Stat. 4019; Pub. L. 103–354, title II, § 235(b)(4)(B), (C), Oct. 13, 1994, 108 Stat. 3221, 3222, contained provisions relevant to telecommunications programs, prior to the general amendment of this chapter by Pub. L. 104–127.

§ 950aaa–4. Regulations

Not later than 180 days after April 4, 1996, the Secretary shall issue regulations to carry out this chapter.

(Pub. L. 101–624, title XXIII, § 2335, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1112.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out under section 950aaa of this title.

PRIOR PROVISIONS

A prior section 950aaa–4, Pub. L. 101–624, title XXIII, § 2335, Nov. 28, 1990, 104 Stat. 4021; Pub. L. 102–551, § 1(c), Oct. 28, 1992, 106 Stat. 4100; Pub. L. 103–354, title II, § 235(b)(4)(C), Oct. 13, 1994, 108 Stat. 3222, related to rural community access to advanced telecommunications, prior to the general amendment of this chapter by Pub. L. 104–127.

ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT

Section 2385 of Pub. L. 101–624 provided that Office of Technology Assessment was to include, in study of effects of information age technology on rural America, analysis of feasibility of ensuring that rural citizens in their homes and schools had ability to acquire, by computer, information in a national library, and specified contents of such analysis, prior to repeal by Pub. L. 104–127, title VII, § 708, Apr. 4, 1996, 110 Stat. 1112.

§ 950aaa–5. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter $100,000,000 for each of fiscal years 1996 through 2002.

(Pub. L. 101–624, title XXIII, § 2335A, as added Pub. L. 104–127, title VII, § 704, Apr. 4, 1996, 110 Stat. 1112.)

TERMINATION OF SECTION

For termination of section by section 1(b) of Pub. L. 102–551, see Termination of Chapter note set out under section 950aaa of this title.

PRIOR PROVISIONS

A prior section 950aaa–5, Pub. L. 101–624, title XXIII, § 2335A, as added Pub. L. 102–551, § 1(a), Oct. 28, 1992, 106 Stat. 4098; amended Pub. L. 103–354, title II, § 235(b)(4)(C), Oct. 13, 1994, 108 Stat. 3222, related to special health care and distance learning program for qualified service areas, prior to the general amendment of this chapter by Pub. L. 104–127.

CHAPTER 32—PEANUT STATISTICS

Sec.
951. Collection and publication; facts required; submission of report.

Sec.
952. Repealed.
953. Reports; by whom made; penalties.
954. Grades and standards for classification.
955. Limitation on use of statistical information.
956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations.
957. Definitions.
958. Repealed.

§ 951. Collection and publication; facts required; submission of report

The Secretary of Agriculture is authorized and directed to collect and publish statistics of raw peanuts, shelled, unshelled, and crushed, and peanut oil, in the United States, received, processed, shipped, and owned by or in the possession of warehousemen, brokers, cleaners, shellers, dealers, growers' cooperative associations, crushers, salters, manufacturers of peanut products, and owners other than the original producers of peanuts: *Provided*, That the Secretary may, in his discretion, omit for any period of time to collect such statistics from any or all salters of peanuts or manufacturers of peanut products who used, during the calendar year preceding that for which statistics are being collected, less than thirty thousand pounds of shelled and unshelled peanuts. Such statistics shall show the quality of peanuts in such details as to kinds—Virginias, Runners, Spanish, and imported varieties—as the Secretary shall deem necessary for the purposes of this chapter. All reports shall be submitted monthly in each year, except as otherwise prescribed by the Secretary.

(June 24, 1936, ch. 745, § 1, 49 Stat. 1898; May 12, 1938, ch. 199, § 1, 52 Stat. 348; Pub. L. 85–105, § 1, July 17, 1957, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85–105 struck out ''except those required from persons owning or operating peanut picking or threshing machines'' after ''All reports'' in last sentence and inserted ''except as otherwise prescribed by the Secretary''.

1938—Act May 12, 1938, among other changes, inserted proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 952. Repealed. Pub. L. 85–105, § 2, July 17, 1957, 71 Stat. 306

Section, acts June 24, 1936, ch. 745, § 2, 49 Stat. 1899; May 12, 1938, ch. 199, § 2, 52 Stat. 349, related to collection and publication of statistics as to quantity of peanuts picked or threshed by any person owning or operating peanut picking or threshing machines.

§ 953. Reports; by whom made; penalties

It shall be the duty of each warehouseman, broker, cleaner, sheller, dealer, growers' cooperative association, crusher, salter, manufacturer of peanut products, and owner other than the original producer of peanuts to furnish reports, complete and correct to the best of his knowledge, on the quantity of peanuts and peanut oil received, processed, shipped, and owned by him or in his possession. Such reports, when and as requested by the Secretary, shall be furnished within the time prescribed and in accordance with forms provided by him for the purpose. Any person required by this chapter, or the regulations promulgated thereunder, to furnish reports or information, and any officer, agent, or employee thereof, who shall refuse to give such reports or information or shall willfully give answers that are false and misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 nor more than $1,000, or imprisoned not more than one year, or be subject to both such fine and imprisonment.

(June 24, 1936, ch. 745, § 3, 49 Stat. 1899; May 12, 1938, ch. 199, § 3, 52 Stat. 349; Pub. L. 85–105, § 3, July 17, 1957, 71 Stat. 306.)

AMENDMENTS

1957—Pub. L. 85–105 amended section generally, and, among other changes, divided first sentence into two sentences, substituting ''owner other than the original producer of peanuts'' for ''owner or operator of peanut picking or threshing machines,'' and inserted ''to give such reports or information'' in last sentence.

1938—Act May 12, 1938, among other changes, inserted ''crusher, salter, manufacturer of peanut products'' after ''cooperative association''.

§ 954. Grades and standards for classification

The Secretary is authorized to establish and promulgate grades and standards for the classification of peanuts, whenever in his discretion he may see fit.

(June 24, 1936, ch. 745, § 4, 49 Stat. 1899.)

§ 955. Limitation on use of statistical information

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary whereby the data furnished by any person can be identified nor shall the Secretary permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports.

(June 24, 1936, ch. 745, § 5, 49 Stat. 1899.)

§ 956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; authorization of appropriations

The Secretary may make rules and regulations as may be necessary in the administration of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and

there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(June 24, 1936, ch. 745, § 6, 49 Stat. 1899.)

§ 957. Definitions

When used in this chapter—

(1) The term ''person'' includes individuals, partnerships, corporations, and associations;

(2) The term ''Secretary'' means the Secretary of Agriculture.

(June 24, 1936, ch. 745, § 7, 49 Stat. 1899.)

§ 958. Repealed. Pub. L. 104–66, title I, § 1011(d), Dec. 21, 1995, 109 Stat. 709

Section, Pub. L. 101–624, title XV, § 1558, Nov. 28, 1990, 104 Stat. 3699, directed Secretary of Agriculture to collect information contained on peanut export documentation, including country of origin, and submit reports to Congress annually notwithstanding certain confidentiality provisions.

CHAPTER 33—FARM TENANCY

Sec.
1000. Short title.

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

1001 to 1006. Repealed.
1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment.
1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness.
1006c to 1006e. Repealed.

SUBCHAPTER II—OPERATING LOANS

1007 to 1009. Repealed or Omitted.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

1010. Land conservation and land utilization.
1010a. Soil, water, and related resource data.
1011. Powers of Secretary of Agriculture.
1012. Payments to counties.
1012a. Townsites.
1013. Omitted.
1013a. Benefits extended to Puerto Rico and Virgin Islands; ''county'' defined; payments to Governor or fiscal agent of county.

SUBCHAPTER IV—GENERAL PROVISIONS

1014 to 1029. Repealed.
1030. Consolidation of agricultural credit and service offices.
1031. Conveyance of mineral rights with land.
1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury.
1032a. Disbursing and certifying officers; exemption from liability for advances to defense relocation corporations.
1033. Sale of reserved mineral interests.
1034. Persons to whom mineral interests sold; conveyances.
1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of the Interior.
1036. Repealed.
1037. Sale of reserved mineral interests; disposition of proceeds.
1038. Regulations; delegations of authority.
1039. Time for filing purchase applications.
1040. Farmers' Home Administration funds account.

§ 1000. Short title

Sections 1001 to 1006, 1006c to 1006e, 1007, 1008 to 1010, 1011, 1012, and 1013 to 1029 of this title may be cited as ''The Bankhead-Jones Farm Tenant Act.''

(July 22, 1937, ch. 517, 50 Stat. 522.)

REPEALS

Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318, repealed titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, sections 1001 to 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, and 1027 to 1029 of this title. Section 341(a) of Pub. L. 87–128 also provided that reference to any provision of the Bankhead-Jones Farm Tenant Act superseded by any provision of title III of Pub. L. 87–128 shall be construed as referring to the appropriate provision of such title. See section 1921 et seq. of this title. Section 1013 expired by its own terms and has been omitted.

ACT REFERRED TO IN OTHER SECTIONS

The Bankhead-Jones Farm Tenant Act is referred to in sections 1006a, 1981 of this title; title 12 section 1150a; title 16 section 441i; title 18 section 433; title 25 section 621; title 26 section 126; title 43 section 451f.

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

AMENDMENTS

1946—Act Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, amended subchapter heading to read as now set out.

§§ 1001 to 1006. Repealed. Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1001, acts July 22, 1937, ch. 517, title I, § 1, 50 Stat. 522; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; June 30, 1953, ch. 174, § 2, 67 Stat. 132; Aug. 1, 1956, ch. 829, § 1(a)–(c), 70 Stat. 801; Sept. 2, 1958, Pub. L. 85–857, § 13(j), 72 Stat. 1265, related to power of Secretary of Agriculture, persons, eligible, preferences, and conditions for loan or mortgage.

Section 1002, acts July 22, 1937, ch. 517, title I, § 2, 50 Stat. 523; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; Aug. 1, 1956, ch. 829, § 1(d), 70 Stat. 801, related to examination, appraisal, and certification of loans and insurance by county committee.

Section 1003, acts July 22, 1937, ch. 517, title I, § 3, 50 Stat. 523; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; June 19, 1948, ch. 551, § 1, 62 Stat. 534; July 22, 1954, ch. 562, § 1(a), (b), 68 Stat. 525; Aug. 1, 1956, ch. 829, § 1(e), 70 Stat. 801, related to terms of loans.

Section 1004, acts July 22, 1937, ch. 517, title I, § 4, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; Aug. 23, 1951, ch. 344, § 1, 65 Stat. 197; Aug. 3, 1956, ch. 950, § 9(a) 70 Stat. 1034, provided for equitable distribution of loans.

Section 1005, acts July 22, 1937, ch. 517, title I, § 5, 50 Stat. 524; Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, authorized appropriations for carrying out provisions with respect to tenant-purchase loans and insured mortgages.

Section 1005a, act July 22, 1937, ch. 517, title I, § 11, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; amended Aug. 30, 1954, ch. 1076, § 1(5), 68 Stat. 966, created the farm tenant mortgage insurance fund, authorized appropriation for such fund, provided for disposition of excess and use of funds.

Sections 1005b, act July 22, 1937, ch. 517, title I, § 12, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072; amended June 19, 1948, ch. 551, §§ 2–5, 62 Stat. 534; Aug. 23, 1951,

ch. 344, §1, 65 Stat. 197; July 22, 1954, ch. 562. §1(c), 68 Stat. 525; Aug. 9, 1955, ch. 633, §§2, 3, 69 Stat. 544; Aug. 1, 1956, ch. 829, §1(f), (g), 70 Stat. 802, authorized the Secretary to insure mortgages, provided for aggregate amount of mortgages, eligibility provisions, payment of initial fees and disposition thereof, collection of initial charge and disposition thereof, payment of sums to mortgagees, payment of full amount, repayment to fund, insurance contract as incontestable, release of mortgagor, assignment of mortgage, repurchase of insured mortgages, agreements and determination of value.

Section 1005c, act July 22, 1937, ch. 517, title I, §13, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended Aug. 9, 1955, ch. 633, §4, 69 Stat. 554; Aug. 25, 1958, Pub. L. 85–748, §1(b), 72 Stat. 841, related to payment of insurance upon default, issuance of notes, purchase of notes by Treasury and assignment of mortgage.

Section 1005d, act July 22, 1937, ch. 517, title I, §14, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072; amended June 19, 1948, ch. 551, §§6, 7, 62 Stat. 536, related to procedure with respect to mortgages in default, disposition of realized amounts, and disbursements for preservation and protection.

Section 1006, act July 22, 1937, ch. 517, title I, §6, 50 Stat. 524, related to authorization of appropriations and administrative expenses.

For subject matter of sections 1001 to 1005d of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections 1001 to 1006 effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SHORT TITLE

Act Aug. 14, 1946, ch. 964, §1, 60 Stat. 1062, provided: ''This Act [enacting section 1032a of this title and amending this chapter and section 371 of Title 12, Banks and Banking] may be cited as the 'Farmers' Home Administration Act of 1946'.''

DELAY IN LIQUIDATION OF MINERAL RIGHTS RESERVED TO THE UNITED STATES

Act June 30, 1948, ch. 766, 62 Stat. 1166, provided: ''That, notwithstanding any other provision of law, no mineral interests reserved to the United States which are required to be liquidated under the terms of the Farmers' Home Administration Act of 1946 [see Short Title note above] shall be sold by the Secretary of Agriculture or transferred by him to appropriate agencies of the United States for disposition as surplus property of the United States until hereafter authorized by law. Nothing contained in this Act shall be construed to supersede or modify in any way the provisions of section 9 of the Farmers' Home Administration Act of 1946 [section 1031 of this title].''

TRANSFER AND DISPOSITION OF CERTAIN AGENCIES AND THEIR ASSETS, FUNCTIONS, AND PERSONNEL

Section 2 of act Aug. 14, 1946, as amended Apr. 28, 1947, ch. 43, §1, 61 Stat. 55; Apr. 20, 1950, ch. 94, title II, §205(a), 64 Stat. 73; May 3, 1950, ch. 152, §7, 64 Stat. 100, provided that:

''(a) The following agencies, functions, powers, and duties are hereby abolished and the following laws relating thereto repealed:

''(1) The Farm Security Administration and all of its functions, powers, and duties.

''(2) All functions, powers, and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of (a) all loans to farmers under the Act entitled 'An Act to provide for loans to farmers for crop productions and harvesting during the year 1937, and for other purposes', approved January 29, 1937 [former sections 1020i to 1020n, and 1020*o* of Title 12, Banks and Banking]; (b) all loans identified or referred to in sections 5(b) all loans identified or referred to in sections 5(b), 5(c), and 5(d) of Executive Order Numbered 6084, dated March 27, 1933 [set out as a note preceding section 2241 of Title 12], and (c) all other emergency crop production, feed, seed, drought, and rehabilitation loans administered by the Farm Credit Administration on the effective date of this Act [Aug. 14, 1946].

''(3) All functions, powers, and duties of the National Housing Agency with respect to property, funds, and other assets which were formerly under the administration or supervision of the Farm Security Administration and were transferred to or consolidated with the National Housing Agency by Executive Order Numbered 9070 of February 24, 1942 except housing projects and except such other properties and assets as are now in the process of liquidation. [Functions of the National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to this paragraph were transferred to the Public Housing Commissioner by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4983, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.]

''(b) All assets, funds, contracts, property, and records and all liabilities of the agencies abolished by this Act [see Short Title note above] and all assets, funds, contracts, property, and records which the Secretary of Agriculture, the Governor of the Farm Credit Administration, and the National Housing Administrator have been using or have acquired primarily in the administration of any function, power, or duty so abolished and all liabilities chargeable thereto shall be collected or liquidated, as the case may be, by the Secretary of Agriculture, in accordance with this Act and the Bankhead-Jones Farm Tenant Act, as amended [see section 1000 of this Title]. The Secretary shall promptly transmit to the Treasurer of the United States for appropriate credits all collections or other proceeds realized from the assets, funds, contracts and property which are authorized to be administered, collected or liquidated by this Act, except that (1) the Secretary may retain so much of the personal property, such as office furniture, equipment, machines, automobiles, stationery, and office supplies, as he finds will be necessary in carrying out his duties under this Act and the Bankhead-Jones Farm Tenant Act, as amended; (2) until the loans obtained by the Secretary of Agriculture or the War Food Administrator [terminated by Executive Order 9577 of June 29, 1945, effective June 30, 1945] from the Reconstruction Finance Corporation [abolished by Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647] for carrying on the Farm Security Programs have been paid, the Secretary shall pay to the Reconstruction Finance Corporation, as collected, in accordance with the terms of the applicable loan agreements, the proceeds of all assets transferred to him for administration and liquidation which are pledged as security for such loans; and (3) the proceeds from collections on farmers' crop production and harvesting loans [former sections 1020i to 1020n and 1020*o* of Title 12] made available by the paragraph entitled 'Farmers' crop production and harvesting loans' under the item 'Farm Credit Administration' in the Department of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available to the Secretary of Agriculture for the fiscal year 1947 for making loans under title II of the Bankhead-Jones Farm Tenant Act, as amended [former sections 1007, 1008 and 1009 of this title].

''(c) The funds appropriated, authorized to be borrowed, and made available under the items 'Farmers' crop production and harvesting loans' (under the heading 'Farm Credit Administration'), 'Loans, Grants, and Rural Rehabilitation' and 'Farm Tenancy', in the De-

partment of Agriculture Appropriation Act, 1947 [act June 22, 1946, ch. 445, 60 Stat. 270], shall be available for the making and servicing of loans under this Act, for servicing and collecting loans made under prior authority, liquidation of rural rehabilitation projects, and for administrative expenses in connection therewith, and to the extent that such funds are validly obligated and committed on June 30, 1947, shall be available for use by the Secretary in fulfilling such obligations and commitments subject to the limitations set forth in the Acts appropriating or authorizing such funds.''

''(d) [Repealed. Apr. 20, 1950, ch. 94, title II, §205(a), 64 Stat. 73.]

''(e) Any of the personnel that is being utilized on the effective date of this Act [Aug. 14, 1946] for the performance of functions, powers, or duties abolished or transferred by this Act, including, but not limited to those related to emergency crop and feed loans, shall be utilized by the Secretary of Agriculture in the performance of his duties and functions under this Act and the Bankhead-Jones Farm Tenant Act, as amended, to the extent that he determines that such personnel are qualified and necessary therefor.''

''(f) [Repealed. May 3, 1950, ch. 152, §7, 64 Stat. 100.]

''(g) With the approval of the Secretary of Agriculture, the consummation of the transfer of any function, power, duty, asset, or liability transferred by this Act may be delayed not in excess of ninety days after the effective date of this Act, during which time such function, power, or duty, and any function, power, or duty abolished by this Act, may be administered by such agency as the Secretary may designate and in accordance with such rules and regulations as the Secretary may prescribe. Such rules and regulations shall, however, conform as nearly as may be practicable to the provisions of this Act, the several appropriation Acts which are involved, or the Bankhead-Jones Farm Tenant Act, as amended whichever is appropriate.''

APPROPRIATION FOR LOANS

The Department of Agriculture Appropriation Act of 1947, June 22, 1946, ch. 445, 60 Stat. 294, provided in part: ''For loans to individual farmers in accordance with title I of said Act [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title] and section 505(b) of the Servicemen's Readjustment Act of 1944 (38 U.S.C. 694e(b) [former section 1001(b)(2) of this title]), $50,000,000, including $25,000,000 for loans to eligible veterans which may be distributed, without regard to the provisions of section 4 of the Bankhead-Jones Farm Tenant Act [former section 1004 of this title], among the States and Territories in such amounts as are necessary to make such loans, which sums shall be borrowed from the [former] Reconstruction Finance Corporation at an interest rate of not to exceed 3 per centum per annum and no loans, excepting those to eligible veterans, may be made for the acquisition or enlargement of farms which have a value, as acquired, enlarged, or improved, in excess of the average value of efficient family-size farm-management units, as determined by the Secretary, in the county, parish, or locality where the farm is located; and the [former] Reconstruction Finance Corporation is hereby authorized and directed to lend such sum to the Secretary upon the security of any obligations of borrowers from the Secretary under the provisions of title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 [former sections 1001 to 1005d, 1006, 1006c to 1006e of this title]: *Provided*, That the amount loaned by the [former] Reconstruction Finance Corporation shall not exceed 85 per centum of the principal amount outstanding of the obligations constituting the security therefor: *Provided further*, That the Secretary may utilize proceeds from payments of principal and interest on any loans made under such title I to repay the [former] Reconstruction Finance Corporation the amount borrowed therefrom under the authority of this paragraph.''

Similar provisions were contained in the following prior appropriation acts:

May 5, 1945, ch. 109, 59 Stat. 161.
June 28, 1944, ch. 296, 58 Stat. 457.
July 12, 1943, ch. 215, 57 Stat. 427.
July 22, 1942, ch. 516, 56 Stat. 695.
July 1, 1941, ch. 267, 55 Stat. 439.
June 25, 1940, ch. 421, 54 Stat. 564.

§ 1006a. Loans to homestead or desertland entrymen and purchasers of lands in reclamation projects; security; first repayment installment

The Secretary of Agriculture is authorized to make a loan or loans for any purpose authorized by and in accordance with the terms of the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to any person eligible for assistance under said Acts who has made or makes a homestead or desertland entry on public land or who has contracted for or contracts for the purchase of other land of the United States in a reclamation project pursuant to the applicable provisions of the homestead and reclamation laws. Any such loans required by the Secretary of Agriculture or by law to be secured by a real-estate mortgage may be secured by a mortgage contract which shall create a lien against the land in favor of the United States acting through the Secretary of Agriculture and any patent thereafter issued shall recite the existence of such lien. The first installment for the repayment of any such loan or any other loan made under the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended, to the owner of a newly irrigated farm in a reclamation project or to an entryman under the desertland laws, may be deferred for a period of not to exceed two years from the date of the first advance under such loan.

(Oct. 19, 1949, ch. 697, §1, 63 Stat. 883; Pub. L. 92–419, title VI, §602, Aug. 30, 1972, 86 Stat. 675.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to this chapter (§1000 et seq.). For complete classification of this Act to the Code, see section 1000 of this title and Tables.

Act of August 28, 1937, as amended, referred to in text, was classified to sections 590r to 590x–4 of Title 16, Conservation, and was repealed by Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318. See section 921 et seq. of this title.

The desertland laws, referred to in text, are classified generally to chapter 9 (§321 et seq.) of Title 43, Public Lands.

CODIFICATION

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

AMENDMENTS

1972—Pub. L. 92–419 authorized loans to desertland entrymen and provided for first repayment installment of a loan to an entryman under the desertland laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1006b, 1988 of this title; title 43 section 451f.

§ 1006b. Cancellation of entry or purchase upon loan default; entry or resale; conditions; satisfaction of indebtedness

Any entry or purchase contract land with respect to which a loan is made under the author-

ity of this section and section 1006a of this title shall be subject to cancellation by the Secretary of the Interior as provided by existing law or upon request of the Secretary of Agriculture whenever default occurs in the terms, conditions, covenants, or obligations contained in the mortgage. After cancellation or relinquishment of an entry or purchase contract, land on which there is a mortgage lien, pursuant to the provisions of said sections, shall thereafter, except as hereinafter provided, only be open to entry or resale to persons eligible for both an original entry or purchase contract and an original loan. Such entry or resale shall be subject to the outstanding balance of any amounts due the United States with respect to such land or such portion thereof as may be determined by the Secretary of Agriculture and the Secretary of the Interior, or their delegates, to be within the entryman's or purchaser's ability to pay on the basis of the long-time earning capacity of the land. If no entry or purchase is made within one year after the cancellation or relinquishment of a prior entry or purchase of land on which there is such a mortgage lien, the land shall be disposed of by the Secretary of Agriculture on terms consistent with the provisions of section 1017[1] of this title, for the satisfaction of the indebtedness secured by the mortgage, subject, however, to other outstanding charges on the land due the United States, and the purchaser of such land shall be entitled to the issuance of patent or deed upon the completion of all requirements with respect to the payment of such charges.

(Oct. 19, 1949, ch. 697, §2, 63 Stat. 883.)

REFERENCES IN TEXT

Section 1017 of this title, referred to in text, was repealed by Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318.

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 451f.

§§ 1006c to 1006e. Repealed. Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318

Section 1006c, act July 22, 1937, ch. 517, title I, §16, as added Aug. 9, 1955, ch. 633, §1, 69 Stat. 553; amended Aug. 1, 1956, ch. 829, §1(h), 70 Stat. 802, provided for additional insurance of loans, mortgages and other security, lien, definitions of mortgage, insured mortgage, mortgagor and mortgagee, conversion to insured loan and rights of holder of insured note.

Section 1006d, act July 22, 1937, ch. 517, title I, §17, as added Aug. 1, 1956, ch. 829, §1(i), 70 Stat. 802; amended Sept. 21, 1959, Pub. L. 86–332, 73 Stat. 599, related to loans for refinancing indebtedness on farms of not more than family size and restrictions and limitations thereon.

Section 1006e, act July 22, 1937, ch. 517, title I, §18, as added Aug. 25, 1958, Pub. L. 85–748, §1(a), 72 Stat. 840, related to authorization of Secretary for execution, insurance and sale of loans, interest, insurance, appraisal and delinquency charges, computation of aggregate amount of principal obligations which may be insured, insurance of loans from funds advanced by lenders other than United States, provisions applicable to loans, conversion of loans to insured loans, expense funds, sale of loans on noninsured basis and assignment of loans.

For subject matter of sections 1006c to 1006e of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

SUBCHAPTER II—OPERATING LOANS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 829, §2[6], 70 Stat. 802, substituted ''OPERATING LOANS'' for ''PRODUCTION AND SUBSISTENCE LOANS''.

1946—Act Aug. 14, 1946, ch. 964, §4, 60 Stat. 1071, substituted ''PRODUCTION AND SUBSISTENCE LOANS'' for ''REHABILITATION LOANS''.

§ 1007. Repealed. Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318

Section, acts July 22, 1937, ch. 517, title II, §21, 50 Stat. 524; Aug. 14, 1946, ch. 964, §4, 60 Stat. 1071; Aug. 23, 1951, ch. 344, §2, 65 Stat. 197; Aug. 1, 1956, ch. 829, §2[6], 70 Stat. 802; Mar. 29, 1961, Pub. L. 87–8, 75 Stat. 17, related to eligible borrowers for production and subsistence loans and terms thereof. See section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Section repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of this title.

§ 1007a. Omitted

CODIFICATION

Section, act July 1, 1941, ch. 267, §1, 55 Stat. 440, providing that rural rehabilitation loans should be subject to the conditions and penalties prescribed by former sections 1020k and 1020n of Title 12, Banks and Banking, was superseded by the repeal of those sections by act Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062. Section was not a part of the Bankhead-Jones Farm Tenant Act which constitutes major part of this chapter.

§§ 1008, 1009. Repealed. Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318

Section 1008, acts July 22, 1937, ch. 517, title II, §22, 50 Stat. 525; Aug. 14, 1946, ch. 964, §4, 60 Stat. 1071, related to debt adjustment.

Section 1009, acts July 22, 1937, ch. 517, title II, §23, 50 Stat. 525; Aug. 14, 1946, ch. 964, §4, 60 Stat. 1071, authorized appropriations for production and subsistence.

For subject matter of sections 1008 and 1009 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of section 1921 et seq. of this title are made effective by regulations of Secretary of Agriculture, see section

[1] See References in Text note below.

341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 16 sections 241e, 441h, 668ee, 1609; title 30 section 601.

§ 1010. Land conservation and land utilization

The Secretary is authorized and directed to develop a program of land conservation and land utilization, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, preserving natural resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or establish private industrial or commercial enterprises.

(July 22, 1937, ch. 517, title III, § 31, 50 Stat. 525; Pub. L. 87–703, title I, § 102(a), Sept. 27, 1962, 76 Stat. 607; Pub. L. 89–796, § 1(a), Nov. 8, 1966, 80 Stat. 1478; Pub. L. 97–98, title XV, § 1513, Dec. 22, 1981, 95 Stat. 1333.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

AMENDMENTS

1981—Pub. L. 97–98 inserted development of energy resources to the enumeration of aims for which the Secretary may develop programs of land conservation and land utilization.

1966—Pub. L. 89–796 inserted ''developing and protecting recreational facilities,'' after ''protecting fish and wildlife,''.

1962—Pub. L. 87–703 struck out ''including the retirement of lands which are submarginal or not primarily suitable for cultivation,'' after ''land utilization'', provided for assistance in protecting fish and wildlife and prohibited the building of industrial parks or establishment of private industrial or commercial enterprises.

EFFECTIVE DATE OF 1981 AMENDMENT

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

SAVINGS PROVISION

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished, and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 26 section 126; title 30 section 601.

§ 1010a. Soil, water, and related resource data

In recognition of the increasing need for soil, water, and related source data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, flood plain identification and utilization, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources.

(Pub. L. 92–419, title III, § 302, Aug. 30, 1972, 86 Stat. 670; Pub. L. 96–470, title I, § 102(c), Oct. 19, 1980, 94 Stat. 2237.)

CODIFICATION

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

AMENDMENTS

1980—Pub. L. 96–470 struck out provision that the Secretary issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1602.

§ 1011. Powers of Secretary of Agriculture

To effectuate the program provided for in section 1010 of this title, the Secretary is authorized—

(a) Repealed. Pub. L. 87–703, title I, § 102(b), Sept. 27, 1962, 76 Stat. 607.

(b) To protect, improve, develop, and administer any property so acquired and to construct such structures thereon as may be necessary to adapt it to its most beneficial use.

(c) To sell, exchange, lease, or otherwise dispose of, with or without a consideration, any property so acquired, under such terms and conditions as he deems will best accomplish the purposes of this subchapter, but any sale, exchange, or grant shall be made only to public authorities and agencies and only on condition that the property is used for public purposes: *Provided, however*, That an exchange may be made with private owners and with subdivisions or agencies of State governments in any case where the Secretary of Agriculture finds that such exchange would not conflict with the purposes of the Act, and that the value of the property received in exchange is substantially equal to that of the property conveyed. The Secretary may recommend to the President other Federal, State, or Territorial agencies to administer such property, together with the conditions of use and administration which will best serve the purposes of a land-conservation and land-utilization program, and the President is authorized to transfer such property to such agencies.

(d) With respect to any land, or any interest therein, acquired by, or transferred to, the Secretary for the purposes of this subchapter, to make dedications or grants, in his discretion, for any public purpose, and to grant licenses and easements upon such terms as he deems reasonable.

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization or plans for the conservation, development and utilization of water for aquacultural purposes, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. As used in this subsection, the term ''aquaculture'' means the culture or husbandry of aquatic animals or plants. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $500,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. A loan under this subsection shall be made under a contract that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan in not more than 30 years, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided*, That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further*, That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public waterbased fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public waterbased fish and wildlife or receptional development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460*l*–4 et seq.]; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further*, That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further*, That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years

after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from date of issue;

(2) To provide, for the benefit of rural communities, technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs.

(f) To make such rules and regulations as he deems necessary to prevent trespasses and otherwise regulate the use and occupancy of property acquired by, or transferred to, the Secretary for the purposes of this subchapter, in order to conserve and utilize it or advance the purposes of this subchapter. Any violation of such rules and regulations shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401(b) to (e) of title 18.

(July 22, 1937, ch. 517, title III, §32, 50 Stat. 525; July 28, 1942, ch. 531, 56 Stat. 725; Pub. L. 87–703, title I, §102(b), (c), Sept. 27, 1962, 76 Stat. 607; Pub. L. 87–869, §7, Oct. 23, 1962, 76 Stat. 1157; Pub. L. 88–537, Aug. 31, 1964, 78 Stat. 745; Pub. L. 89–796, §1(b), Nov. 8, 1966, 80 Stat. 1478; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 91–343, July 18, 1970, 84 Stat. 439; Pub. L. 92–419, title III, §301, Aug. 30, 1972, 86 Stat. 669; Pub. L. 95–113, title XV, §§1503(a), 1507, Sept. 29, 1977, 91 Stat. 1021, 1022; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–437, §4(a)(4), Nov. 2, 1994, 108 Stat. 4581; Pub. L. 104–127, title VII, §791(a), Apr. 4, 1996, 110 Stat. 1151.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

REFERENCES IN TEXT

The Act, referred to in subsec. (c), is the Bankhead-Jones Farm Tenant Act which is classified generally to this chapter (§1000 et seq.). For complete classification of the Act to the Code, see section 1000 of this title and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (e), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–127 added fifth sentence and struck out former fifth sentence which read as follows: ''Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue.''

1994—Subsec. (e). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1977—Subsec. (e). Pub. L. 95–113 inserted reference to plans for the conservation, development, and utilization of water for aquacultural purposes, inserted definition of ''aquaculture'', and substituted ''$500,000'' for ''$250,000''.

1972—Subsec. (e). Pub. L. 92–419 inserted par. (1) and (2) provisions which authorized Secretary of Agriculture to provide Federal assistance for water storage and for water quality management, for control and abatement of agriculture-related pollution, for disposal of solid wastes, and for storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection.

1970—Subsec. (e). Pub. L. 91–343 inserted provisions authorizing Secretary to bear an equitable share of the costs of installing works of improvement, to bear all engineering and other technical assistance costs, and to bear up to one half of the costs of land, easements or rights of way and minimum basic public facilities, and limited the Federal contribution to one work of improvement for each seventy-five thousand acres in any project where such assistance is not provided under any other authority.

1966—Pub. L. 89–796 inserted ''local nonprofit organizations'' to the enumerated public agencies to which this section is applicable.

1964—Subsec. (f). Pub. L. 88–537 provided that persons charged with violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner as in section 3401(b) to (e) of Title 18, Crimes and Criminal Procedure.

1962—Subsec. (a). Pub. L. 87–703, §102(b), repealed authority of Secretary to acquire submarginal land and land not primarily suitable for cultivation, and interests in and options on such land.

Subsec. (e). Pub. L. 87–703, §102(c), authorized Secretary to assist in carrying out the plans by means of loans to State and local public agencies, conditioned loans on absence of disapproval of plans within 45 days, prescribed a $250,000 limitation on appropriation for a single loan without prior committee approval and provided for loan contracts and interest and repayment of principal and interest.

Subsec. (f). Pub. L. 87–703, §102(c), substituted ''by a fine of not more than $500 or imprisonment for not more than six months, or both'' for ''as prescribed in section 104 of title 18''.

1942—Subsec. (c). Act July 28, 1942, inserted proviso.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (f) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

EFFECTIVE DATE OF 1977 AMENDMENT

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

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished, and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade.

Functions of Secretary of the Interior under section 402 of 1946 Reorg. Plan No. 3, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of Title 30, Mineral Lands and Mining, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a note under section 2201 of this title.

Functions of Secretary of Agriculture with respect to uses of mineral deposits in lands under subsec. (c) of this section transferred to Secretary of the Interior by 1946 Reorg. Plan No. 3, § 402, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1099, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (c) of this section to transfer to Federal, State, or Territorial agencies lands acquired by Secretary of Agriculture under subsec. (a) of this section delegated to Administrator of General Services, see section 1(14) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

ADJUSTMENT OF SEBASTIAN MARTIN GRANT BOUNDARY DISPUTES

Act Aug. 11, 1945, ch. 366, 59 Stat. 532, provided for the adjustment of the Sebastian Martin grant boundary disputes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1012, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601.

§ 1012. Payments to counties

As soon as practicable after the end of each calendar year, the Secretary shall pay to the county in which any land is held by the Secretary under this subchapter, 25 per centum of the net revenues received by the Secretary from the use of the land during such year. In case the land is situated in more than one county, the amount to be paid shall be divided equitably among the respective counties. Payments to counties under this section shall be made on the condition that they are used for school or road purposes, or both. This section shall not be construed to apply to amounts received from the sale of land.

(July 22, 1937, ch. 517, title III, § 33, 50 Stat. 526.)

REPEALS

Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see note set out under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1013a, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 30 section 601; title 31 section 6903.

§ 1012a. Townsites

When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for

sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided*, *however*, That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

(Pub. L. 85–569, July 31, 1958, 72 Stat. 438; Pub. L. 94–579, title II, § 213, Oct. 21, 1976, 90 Stat. 2760.)

CODIFICATION

Section, which is also set out as section 478a of Title 16, Conservation, was not enacted as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

AMENDMENTS

1976—Pub. L. 94–579 substituted provisions setting forth procedures applicable to designation of townsites of tracts of National Forest System lands in Alaska or the eleven contiguous Western States, for provisions setting forth procedures applicable to designation of townsites from any national forest lands or lands administered by Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§ 1013. Omitted

CODIFICATION

Section, act July 22, 1937, ch. 517, title III, § 34, 50 Stat. 526, related to appropriations and expired by its own limitations at end of fiscal year 1940.

§ 1013a. Benefits extended to Puerto Rico and Virgin Islands; "county" defined; payments to Governor or fiscal agent of county

The provisions of this subchapter shall extend to Puerto Rico and the Virgin Islands. In the case of Alaska, Puerto Rico, and the Virgin Islands, the term ''county'' as used in this subchapter may be the entire area, or any subdivision thereof as may be determined by the Secretary, and payments under section 1012 of this title shall be made to the Governor or to the fiscal agent of such subdivision.

(July 22, 1937, ch. 517, title III, § 35, as added Pub. L. 87–128, title III, § 342, Aug. 8, 1961, 75 Stat. 318.)

EFFECTIVE DATE

Section effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1931, 6942 of this title; title 25 section 492.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 1014 to 1025. Repealed. Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1014, act July 22, 1937, ch. 517, title IV, § 40, 50 Stat. 527, created the Farmers' Home Corporation and provided for its location, delegation of power by Secretary of Agriculture, capital stock, board of directors, personnel, quorum, compensation, expenses, selection of administrator, powers of corporation, compensation to injured employees, deposit of monies, tax exemption, records and annual report.

Section 1015, acts July 22, 1937, ch. 517, title IV, § 41, 50 Stat. 528; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(a), 61 Stat. 493; Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Aug. 30, 1954, ch. 1076, § 1(4), 68 Stat. 966; July 31, 1956, ch. 804, title I, § 107(a), 70 Stat. 739; Aug. 1, 1956, ch. 829, § 3(a), 70 Stat. 803, related to powers or Secretary of Agriculture.

Section 1016, acts July 22, 1937, ch. 517, title IV, § 42, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 1, 1956, ch. 829, § 3(b), 70 Stat. 804, provided for county or area committee appointments, compensation, meetings and duties.

Section 1017, acts July 22, 1937, ch. 517, title IV, § 43, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73; Aug. 1, 1956, ch. 829, § 3(c), 70 Stat. 804, related to resettlement projects, their liquidation, determination of lands suitable for farm management units, report to Congress, sale of lands, disposition of public facilities and conditions thereof, disposition of surplus property and sale of properties of defense relocation corporation, etc.

Section 1018, acts July 22, 1937, ch. 517, title IV, § 44, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 3, 65 Stat. 198, related to special conditions and limitations on loans.

Section 1019, acts July 22, 1937, ch. 517, title IV, § 45, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to transfer of lands to Secretary.

Section 1020, acts July 22, 1937, ch. 517, title IV, § 46, 50 Stat. 530; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(d), 68 Stat. 525, related to transactions with private corporations.

Section 1021, acts July 22, 1937, ch. 517, title IV, § 47, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to surveys and investigations.

Section 1022, acts July 22, 1937, ch. 517, title IV, § 48, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; Aug. 23, 1951, ch. 344, § 4, 65 Stat. 198, related to variable payments on obligations and discretionary scheduling of initial payment.

Section 1023, acts July 22, 1937, ch. 517, title IV, § 49, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to set-off.

Section 1024, acts July 22, 1937, ch. 517, title IV, § 50, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to taxation.

Section 1025, acts July 22, 1937, ch. 517, title IV, § 51, 50 Stat. 531; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 22, 1954, ch. 562, § 1(e), 68 Stat. 525; Aug. 1, 1956, ch. 829, § 3(d), 70 Stat. 804, related to protection of investment and security and purchase at foreclosure sale.

For subject matter of sections 1014 to 1025 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, except that the provisions of section 1018 of this title, as existing prior to amendment by act Aug. 14, 1946, which require mineral reservations in lands disposed of under sections 1010 to 1012 of this title shall not become effective until Dec. 7, 1961, see Effective Date note set out under section 1921 of this title.

§ 1026. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts July 22, 1937, ch. 517, title IV, § 52, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related

to penalties. See sections 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§§ 1027 to 1029. Repealed. Pub. L. 87–128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1027, acts July 22, 1937, ch. 517, title IV, § 53, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to fees and commissions.

Section 1028, acts July 22, 1937, ch. 517, title IV, § 54, 50 Stat. 532; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064; July 26, 1947, ch. 339, § 1(b), 61 Stat. 493, related to application of provisions to territories.

Section 1029, acts July 22, 1937, ch. 517, title IV, § 55, 50 Stat. 533; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064, related to separability of provisions.

For subject matter of sections 1027 to 1029 of this title, see section 1921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of this title are made effective by regulations of Secretary of Agriculture, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of this title.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of this title.

§ 1030. Consolidation of agricultural credit and service offices

The Secretary of Agriculture and the Governor of the Farm Credit Administration are directed, wherever practicable, to make suitable arrangements whereby all field offices under their supervision or direction extending agricultural credit or furnishing agricultural services to farmers to utilize the same or adjacent offices to the end that eligible farmers in each locality will be enabled to obtain their agricultural credit and services at one central point.

(Aug. 14, 1946, ch. 964, § 7, 60 Stat. 1079.)

CODIFICATION

Section was enacted as part of the Farmers' Home Administration Act of 1946, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of the Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of the said Administration were excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1031. Conveyance of mineral rights with land

Any conveyance of real estate by the Government or any Government agency under this Act shall include all mineral rights.

(Aug. 14, 1946, ch. 964, § 9, 60 Stat. 1080.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, known as the Farmers' Home Administration Act of 1946. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Farmers' Home Administration Act of 1946, and not as part of the Bankhead-Jones Farm Tenant Act which constitutes a major part of this chapter.

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Sale of reserved mineral interests, see sections 1033 to 1035, 1037 to 1039 of this title.

§ 1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury

All rights, interests, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary of Agriculture for the purpose of making rural rehabilitation and farm tenancy loans in accordance with the Department of Agriculture Appropriation Act of 1947 and prior appropriations and loans under the Farmers Home Administration Act of 1946 are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of the Acts named above, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of said Acts to any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making such loans or advances, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such loans or advances to the Secretary of Agriculture. Repayments to the Secretary of Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(July 30, 1947, ch. 356, title I, § 1, 61 Stat. 545.)

REFERENCES IN TEXT

The Department of Agriculture Appropriation Act of 1947, referred to in text, is act June 22, 1946, ch. 445, 60

Stat. 270, as amended. For complete classification of this Act to the Code, see Tables.

The Farmers Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

''Chapter 31 of title 31'' and ''that chapter'' substituted in text for ''the Second Liberty Bond Act, as amended'' and ''that Act'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

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

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

§ 1032a. Disbursing and certifying officers; exemption from liability for advances to defense relocation corporations

The Comptroller General of the United States is authorized and directed to allow credit in the accounts of disbursing and certifying officers for advances made in good faith on behalf of the Department of Agriculture to defense relocation corporations and land purchasing associations.

(Aug. 14, 1946, ch. 964, § 6, 60 Stat. 1079.)

CODIFICATION

Section was formerly classified to section 82h of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877. Section was not enacted as a part of the Bankhead-Jones Farm Tenant Act, which constitutes a major part of this chapter.

§ 1033. Sale of reserved mineral interests

Notwithstanding any other provisions of law, the Secretary of Agriculture (referred to in sections 1033 to 1035 and 1037 to 1039 of this title as the ''Secretary'') is authorized and directed to sell, as provided in said sections, all mineral interests now owned by the United States, which have been reserved or acquired by it under any program heretofore administered by the Resettlement Administration, or the Farm Security Administration, or now administered by the Farmers Home Administration, except the program administered pursuant to sections 1010 to 1012 of this title and the program for the liquidation of labor camps pursuant to Public Law 298, Eightieth Congress.

(Sept. 6, 1950, ch. 897, § 1, 64 Stat. 769.)

REFERENCES IN TEXT

Public Law 298, Eightieth Congress, referred to in text, means act July 31, 1947, ch. 413, 61 Stat. 694, which was set out as a note under section 1017 of this title and was repealed by act Apr. 20, 1950, ch. 94, title II, § 205(a), 64 Stat. 73.

CODIFICATION

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

AUTHORIZATION OF APPROPRIATIONS

Section 8 of act Sept. 6, 1950, ch. 897, 64 Stat. 770, provided that: ''There is authorized to be appropriated to the Secretary such sums as Congress may from time to time determine to be necessary to enable the Secretary to carry out the provisions of this Act [sections 1033 to 1039 of this title].''

CROSS REFERENCES

Conveyances under 1946 amendment to this chapter to include all mineral rights, see section 1031 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1035, 1037, 1038, 1039 of this title.

§ 1034. Persons to whom mineral interests sold; conveyances

Such mineral interests shall be sold only to private persons who shall apply therefor and who at the time of application are the owners of the surface of the land covered by the application. Applicants shall establish their title to the surface of the land covered by the application to the satisfaction of the Secretary at their own expense. Conveyances of mineral interests shall be by quitclaim deed executed by the Secretary or his delegate.

(Sept. 6, 1950, ch. 897, § 2, 64 Stat. 769.)

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1035, 1037, 1038, 1039 of this title.

§ 1035. Sale of mineral interests; consideration; transfer of unsold interests to Secretary of the Interior

In areas where the Secretary determines after consultation with the Department of the Interior and competent local authorities that there is no active mineral development or leasing, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas the mineral interests shall be sold at the fair market value thereof as determined by the Secretary after taking into consideration such appraisals as he deems necessary or appropriate. Area determinations made by the Secretary pursuant to this section may be revised from time to time and the consideration to be obtained for the mineral interests in connection with any particular tract of land shall be determined by the rule applicable to the area in which the tract is located at the time of the application therefor: *Provided*, That, in the event any mineral interests covered by sections 1033 to 1039 of this title are not sold as provided herein pursuant to application filed within seven years from September 6, 1950, or within seven years from the date of acquisition of the mineral interests of the United States, whichever date is later, the Secretary shall forthwith transfer title to such mineral interests, with the exception of those which were a part of or derived from the assets transferred pursuant to transfer agreements with State rural rehabilitation corporations, to the Secretary of the Interior to be administered under the mineral laws of the United States.

(Sept. 6, 1950, ch. 897, § 3, 64 Stat. 769.)

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1037, 1038, 1039 of this title.

§ 1036. Repealed. Pub. L. 87–353, § 3(m), Oct. 4, 1961, 75 Stat. 774

Section, act Sept. 6, 1950, ch. 897, § 4, 64 Stat. 769, related to authorization of Federal Farm Mortgage Corporation to sell and convey its mineral interests.

§ 1037. Sale of reserved mineral interests; disposition of proceeds

All proceeds from sales made under sections 1033 to 1039 of this title of mineral interests described in section 1033 of this title shall be covered into the Treasury of the United States as miscellaneous receipts, except that the proceeds from sales of mineral interests which were a part of or derived from the assets transferred pursuant to the transfer agreements with State rural rehabilitation corporations shall be credited to the appropriate corporation account.

(Sept. 6, 1950, ch. 897, § 5, 64 Stat. 770.)

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1038. Regulations; delegations of authority

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

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

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1039. Time for filing purchase applications

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

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

CODIFICATION

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1040. Farmers' Home Administration funds account

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

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

CODIFICATION

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

CHAPTER 34—SUGAR PRODUCTION AND CONTROL

§ 1100. Omitted

CODIFICATION

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

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

TERMINATION DATE

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

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

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

SUBCHAPTER I—DEFINITIONS

§ 1101. Omitted

CODIFICATION

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

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

SUBCHAPTER II—QUOTA PROVISIONS

§§ 1111 to 1122. Omitted

CODIFICATION

Section 1111, acts Aug. 8, 1947, ch. 519, title II, § 201, 61 Stat. 923; May 29, 1956, ch. 342, § 5, 70 Stat. 217; July 13,

1962, Pub. L. 87–535, § 2, 76 Stat. 156; Nov. 8, 1965, Pub. L. 89–331, § 2, 79 Stat. 1271; Oct. 14, 1971, Pub. L. 92–138, § 3, 85 Stat. 379, related to annual consumption estimate in the continental United States, the price of objective, and definitions of parity index and wholesale price index and expired on Dec. 31, 1974.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF REPEAL

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

SUBCHAPTER III—CONDITIONAL-PAYMENT PROVISIONS

§§ 1131 to 1137. Omitted

CODIFICATION

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

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

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

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

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

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

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

A prior section 1134, acts Sept. 1, 1937, ch. 898, title III, § 304, 50 Stat. 911; Dec. 26, 1941, ch. 638, § 3, 55 Stat.

873, relating to similar subject matter, expired on Dec. 31, 1947.

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

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

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

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

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

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

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§§ 1151 to 1161. Omitted

CODIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER V—GENERAL PROVISIONS

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

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

§§ 1172 to 1183. Omitted

CODIFICATION

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

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

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

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

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

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

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

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

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

Section 1181, act Sept. 1, 1937, ch. 898, title V, § 511, 50 Stat. 916, related to surveys and investigations of pro-

ducer-processor and producer-laborer contracts, expired on Dec. 31, 1947, and was covered by section 409 of the Sugar Act of 1948, which was set out as former section 1159 of this title.

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

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

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

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(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum.
(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators.
(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; ''new farms'' defined; acreage allotment and farm yield basis of new farms.
(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments.
(g) Marketing penalties.
(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315.
(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program.
(j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas.
(k) Forfeiture of allotment and quota.
(*l*) Determination of Flue-cured tobacco planted acreage.
1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco.
(a) Sale or lease of acreage allotments and acreage-poundage quotas.
(b) Conditions for transfers.
(c) Transfer of acreage history and marketing quota.
(d) Five-year restriction on new farm allotments or quotas.
(e) Allotment adjustment.
(f) Lease term.
(g) Acreage transfer maximums.
(h) Future allotments; referendum voting eligibility.
(i) Land utilization agreements; payment adjustments.
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1314e. Farm poundage quotas for certain kinds of tobacco.
(a) Proclamations and referenda regarding burley tobacco.
(b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco.
(c) Amount of national marketing quota, determination; national reserve, establishment.
(d) Farm yields; determination; limitation.
(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation.
(f) Reductions for false information.
(g) Leases and transfers of farm quotas; limitations.
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(k) Lease and transfer of burley tobacco quota assigned.
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1314f. Nonquota tobacco subject to quota.
1314g. Submission of purchase intentions by cigarette manufacturers.
(a) Quantity of intended purchases; aggregation not to allow identification.
(b) Failure to submit; determination of quantity of intended purchases by Secretary.
(c) Confidentiality of information; disclosure; publication of identity of violators; penalties.
(d) Exemption from public disclosure.
1314h. Purchase requirements; penalty.
(a) Statement of quantity purchased during marketing year.
(b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases.
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(e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties.
(f) ''Quota tobacco'' defined.
1314i. Domestic marketing assessment.
(a) Certification.
(b) Penalties.
(c) Domestic marketing assessment.
(d) Purchase of Burley tobacco.
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(f) Crop losses due to disasters.
(g) Effective date.
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(a) In general.
(b) Limitations.
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(d) Records.
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1315. Burley tobacco acreage allotments.
1316. Transfer of allotments subsequent to 1965.

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1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.

Sec.
1322 to 1325. Repealed.
1326. Adjustment of farm marketing quotas.
1327 to 1329. Omitted.
1329a. Discontinuance of acreage allotments on corn.
1330. Omitted.

SUBPART III—MARKETING QUOTAS—WHEAT

1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation.
1332. National marketing quota.
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(b) Amount; minimum.
(c) National emergencies or material increase in demand; investigation; increase or termination.
(d) Farm marketing quotas for wheat crops planted in calendar years 1966–1970.
1333. National acreage allotment.
1334. Apportionment of national acreage allotment.
(a) Apportionment among States; special acreage reserve.
(b) Apportionment among counties.
(c) Apportionment among farms; overplanted allotments; reductions; notice.
(d) Repealed.
(e) Increase in acreage allotments and marketing quotas for class II durum wheat.
(f) Voluntary surrender of acreage allotment.
(g) Plantings in excess of allotments or where no allotment is established.
(h) Omitted.
(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat.
(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments.
(k) Transfer of farm wheat acreage allotments in case of natural disasters.
1334a. Omitted.
1334a–1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops.
1334b. Designation of States outside commercial wheat-producing areas.
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1336. Referendum.
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1338. Transfer of quotas.
1339. Land use.
(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing.

Sec.
(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments.
(c) Adjustment of payments.
(d) Advance payments.
(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate.
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(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses.
1339a. Good faith reliance.
1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat.
1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage.
1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans.
1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts.

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1342a. National cotton production goal.
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(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve.
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(f) Apportionment among farms.
(g) Law and conditions governing establishment of acreage allotments and yields.
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(i) Excess planting; old and new farm allotment.
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(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage.
(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment.
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1344a. Exclusion of 1949 acreage in computation of future allotments.
1344b. Sale, lease, or transfer of cotton acreage allotments.
(a) Authority for calendar years 1966 through 1970; transfer periods.
(b) Requisite conditions for transfer of acreage allotments.
(c) Extent of estate transferred.
(d) Period of ineligibility of land for new allotment.
(e) Transfer of allotments established under minimum allotment provisions.
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1346. Penalties.
1347. Repealed.
1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory.
1349. Export market acreage.
(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; ''export market acreage'' on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965.
(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton.
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(a) Establishment.
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(c) Apportionment to counties.
(d) Adjustment of apportionment bases for counties.
(e) Apportionment to farms.
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1357. Legislative findings.
1358. National marketing quota.
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Sec.
(c) Apportionment of national acreage allotment.
(d) Farm acreage allotments.
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(f) New farm allotments.
(g) Release and reapportionment of farm-acreage allotments.
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(i) Production on farms with no allotments.
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1358–1. National poundage quotas and acreage allotments for peanuts.
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(e) Duration of lease; terms and conditions.
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(g) Regulations; limitations on transfers.
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1358c. Experimental and research programs for peanuts.
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(b) Quantity.
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1359. Marketing penalties.
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(a) Marketing penalties.
(b) Use of quota and additional peanuts.
(c) Marketing peanuts with excess quantity, grade, or quality.
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(h) Administration.
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1359aa. Information reporting.
(a) Duty of processors, refiners and manufacturers to report.
(b) Duty of producers to report.
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(d) Monthly reports.
1359bb. Marketing allotments for sugar and crystalline fructose.
(a) Sugar estimates.
(b) Sugar allotments.
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Sec.
1359cc. Establishment of marketing allotments.
(a) In general.
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(f) State cane sugar allotments.
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1359dd. Allocation of marketing allotments.
(a) In general.
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1372. Payment, collection, and refund of penalties.
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Sec.
(a) Allotment pool.
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(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage.
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(c) Face value.
(d) Statement or form of certificates and transfers.
(e) Failure of producer to comply with programs; issuance of certificates.
1379d. Marketing restrictions.
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(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements.
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1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest.
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PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

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

1401 to 1407. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

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

GENERAL PROVISIONS

§ 1281. Short title

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

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

EFFECTIVE DATE OF 1985 AMENDMENT

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

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, § 1000(a)(3) [title IV, § 401], Nov. 29, 1999, 113 Stat. 1535, 1501A–210, provided that: ''This title [amending section 1387 of this title] may be cited as the 'Mississippi National Forest Improvement Act of 1999'.''

SHORT TITLE OF 1990 AMENDMENT

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

SHORT TITLE OF 1986 AMENDMENT

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

SHORT TITLE OF 1985 AMENDMENT

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

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–218, § 1, July 20, 1982, 96 Stat. 197, provided that: ''This Act [enacting sections 1314–1, 1314b–1, 1314b–2, 1445–1, and 1445–2 of this title, amending sections 1301, 1314, 1314b, 1314c, 1314e, 1314f, 1316, 1373, and 1445 of this title, and enacting provisions set out as notes under sections 1314, 1314b, 1445, 1445–1, and 1445–2

of this title, and under section 590h of Title 16, Conservation] may be cited as the 'No Net Cost Tobacco Program Act of 1982'.''

SHORT TITLE OF 1981 AMENDMENT

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

SHORT TITLE OF 1977 AMENDMENT

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

SHORT TITLE OF 1973 AMENDMENT

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

SHORT TITLE OF 1970 AMENDMENT

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

SHORT TITLE OF 1964 AMENDMENT

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

SHORT TITLE OF 1962 AMENDMENT

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

SHORT TITLE OF 1958 AMENDMENT

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

SHORT TITLE OF 1956 AMENDMENT

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

SHORT TITLE OF 1948 AMENDMENT

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

SEPARABILITY

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

§ 1282. Declaration of policy

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

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

REFERENCES IN TEXT

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

TRANSFER OF FUNCTIONS

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

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

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

CONGRESSIONAL DECLARATION OF POLICY UNDER AGRICULTURAL ACT OF 1961

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

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

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

''(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance;

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

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

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

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

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

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

CONGRESSIONAL DECLARATION OF POLICY FOR YEAR 1949

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

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

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

PRICE STABILIZATION DURING YEAR 1950

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

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

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

§ 1282a. Emergency supply of agricultural products

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

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

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

The President shall make appropriate adjustments in the maximum price which may be

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

(c) "Agricultural products" defined

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

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

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

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

REFERENCES IN TEXT

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

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

CODIFICATION

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

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

§ 1291. Adjustments in freight rates

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

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

(b) Secretary as party to proceedings

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

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

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

(d) Cooperation with complaining farm associations

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

(Feb. 16, 1938, ch. 30, title II, §201, 52 Stat. 36; Pub. L. 104–88, title III, §311, Dec. 29, 1995, 109 Stat. 948.)

AMENDMENTS

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

EFFECTIVE DATE OF 1995 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

§ 1292. New uses and markets for commodities

(a) Regional research laboratories

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

(b) Acquisition of land for laboratories; donations

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

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

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized and

directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) Appropriation for purposes of subsection (a)

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

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

(f) Appropriation to Secretary of Commerce

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

(g) Duty of Secretary

It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

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

AMENDMENTS

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

WHEAT RESEARCH AND PROMOTION ACT

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

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

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

CROSS REFERENCES

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

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

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

§ 1293. Transferred

CODIFICATION

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

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

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

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

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

§ 1301. Definitions

(a) General definitions

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

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

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

designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Definitions applicable to one or more commodities

For the purposes of this subchapter—

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

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

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

corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

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

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

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

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

(4)(A) ''Commercial corn-producing area'' shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years immediately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is four hundred and fifty bushels or more per farm and four bushels or more for each acre of farm land in the county.

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

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

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

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

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

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

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

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

(B) ''Projected national yield'' as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is deter-

mined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

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

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

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

(C) The ''normal supply'' of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus, 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

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

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

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

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

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

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

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

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

(E) ''Normal yield'' for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is de-

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

termined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations issued by the Secretary, taking into consideration abnormal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the market-

ing year immediately preceding the marketing year for which the level is being determined.

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

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

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

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

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

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

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

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

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

Cigar-filler tobacco, comprising type 41.

The provisions of this subchapter shall apply to each of such kinds of tobacco severally: *Provided*, That any one or more of the types comprising any such kind of tobacco shall be treated as a ''kind of tobacco'' for the purposes of this chapter and sections 590h and 590*o* of title 16 if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further*, That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a ''kind of tobacco'' for the purposes of all of the provisions of this subchapter, except that for the purposes of section 1312(c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one ''kind of tobacco'': *And provided further*, That for purposes of section 1314e of this title, types 22 and 23, fire-cured tobacco shall be treated as one ''kind of tobacco''.

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

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

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

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

(c) Use of Federal statistics

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

(d) Exclusion of stocks of certain commodities

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

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

REFERENCES IN TEXT

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

For effective date of the Agricultural Act of 1948, referred to in subsec. (a)(1)(E)(i), see Effective Date of

1948 Amendment note set out under section 624 of this title with reference to title I of said act, and Effective Date of 1948 Amendment note set out below with reference to titles II and III of said Act.

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

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(13)(E). Act July 9, 1942, § 1(5), struck out ''or'' after ''wheat'' and before ''cotton'' wherever ap-

pearing, inserted ''or peanuts'' after ''cotton'' wherever appearing, and inserted after first sentence ''For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county''.

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1975 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1962 AMENDMENT

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

EFFECTIVE DATE OF 1949 AMENDMENT

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

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

EFFECTIVE DATE OF 1948 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

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

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

RULEMAKING PROCEDURES

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

STUDY OF METHODS OF IMPROVING PARITY FORMULA

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

All references in other laws to—

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

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

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

CODIFICATION

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

EFFECTIVE DATE

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

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

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

EFFECTIVE DATE OF REPEAL

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

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

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

§ 1303. Parity payments

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

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

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.
Rental or benefit payments, see section 608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1304. Consumer safeguards

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

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

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

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

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

CODIFICATION

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1973 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

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

§ 1306. Projected yields; determination; base period

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

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

CODIFICATION

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

AMENDMENTS

1973—Pub. L. 91–524, §405(b), as added by Pub. L. 93–86, temporarily inserted ''(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)'' after ''determining the projected yield''. See Effective and Termination Dates of 1973 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

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

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

Notwithstanding any other provision of law—

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

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

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

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

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

REFERENCES IN TEXT

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

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

CODIFICATION

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

AMENDMENTS

1977—Par. (1). Pub. L. 95–113 substituted ''to receive under one or more of the annual programs established

by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop'' for ''to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops''.

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

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

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

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

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

Pub. L. 95–156, Nov. 8, 1977, 91 Stat. 1264, provided: ''That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.''

SECTION REFERRED TO IN OTHER SECTIONS

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

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

Notwithstanding any other provision of law:

(1) Limitation on payments under production flexibility contracts

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

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

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

(3) Description of payments subject to limitation

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

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

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

(4) Definitions

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

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

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

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

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

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

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

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

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

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

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

(III) Notwithstanding any other provision of law, to be considered a separate person under this section, an irrevocable trust (other than a

[1] See References in Text note below.

trust established prior to January 1, 1987) must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving at least the age of majority or is contingent on the death of the grantor or income beneficiary.

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

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

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

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

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

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

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

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

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

REFERENCES IN TEXT

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

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

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

CODIFICATION

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

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

PRIOR PROVISIONS

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

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

AMENDMENTS

1996—Pars. (1) to (4). Pub. L. 104–127 added pars. (1) to (4) and struck out former pars. (1) to (4) which estab-

lished limitations on payments under wheat, feed grains, upland cotton, extra long staple cotton, honey, and rice programs for 1987 through 1997 crops.

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

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

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

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

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

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

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

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

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

Par. (5)(B)(iii). Pub. L. 101–624, §1111(c), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.''

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

as used in this section. See Effective and Termination Dates of 1986 Amendment note below.

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

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

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

EFFECTIVE DATE OF 1987 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

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

Section 108(b) of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''The amendments made by subsection (a) [amending this section] shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act [Oct. 18, 1986].''

EQUITABLE RELIEF

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

PAYMENT PROVISIONS EDUCATION PROGRAM

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

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

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

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

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

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

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

''(a) REGULATIONS.—

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

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

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

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

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

CONSERVATION RESERVE APPLICATION

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

REVISION OF REGULATIONS

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

''(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act [Oct. 18, 1986] that define 'person' under section 1001

of the Food Security Act of 1985 [this section] and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

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

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

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

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

SEPARATE PERSON STATUS AMONG FAMILY MEMBERS

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

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

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

(1) In general

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

(2) Minimal beneficial interests

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

(3) Notification by entities

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

(4) Notification of interest

(A) In general

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

(B) Notice not provided

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

(b) Payments limited to active farmers

(1) In general

To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1308 of this title as being subject to limitation) with respect to a particular

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

(2) General classes actively engaged in farming

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

(A) Individuals

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

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

(I) capital, equipment, or land; and

(II) personal labor or active personal management;

to the farming operation; and

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

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

(B) Corporations or other entities

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

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

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

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

(C) Entities making significant contributions

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

(D) Equipment and personal labor

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

(3) Special classes actively engaged in farming

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

(A) Landowners

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

(B) Family members

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

(C) Sharecroppers

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

(4) Persons not actively engaged in farming

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

(A) Landlords

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

(B) Other persons

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

(5) Custom farming services

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

(6) Growers of hybrid seed

To determine whether a person growing hybrid seed under contract shall be considered to

be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

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

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1308–2. Schemes or devices

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

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

CODIFICATION

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

Notwithstanding any other provision of law:

(a) In general

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

(b) Corporations or other entities

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

(c) Prospective application

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

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

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a) and (b), is act June 27, 1952, ch. 477, 66 Stat.

163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

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

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

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

CODIFICATION

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

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''Any person'' for ''For each of the 1991 through 1997 crops, any person'', substituted ''loans or payments made available under the Agricultural Market Transition Act,'' for ''production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.),'', and struck out ''during the 1989 through 1997 crop years'' before '', with respect to any commodity produced''.

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1308–4. Education program

(a) In general

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

(b) Training

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

(c) Administration

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

(d) Commodity Credit Corporation

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

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

CODIFICATION

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

EFFECTIVE DATE

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

§ 1308–5. Treatment of multiyear program contract payments

(a) In general

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

(b) Limitation

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

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

REFERENCES IN TEXT

Title XII, referred to in subsec. (a), is title XII of the Food Security Act of 1985, Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1504, as amended, popularly known as the ''Sodbuster Law'', which is classified principally to chapter

[1] See References in Text note below.

58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

CODIFICATION

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

EFFECTIVE DATE

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

§ 1308a. Cost reduction options

(a) Authority of Secretary to take action

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

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

In the announcement of the specific provisions of any commodity program administered by the Secretary of Agriculture, the Secretary shall include a statement setting forth which, if any, of the actions are to be initially included in the program, and a statement that the Secretary reserves the right to initiate at a later date any action not previously included but authorized by this section, including the right to reopen and change a contract entered into by a producer under the program if the producer voluntarily agrees to the change.

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

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

(d) Reduction in settlement price of nonrecourse loans

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

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

(2) avoidance of default; or

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

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

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

(f) Other authorities of Secretary not affected

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

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

CODIFICATION

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

AMENDMENTS

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

§ 1309. Normally planted acreage and target prices

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

Notwithstanding any other provision of law, whenever a set-aside program is in effect for one or more of the 1982 through 1995 crops of wheat and feed grains, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments for such crops under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equi-

table among producers and reduced by any set-aside or diverted acreage. Such normal crop acreage for any crop year shall be determined as provided by the Secretary. The Secretary may require producers participating in the program to keep such records as the Secretary determines necessary to assist in making such determination.

(b) Established price payments

Notwithstanding any other provision of law—

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

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

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

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

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

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

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

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

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

[1] See References in Text note below.

REFERENCES IN TEXT

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

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

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

participation in set-asides for 1978 through 1981 crops. See Effective and Termination Dates of 1980 Amendment note below.

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

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENTS

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

Section 103 of title I of Pub. L. 95–279 provided that: ''Sections 101 and 102 [amending this section and section 1444 of this title] of this title shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] may elect after September 30, 1978, to receive loans and payments as computed under this title.''

EFFECTIVE DATE

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

§ 1310. American agriculture protection program

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

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

(b) Duration of loan level

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

(c) "Commodity" defined

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

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

REFERENCES IN TEXT

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

CODIFICATION

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

EFFECTIVE DATE

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

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

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

CODIFICATION

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

PRIOR PROVISIONS

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

AMENDMENTS

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

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with pro-

vision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

PART B—MARKETING QUOTAS

PART REFERRED TO IN OTHER SECTIONS

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

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1311. Legislative findings

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

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

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

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

§ 1312. National marketing quota

(a) Proclamation of quota

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

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

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

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

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

(b) Announcement of amount of quota

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

(c) Referendum on quotas

Within thirty days after the proclamation of national marketing quotas under subsection (a) of this section, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three suc-

ceeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota.

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

AMENDMENTS

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

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

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

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

1955—Subsec. (a). Act Aug. 9, 1955, restated and amended provisions generally to provide that quotas shall not be proclaimed oftener than once every 3 years for any kind of tobacco for which producers have disapproved marketing quotas in 3 successive years subsequent to 1952 (unless at least one-fourth of the producers of such tobacco petition the Secretary to proclaim quotas).

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1948 AMENDMENT

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

RULEMAKING PROCEDURES

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

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

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

DEFERMENT OF PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO

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

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

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

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

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

1956 MARYLAND ALLOTMENTS

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

1956 FIRE-CURED AND DARK AIR-CURED TOBACCO ALLOTMENTS

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

1956 BURLEY ALLOTMENTS

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

1955–1956 BURLEY TOBACCO QUOTA

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

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

Joint Res. July 7, 1943, ch. 195, 57 Stat. 387, as amended by Joint Res. Mar. 31, 1944, ch. 149, 58 Stat. 136; act

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

PROCLAMATIONS AFFIRMED

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

CROSS REFERENCES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1313. Apportionment of national marketing quota

(a) Apportionment among States

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

(b) Allotment of quota among producing farms

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

(c) Allotment to previous nonproducing farms and small farms

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

able for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) Transfer of farm marketing quotas

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

(e) Quota for 1938; minimum State allotments

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

(f) Increase of 1938 quota

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

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

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

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

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

Notwithstanding any other provision of this chapter, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage

allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national marketing quota established for such kind of tobacco pursuant to section 1312 of this title. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments.

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

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

(j)[1] Old farm tobacco acreage allotment

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

SAVINGS PROVISION

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

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

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

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

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

APPORTIONMENT OF BURLEY ACREAGE ALLOTMENT

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

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

CROSS REFERENCES

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 1314. Penalties

(a) Persons liable

The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106(B)(d)(1)[1] of that Act [7 U.S.C. 1445–1(d)(1) and 1445–2(d)(1)], if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by the person who acquired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided*, That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

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

(b) Collection and deposit

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

(c) Lien in favor of United States

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1982 AMENDMENT

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

Amendment by section 206(a) of Pub. L. 97–218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

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

EFFECTIVE DATE OF 1954 AMENDMENT

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

EFFECTIVE DATE OF 1946 AMENDMENT

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

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

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

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

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

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

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

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

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

SECTION REFERRED TO IN OTHER SECTIONS

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

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

(a) Penalty

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

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

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

(c) Relation to other law

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

(d) Definitions

As used in this section—

(1) the term ''floor sweepings'' means the scraps or leaves of tobacco which accumulate

on the warehouse floor in the regular course of business; and

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

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

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

Section, act Feb. 16, 1938, ch. 30, title III, § 315, as added Aug. 21, 1958, Pub. L. 85–705, 72 Stat. 703, provided for a referendum among producers of type 21 (Virginia) fire-cured tobacco and type 37 Virginia sun-cured tobacco on the question of a single combined tobacco acreage allotment and provided for establishment and subsequent increases and decreases in allotments. See section 1314d of this title.

§ 1314b. Lease or sale of acreage allotments

(a) Conditions for permission from Secretary; false statements; exceptions

(1) Notwithstanding any other provision of law—

(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment of the same kind.

(ii) The Secretary shall, only with respect to the 1984 through 1986 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota except that for the 1985 and 1986 crops such lease and transfer shall be permitted only if (except as otherwise provided in paragraph (2)(A)) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section. Beginning with the 1985 crop, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement providing that none of the consideration for the lease of any Flue-cured tobacco acreage allotment and quota may be paid to the lessor prior to the marketing of the tobacco produced under the lease. The Secretary shall also require that any seller of a Flue-cured tobacco allotment and quota grant to the buyer an option to make payment therefore in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. With respect to the 1987 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.

(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured tobacco allotment or quota for the farm. Notice of any determination made by the county committee under the preceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(2) Repealed. Pub. L. 98–180, title II, § 206(b)(1), Nov. 29, 1983, 97 Stat. 1147.

(b) Term of years; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) Filing with county committees; calculation of normal yield for transfer

The lease and transfer or sale and transfer of any allotment shall not be effective until a copy of the lease or sale agreement, as the case may be, is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. The transfer shall be approved acre for acre.

(d) Allotments for other years unaffected; inclusion of amount in transferors' plantings; referendum voting rights

The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the

farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e) Limitation on amount of acreage allotment; "tillable cropland" defined

(1) The total acreage allotted to any farm after the transfer by lease or sale of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm. In the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(2) Paragraph (1) shall not apply to flue-cured tobacco.

(3) For purposes of this section, the term ''tillable cropland'' means cleared land that can be planted to crops without unusual cultivation or other preparation.

(f) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g) Sale of allotment or quota by one active Flue-cured tobacco producer to another; definition

(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term ''active Flue-cured tobacco producer'' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.

(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3) TRANSFERS ALLOWED BY REFERENDUM.—

(A) REFERENDUM.—On the request of at least 25 percent of the active flue-cured tobacco producers within a State, the Secretary shall conduct a referendum of the active flue-cured tobacco producers within the State to determine whether the producers favor or oppose permitting the sale of a flue-cured tobacco allotment or quota from a farm in a State to any other farm in the State.

(B) APPROVAL.—If the Secretary determines that a majority of the active flue-cured tobacco producers voting in the referendum approves permitting the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State, the Secretary shall permit the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State.

(h)[1] Sale or forfeiture of allotment or quota; notice and opportunity for hearing; determination; review

(1) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(2) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fif-

[1] So in original. Two subsecs. (h) have been enacted.

teen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(h) [1] Transfer authority

(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 316, as added Pub. L. 87–200, Sept. 6, 1961, 75 Stat. 469; amended Pub. L. 87–530, July 10, 1962, 76 Stat. 151; Pub. L. 87–824, Oct. 15, 1962, 76 Stat. 947; Pub. L. 88–68, July 19, 1963, 77 Stat. 81; Pub. L. 88–80, July 30, 1963, 77 Stat. 114; Pub. L. 88–469, §§ 1, 2, Aug. 20, 1964, 78 Stat. 581; Pub. L. 89–29, May 27, 1965, 79 Stat. 118; Pub. L. 89–321, title VII, § 703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 89–471, June 24, 1966, 80 Stat. 220; Pub. L. 90–6, Mar. 29, 1967, 81 Stat. 6; Pub. L. 90–52, July 7, 1967, 81 Stat. 121; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–284, §§ 1–4, June 19, 1970, 84 Stat. 314; Pub. L. 92–311, June 6, 1972, 86 Stat. 215; Pub. L. 93–80, Aug. 1, 1973, 87 Stat. 178; Pub. L. 93–464, Oct. 24, 1974, 88 Stat. 1416; Pub. L. 94–445, Oct. 1, 1976, 90 Stat. 1489; Pub. L. 95–54, June 25, 1977, 91 Stat. 250; Pub. L. 97–218, title II, § 201, July 20, 1982, 96 Stat. 201; Pub. L. 98–180, title II, §§ 205(a), 206, Nov. 29, 1983, 97 Stat. 1145, 1147; Pub. L. 100–203, title I, § 1112(a), Dec. 22, 1987, 101 Stat. 1330–7; Pub. L. 101–134, § 2(b), Oct. 30, 1989, 103 Stat. 781; Pub. L. 106–78, title VIII, § 803(c)(6)(A), (B), Oct. 22, 1999, 113 Stat. 1177, 1178.)

REFERENCES IN TEXT

The written statement described in subsection (c) of this section, referred to in subsec. (a)(2)(A), was eliminated by the amendment to subsec. (c) by section 206(a) of Pub. L. 98–180. See 1983 Amendment note below.

AMENDMENTS

1999—Subsec. (e)(1). Pub. L. 106–78, § 803(c)(6)(A)(i), substituted ''farm. In'' for ''farm or, in the case of the sale of a Flue-cured tobacco acreage allotment or poundage quota, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm: *Provided*, That in''.

Subsec. (e)(2), (3). Pub. L. 106–78, § 803(c)(6)(A)(ii), (iii), added par. (2) and redesignated former par. (2) as (3).

Subsec. (g)(3). Pub. L. 106–78, § 803(c)(6)(B), added par. (3).

1989—Subsec. (c). Pub. L. 101–134 substituted ''The transfer shall be approved acre for acre.'' for ''If the normal yield established by the county committee for the farm to which the allotment is transferred by lease or sale does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.''

1987—Subsec. (h). Pub. L. 100–203 added subsec. (h) relating to transfer authority.

1983—Subsec. (a)(1). Pub. L. 98–180, § 205(a), designated existing provision as subpar. (A)(i), substituted ''The Secretary, if the Secretary'' for ''the Secretary, if he'', ''Fire-cured'' for ''fire-cured'', and ''lease and transfer all'' for '', to lease all'' and struck out ''shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and'' before ''may permit'' and ''or quota'' after ''such allotment'' and ''tobacco allotment'' and added subpars. (A)(ii) and (B).

Subsec. (a)(2). Pub. L. 98–180, § 206(b)(1), struck out par. (2) which read as follows:

''(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

''(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

''(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

''(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

''(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

''(i) between the lessor and lessee; or

''(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

''(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease.''

Subsec. (c). Pub. L. 98–180, § 206(a), struck out provisions requiring the lessor and lessee, in addition to a copy of the lease, to file with the county committee a written statement certifying compliance with the provisions of this section, authorizing the county committee, after notice and opportunity for hearing, to determine that a knowingly false statement was made in such written statement, specifying penalties for such

false statement, directing that notice of the determination be mailed to the lessor or lessee, and permitting the lessor or lessee, if dissatisfied with such determination, to review such determination under section 1363 of this title.

Subsec. (e)(1). Pub. L. 98–180, §206(b)(2), substituted ''the sale of a Flue-cured tobacco acreage allotment or poundage quota'' for ''Flue-cured tobacco''.

Subsec. (g)(2). Pub. L. 98–180, §206(b)(3), struck out last sentence which read as follows: ''Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.''

1982—Subsec. (a). Pub. L. 97–218, §201(a), designated existing provisions as par. (1), substituted ''shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this chapter and may permit the owner and operator'' for ''may permit the owner and operator'', and substituted ''(other than a Burley, Flue-cured, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter, to lease'' for ''(other than a Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this chapter to lease'', and added par. (2).

Subsec. (c). Pub. L. 97–218, §201(b), inserted references to sales of acreage allotments in provision requiring the filing of agreements with the county committee of the county in which the farms involved are located, substituted provisions that in the case of a lease and transfer of any Flue-cured tobacco allotment or quota regarding any crop, a lease under this section shall take effect only after the lessor and lessee each file with the county committee a copy of the lease together with a written statement of compliance, and provisions for penalties, after notice and opportunity for hearing, in the event a county committee determines that either the lessor or the lessee knowingly made a false statement in the written statement of compliance, together with provisions for review of any unfavorable determination upon request, for former provisions that any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of two thousand pounds filed on or after June 15 in any year was not effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year, and inserted references to transfers by sale in the provisions for the acre by acre approval of transfers when the transfer/transferee normal yield differential is 10 percent or less.

Subsec. (e). Pub. L. 97–218, §201(c), designated existing provisions as par. (1), substituted ''transfer by lease or sale'' for ''transfer by lease'' and ''cropland in the farm or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm'' for ''cropland in the farm'', and added par. (2).

Subsec. (g). Pub. L. 97–218, §201(d), added subsec. (g). Former subsec. (g), which related to emergency allotment leases and transfers for 1973 in certain disaster areas in Georgia and South Carolina, was struck out.

Subsec. (h). Pub. L. 97–218, §201(d), added subsec. (h). Former subsec. (h), which related to emergency allotment leases and transfers for 1974 in certain disaster areas in North Carolina, was struck out.

Subsec. (i). Pub. L. 97–218, §201(d), struck out subsec. (i) which related to emergency allotment leases and transfers for 1976 in certain disaster areas in Georgia and South Carolina.

1977—Subsec. (c). Pub. L. 95–54 substituted provision allowing leasing of flue-cured tobacco acreage-poundage quotas after June 15 of any year only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year for provision which had formerly required only a 50 per centum planting.

1976—Subsec. (i). Pub. L. 94–445 added subsec. (i).

1974—Subsec. (h). Pub. L. 93–464 added subsec. (h).

1973—Subsec. (g). Pub. L. 93–80 added subsec. (g).

1972—Subsec. (c). Pub. L. 92–311 substituted provisions that leases of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year will not be effective unless the acreage planted on lessor and lessee farms during that year was 50 per centum of the farm acreage allotment in effect for such year, for provisions that such lease and transfer shall not be effective unless a copy of the lease was filed with the county committee prior to a closing date, not later than the normal planting time in the county, established by the Secretary.

1970—Subsec. (a). Pub. L. 91–284, §1, authorized leases without limitation to crop years 1962 through 1970, prescribed conditions for permission from Secretary, substituted as excepted from allotment ''Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment'' for ''Burley tobacco acreage allotment or a cigar-filler and cigar binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment'', authorized lease of all of such allotment or quota, and deleted provision for recognition and consideration of lease and transfer of allotment as valid by the county committee upon compliance with conditions of this section.

Subsec. (b). Pub. L. 91–284, §2, provided for execution of leases for term of years not exceeding five rather than on an annual basis.

Subsec. (e). Pub. L. 91–284, §3, prescribed 10 acre limitation on the amount of cigar-filler tobacco types 42, 43, or 44 allotment acreage which may be leased and transferred to any farm.

Subsec. (g). Pub. L. 91–284, §4, repealed provision for filing of leases for 1965 crop year.

1968—Subsec. (a). Pub. L. 90–559 provided for a one year extension through 1970.

1967—Subsec. (a). Pub. L. 90–6 struck out provision which restricted leasing and transferring of a Maryland tobacco allotment unless at least 75 percent of the allotment for the farm had been actually planted on such farm during each of the two immediately preceding years.

Subsec. (e). Pub. L. 90–52 removed 5 acre limitation on amount of tobacco allotment acreage which may be leased and transferred to any farm.

1966—Subsec. (c). Pub. L. 89–471 inserted proviso which allowed lease and transfer of an allotment notwithstanding failure to file a copy of the lease with the county committee prior to closing date if the Secretary finds that the lease was agreed upon prior to the closing date and the terms of the lease are reduced to writing and filed not later than the 31st day of July of the crop year to which the lease relates.

1965—Subsec. (a). Pub. L. 89–321 extended from 1965 to 1969 the lease privilege for tobacco acreage allotments as well as the prohibition against lease eligibility for Maryland tobacco acreage allotments unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (g). Pub. L. 89–29 substituted ''1965 crop year'' for ''1964 crop year'' and ''June 15, 1965'' for ''June 15, 1964'', and changed the date of filing from within twenty days of August 20, 1964, to within twenty days of May 27, 1965.

1964—Subsec. (g). Pub. L. 88–469, §1, substituted ''1964 crop year'' for ''1962 crop year'' and ''June 15, 1964'' for ''June 15, 1962'', and changed the date of filing from within twenty days of July 10, 1962 to within twenty days of August 20, 1964.

Subsec. (h). Pub. L. 88–469, §2, repealed subsec. (h) which related to filing of leases for 1963 crop year.

1963—Subsec. (a). Pub. L. 88–68, §1(1), extended to crop years 1964 and 1965 provisions permitting lease of tobacco acreage allotments, substituted ''or'' for '', and for the 1963 crop year, other than'', inserted ''1962 or

1963'' before ''allotment'' in the Maryland tobacco provision and precluded the leasing of 1964 or 1965 Maryland tobacco allotment from the farm unless at least 75 per centum of the allotment for the farm was actually planted on such farm during each of the two immediately preceding years.

Subsec. (b). Pub. L. 88–68, §1(2), required annual basis for leases and eliminated provisions against leases for any period exceeding 1 year and for renewal of 1963 crop year leases, except renewal of 1963 crop year leases for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55).

Subsec. (h). Pub. L. 88–80 added subsec. (h).

1962—Subsec. (a). Pub. L. 87–824 excepted for the 1963 crop year cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotments.

Subsec. (b). Pub. L. 87–824 inserted proviso prohibiting renewal of lease for 1963 for cigar-filler and cigar-binder (types 42, 43, 44, 53, 54, and 55) tobacco.

Subsec. (g). Pub. L. 87–530 added subsec. (g).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(a) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(a) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 206(b) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1987 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 207 of title II of Pub. L. 97–218 provided that: ''(a) Except as provided in subsection (b), this title [enacting section 1314b–1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of this title] shall take effect on the date of the enactment of this Act [July 20, 1982].

''(b) The amendments made by this title [enacting section 1314b–1 of this title and amending this section and sections 1314, 1314c, 1314f, and 1316 of this title] shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act [July 20, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b–1, 1314c, 1316 of this title.

§ 1314b–1. Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of acreage allotment or marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual, any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes) which, on or after July 20, 1982—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this chapter; and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 1314b(g) of this title not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c) of this section.

(b) Forfeiture of acreage allotment or marketing quota by farmowners on or after December 1, 1983

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage alloted[1] for the production of Flue-cured tobacco under this chapter exceeds 50 per centum of such farm's tillable cropland, as defined in section 1314b(e)(2) of this title, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c) of this section. In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.

(c) Notice and opportunity for hearing; determination; review

(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b) of this section, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 1314b(h)(3)(A) of this title.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, §316A, as added Pub. L. 97–218, title II, §202, July 20, 1982, 96 Stat. 205; amended Pub. L. 98–180, title II, §207(a), Nov. 29, 1983, 97 Stat. 1148.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–180 inserted '', any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes'' after ''any individual'' and substituted ''1984'' for ''1983''.

EFFECTIVE DATE

Section effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97–218, set out as an Effective Date of 1982 Amendment note under section 1314b of this title.

[1] So in original. Probably should be ''allotted''.

§ 1314b–2. Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas

(a) Sale or forfeiture of marketing quota by institutional farmowners not later than the later of December 1, 1984, or December 1 of year after year in which farm acquired

Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after July 20, 1982—

(1) owns a farm for which a Burley tobacco marketing quota is established under this chapter; and

(2) does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes;

shall sell, not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b) of this section. Notwithstanding the foregoing provisions of this subsection, any person to whom this subsection, as in effect prior to November 29, 1983, applies and who—

(A) is required to sell or forfeit the marketing quota by December 1, 1983, because the person was not significantly involved in the management or use of the land for agricultural purposes, but

(B) would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983,

may, if the person elects to do so, sell such person's marketing quota if a record of the transfer is filed with the county committee by February 1, 1984.

(b) Notice and opportunity for hearing; determination; review

(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) of this section determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(c) Sale or forfeiture of allotment or quota by subsequent purchaser; notice and opportunity for hearing; determination; review

(1) Any person who—

(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) of this section determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 1363 of this title.

(Feb. 16, 1938, ch. 30, title III, § 316B, as added Pub. L. 97–218, title III, § 302, July 20, 1982, 96 Stat. 210; amended Pub. L. 98–180, title II, § 207(b), Nov. 29, 1983, 97 Stat. 1148.)

REFERENCES IN TEXT

The Tobacco Adjustment Act of 1983, referred to in subsec. (a), is title II of Pub. L. 98–180, Nov. 29, 1983, 97 Stat. 1143. For amendment of subsec. (a) of this section by section 207(b) of Pub. L. 98–180, see 1983 Amendment note below.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–180 substituted in par. (2) ''does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes'' for ''is not significantly involved in the management or use of land for agricultural purposes'' and in provision following par. (2) ''1984'' for ''1983'' and inserted in provision following par. (2) provision permitting any person subject to this subsection as in effect prior to Nov. 29, 1983, who would be required to sell or forfeit the marketing quota by Dec. 1, 1983, but would be eligible

to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983, to elect to sell the marketing quota if a record of the transfer is filed with the county committee by Feb. 1, 1984.

§ 1314c. Acreage-poundage quotas

(a) Definitions

For purposes of this section—

(1)(A) Except as provided in subparagraph (B), ''national marketing quota'' for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(B) For the 1986 and each subsequent crop of Flue-cured tobacco, ''national marketing quota'' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

(2) ''National average yield goal'' for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. Notwithstanding the preceding sentence, in 1983,,[1] the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.

(3) ''National acreage allotment'' means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4) ''Farm acreage allotment'' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f) of this section, so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 1313 of this title shall be adjusted in lieu of the acreage allotment for the immediately preceding year. Notwithstanding the preceding provisions of this subsection, in 1983,,[1] farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate.

(5) The ''community average yield'' means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions of section 590h(b) of title 16 which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community aver-

[1] So in original.

age yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A) ''Preliminary farm yield'' for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the years in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community. Notwithstanding the preceding provisions of this subsection, in 1983, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.

(B) ''Preliminary farm yield'' for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the immediately preceding 5 crop years shall be used by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(7) ''Farm yield'' means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) of this section and dividing the sum of the products by the national acreage allotment.

(8) ''Farm marketing quota'' for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided*, That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) National marketing quota, acreage allotment and average yield goal for Flue-cured tobacco; referendum

Within thirty days after April 16, 1965 the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers

voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Tobacco having marketing quotas on acreage basis; determination of Secretary of program on acreage-poundage basis; announcement of national marketing quota, acreage allotment and average yield goal; referendum

Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time[2] the next announcement of the amount of the national marketing quota under section 1312(b) of this title determine and announce the amount of the national quota for that kind of tobacco under this section and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however*, That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 1312(a) of this title.

(d) Proclamation of national marketing quota for three years following last year of three years of acreage-poundage quotas; referendum; notice of farm marketing quota to farm operators

If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) of this section the Secretary shall, not later than December 15 of any marketing year with respect to Flue-cured tobacco, and March 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 1312(c) of this title. Notwithstanding the foregoing sentence or section 1312(c) of this title, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after January 30, 1986, or (2) March 15, 1986. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) of this section or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c) of this section. The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 15 with respect to Flue-cured tobacco and the March 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after April 7, 1986. Any proclamation with respect to the national marketing quota for the 1986 mar-

[2] So in original.

keting year for Flue-cured tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(e) Nonestablishment of farm acreage allotment or farm yield for farms without tobacco production for five years; reserve; "new farms" defined; acreage allotment and farm yield basis of new farms

No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 3 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years (except that not less than two-thirds of such reserve shall be for new farms). The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms.

(f) Acreage reduction penalties applicable to acreage-poundage programs; farm marketing quota reductions; filing false reports; increases or decreases in acreage allotments and farm yields for other farms of owner displaced by agency acquisition of farms; leases and sales of acreage allotments and farm marketing quotas; ratification of transfers of acreage allotments

Only the provisions of the last two sentences of subsection (g) of section 1313 of this title shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an acreage allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 1378 of this title, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 1314b of this title) be leased and sold under the terms and conditions contained in section 1314b of this title, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 1314b of this title on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with subsection (a)(8) of this section: *Provided, however*, If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N_2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: ''If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer.''

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words ''normal production'' where they appear in the fourth sentence of subsection (a) of section 1314 of this title shall be read ''farm yield'' and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) of this section apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable.

(h) Burley tobacco; acreage-poundage basis: farm acreage allotment and farm marketing quota, adjustments for overmarketing or undermarketing, reductions for violations; acreage and quota additional to national acreage allotment and national marketing quota; acreage basis: acreage allotment, amendment of clause (1) and proviso of section 1315

Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f) of this section. The additional acreage and quotas required under the subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of section 1315 of this title instead of under the preceding provisions of this subsection;

(B) clause (1) of section 1315 of this title shall for such purpose read as follows: ''(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis''; and

(C) the proviso of section 1315 of this title shall for such purpose read as follows: ''*Provided*, *however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis''.

(i) Consultations with industry representatives respecting a program for each kind of tobacco, studies of Flue-cured tobacco acreage-poundage program, report and recommendations to congressional committees, upon referendum approval of Flue-cured tobacco acreage-poundage program

If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b) of this section, the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

(j) Treatment of falsely identified tobacco for purposes of establishing future farm marketing quotas

Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.

(k) Forfeiture of allotment and quota

(1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this chapter shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.

(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture specified in such paragraph exist. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 1314b(g)(1) of this title) in the county involved.

(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is

dissatisfied with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 1363 of this title.

(*l*) Determination of Flue-cured tobacco planted acreage

The Secretary shall determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.

(Feb. 16, 1938, ch. 30, title III, § 317, as added Pub. L. 89–12, § 1, Apr. 16, 1965, 79 Stat. 66; amended Pub. L. 91–284, § 5, June 19, 1970, 84 Stat. 314; Pub. L. 97–218, title II, §§ 203, 205(a), 206(b), July 20, 1982, 96 Stat. 205–207; Pub. L. 98–180, title II, §§ 205(b), 208–210, Nov. 29, 1983, 97 Stat. 1147–1149; Pub. L. 99–182, § 4, Dec. 13, 1985, 99 Stat. 1173; Pub. L. 99–241, § 1, Jan. 30, 1986, 100 Stat. 3; Pub. L. 99–272, title I, §§ 1103(b), 1104(c), 1105(a)(1), Apr. 7, 1986, 100 Stat. 86, 89, 90; Pub. L. 100–203, title I, § 1112(b), Dec. 22, 1987, 101 Stat. 1330–8; Pub. L. 101–134, § 2(a)(2), Oct. 30, 1989, 103 Stat. 781; Pub. L. 103–66, title I, § 1106(d)(2), Aug. 10, 1993, 107 Stat. 323; Pub. L. 103–437, § 4(a)(5), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (i)(2). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1993—Subsec. (a)(1)(C)(ii). Pub. L. 103–66 substituted ''1996'' for ''1993'' and inserted before period at end '', except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Flue-cured tobacco.

1989—Subsec. (a)(6)(B). Pub. L. 101–134 substituted ''immediately preceding 5 crop years shall be used by the Secretary'' for ''years 1960 to 1964, inclusive, may be used, as determined by the Secretary''.

1987—Subsec. (a)(2), (4), (6)(A). Pub. L. 100–203, which directed that subsec. (a) ''is amended by striking out 'and at five-year intervals thereafter' each place it appears in paragraphs (2), (4), and (6)(A)'' was executed by striking out ''and at five-year intervals thereafter'' after ''in 1983,'' in pars. (2) and (4), and after ''in 1983'' in par. (6)(A), as the probable intent of Congress.

1986—Subsec. (a)(1). Pub. L. 99–272, § 1103(b), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), 'national marketing quota'' for '''National marketing quota''', and added subpars. (B) and (C).

Subsec. (d). Pub. L. 99–272, § 1104(c), inserted provisions relating to the proclamation of the national marketing quota for Flue-cured tobacco not later than 21 days after Apr. 7, 1986, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99–241 inserted provision that the referendum with respect to national marketing quotas for Flue-cured tobacco for 1986 through 1988 marketing years may be conducted not later than the earlier of 30 days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after Jan. 30, 1986, or Mar. 15, 1986.

Subsec. (g)(1). Pub. L. 99–272, § 1105(a)(1), substituted ''103 per centum'' for ''110 per centum''.

1985—Subsec. (d). Pub. L. 99–182 inserted ''Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985.''

1983—Subsec. (d). Pub. L. 98–180, § 208, substituted ''December 15'' for ''December 1'' and ''March 1'' for ''February 1'' wherever appearing.

Subsec. (e). Pub. L. 98–180, § 209, substituted ''3 per centum'' for ''1 per centum'' and ''five years (except that not less than two-thirds of such reserve shall be for new farms)'' for ''five years'' and struck out '', and shall not exceed the community average yield'' after ''similar farms''.

Subsec. (k). Pub. L. 98–180, § 205(b), added subsec. (k).

Subsec. (*l*). Pub. L. 98–180, § 210, added subsec. (*l*).

1982—Subsec. (a)(2). Pub. L. 97–218, § 203(1), inserted provision that notwithstanding the preceding sentence of this subsection, during 1983 and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.

Subsec. (a)(4). Pub. L. 97–218, § 203(2), inserted provision that notwithstanding the preceding provisions of subsec. (a), in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county or, if not available, on such other data on yields as the Secretary may deem appropriate.

Subsec. (a)(6)(A). Pub. L. 97–218, § 203(3), inserted provision that notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in subsec. (a)(4) to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.

Subsec. (f). Pub. L. 97–218, § 205(a), substituted ''be leased and sold under the terms and conditions'' for ''be leased under the terms and conditions'' in fifth sentence.

Subsec. (j). Pub. L. 97–218, § 206(b), added subsec. (j).

1970—Subsec. (f). Pub. L. 91–284 struck out ''Burley tobacco or other'' before ''kinds of tobacco'' in fifth sentence.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 205(b) of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

TOBACCO DEFINITION AND INCREASE OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS TO MEET DEMAND UNAFFECTED BY ACREAGE-POUNDAGE MARKETING QUOTAS AND PRICE SUPPORT PROVISIONS

Section 4 of Pub. L. 89–12 provided that: ''Nothing in this Act [enacting this section and amending sections

1313 and 1445 of this title] shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under section 301(b)(15) [section 1301(b)(15) of this title] or section 313(i) [section 1313(i) of this title] of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1313, 1316, 1445 of this title.

§ 1314d. Fire-cured, dark air-cured, and Virginia sun-cured tobacco

(a) Sale or lease of acreage allotments and acreage-poundage quotas

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b) Conditions for transfers

Transfers under this section shall be subject to the following conditions: (1) except as provided in section 1379(b) of this title, no allotment or quota shall be transferred to a farm in another county: *Provided*, That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) Transfer of acreage history and marketing quota

The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Five-year restriction on new farm allotments or quotas

The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made.

(e) Allotment adjustment

The transfer of an allotment or quota under this section shall be approved acre for acre.

(f) Lease term

Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g) Acreage transfer maximums

Under the provisions of this section not more than ten acres of allotment may be transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm.

(h) Future allotments; referendum voting eligibility

The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) Land utilization agreements; payment adjustments

If the sale or transfer under this section occurs during a period in which the farm is covered, by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) Rules and regulations

The Secretary shall prescribed such regulations and other terms and conditions as he deems necessary for the administration of this section.

(Feb. 16, 1938, ch. 30, title III, § 318, as added Pub. L. 90–51, § 1, July 7, 1967, 81 Stat. 120; amended

Pub. L. 90–387, July 5, 1968, 82 Stat. 293; Pub. L. 92–144, Oct. 23, 1971, 85 Stat. 393; Pub. L. 98–180, title II, § 212(a), Nov. 29, 1983, 97 Stat. 1149; Pub. L. 102–566, § 1, Oct. 28, 1992, 106 Stat. 4269.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–566 added subsec. (e) and struck out former subsec. (e) which read as follows: ''If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred.''

1983—Subsec. (b). Pub. L. 98–180 inserted ''except as provided in section 1379(b) of this title,'' after ''(1)''.

1971—Subsec. (b)(1). Pub. L. 92–144 inserted proviso referring to Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37.

1968—Subsec. (b)(2). Pub. L. 90–387 inserted ''other than by annual lease'' after ''no transfer''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314e of this title.

§ 1314e. Farm poundage quotas for certain kinds of tobacco

(a) Proclamations and referenda regarding burley tobacco

Notwithstanding any other provision of law, the Secretary shall, within thirty days following April 14, 1971, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for burley tobacco under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis for burley tobacco under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect for burley tobacco under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for burley tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 1312 of this title shall apply: *Provided*, That the national marketing quota and farm marketing quotas shall be determined for burley tobacco as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after April 7, 1986, or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to April 7, 1986, shall become void on April 7, 1986.

(b) Proclamations and referenda regarding dark air-cured tobacco and types 22 and 23 fire-cured tobacco

Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as ''fire-cured tobacco'') for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years be-

ginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this chapter.

The Secretary shall determine and announce, not later than the March 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than March 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 1312(c) of this title. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 1312 of this title shall apply: *Provided*, That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.

(c) Amount of national marketing quota, determination; national reserve, establishment

(1) Except as provided in paragraph (3), the national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level.

(2) For each marketing year for which marketing quotas are in effect for a kind of tobacco under this section, the Secretary in his discretion may establish a reserve with respect to such kind of tobacco (hereinafter referred to as the ''national reserve'') from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 1314g of this title;

(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preced-

ing the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

(I) 35,000,000 pounds; or

(II) 50 percent of the quantity by which—

(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

(bb) the reserve stock level for Burley tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1996 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco.

(d) Farm yields; determination; limitation

When a national marketing quota is first proclaimed for a kind of tobacco under this section, the Secretary shall through local committees determine a farm yield for each farm for which an acreage allotment for such kind of tobacco was established for the marketing year beginning October 1, 1970, in the case of burley tobacco, and for the previous marketing year, in the case of dark air-cured tobacco and fire-cured tobacco. Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year, in the case of burley tobacco, and the immediately preceding 5 crop years, in the case of dark air-cured tobacco and fire-cured tobacco: *Provided*, That if the kind of tobacco involved was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that such kind of tobacco was produced on the farm: *Provided further*, That if no such kind of tobacco was produced on the farm but the farm was considered as having planted such kind of tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which such kind of tobacco was produced during such five-year period: *And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further*, That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.

(e) Farm marketing quotas; preliminary quotas, determination, limitation; succeeding years, quota computation, limitations, increase and reduction of quotas; new farms, limitation

A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the chapter) established for such farm for the marketing year beginning October 1, 1970. A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the previous marketing year, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the previous marketing year. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided*, That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national market-

ing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year: *Provided*, That, except in the case of Burley tobacco, such national factor shall not be less than 90 per centum: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past experience of the farm operator with respect to the kind of tobacco involved: the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) Reductions for false information

When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided*, That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) Leases and transfers of farm quotas; limitations

(1) When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 1314d of this title: *Provided*, That such leases and transfers shall be on a pound for pound basis: *Provided further*, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further*, That not more than thirty thousand pounds of Burley tobacco quota may be leased and transferred to any farm under this section: *Provided further*, That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer: *And provided further*, That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(2) Effective for the 1991 and subsequent crop years, the Secretary may, during any one year, and subject to such rules as the Secretary deems appropriate, permit the sale of a burley tobacco quota from one farm to another farm in the same county if the buyer, who is an active burley tobacco producer, is not buying an amount larger than 30 percent of the existing quota for the buyer's farm, or 20,000 pounds whichever is greater. For purposes of this subsection, the term ''active burley tobacco producer'' means any person who shared in the risk of producing a crop of burley tobacco in not less than one of the three years preceding the year involved, or any person who certified to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become an active burley tobacco producer. A person shall be considered to have shared in the risk of producing a crop of burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the investment of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3) No sale of burley tobacco quota from a farm shall be permitted, under paragraph (2), if any sale of quota to the same farm has been made within the three immediately preceding crop years. A sale of burley tobacco quota shall not be effective for a crop year unless a record of the sale is filed with the county committee not later than July 1 of the crop year. The marketing quota determined for any farm subsequent to such sale shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 percent of the acreage of cropland in the farm.

(h) Loss of quotas through underplanting

Effective with the marketing year beginning October 1, 1994, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any two of the three years immediately preceding the year for which farm marketing quotas are being established.

(i) Marketing penalties

When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 1314 of this title shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 103 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with subsection (e) of this section: *Provided*, That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of the kind of tobacco involved during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 1314(a) of this title shall be revised to read: ''If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer.''

(3) The provisions contained in the fourth sentence of section 1314(a) of this title shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect with respect to burley tobacco, the farm marketing quota determined under the provisions of subsection (e) of this section shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of subsection (c) of this section shall apply.

(j) Regulations

The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(k) Lease and transfer of burley tobacco quota assigned

(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

***(l)* Lease and transfer of burley tobacco quotas in Tennessee, Ohio, Indiana, Kentucky, and Virginia**

Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a burley tobacco quota from one farm in a State to any other farm in the State if a majority of active burley tobacco producers within the State approve such lease and transfer by a state-wide referendum to be conducted by the Secretary. This subsection shall apply only to the States of Tennessee, Ohio, Indiana, Kentucky, and Virginia.

(Feb. 16, 1938, ch. 30, title III, §319, as added Pub. L. 92–10, §1, Apr. 14, 1971, 85 Stat. 23; amended Pub. L. 97–218, title III, §303(b)–(j), July 20, 1982, 96 Stat. 211–214; Pub. L. 98–59, §2, July 25, 1983, 97 Stat. 296; Pub. L. 98–180, title II, §211, Nov. 29, 1983, 97 Stat. 1149; Pub. L. 99–241, §2, Jan. 30, 1986, 100 Stat. 3; Pub. L. 99–272, title I, §§1103(c), 1104(b), (d), 1105(a)(2), 1107, Apr. 7, 1986, 100 Stat. 86, 89–91; Pub. L. 100–387, title III, §304(a)(1), Aug. 11, 1988, 102 Stat. 948; Pub. L. 101–134, §2(a)(1), Oct. 30, 1989, 103 Stat. 781; Pub. L. 101–577, §2(a), (b), (d), (e), Nov. 15, 1990, 104 Stat. 2856, 2857; Pub. L. 102–237, title I, §116(1), Dec. 13, 1991, 105 Stat. 1840; Pub. L. 103–66, title I, §1106(d)(1), Aug. 10, 1993, 107 Stat. 323; Pub. L. 106–78, title VII, §755(a), Oct. 22, 1999, 113 Stat. 1170.)

REFERENCES IN TEXT

The chapter, referred to in subsec. (e), was in the original ''the Act'' meaning act Feb. 16, 1938, ch. 30, 52

Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which is classified principally to this chapter (§ 1281 et seq.).

AMENDMENTS

1999—Subsec. (*l*). Pub. L. 106–78 inserted '', Ohio, Indiana, Kentucky,'' after ''Tennessee''.

1993—Subsec. (c)(3)(C)(ii). Pub. L. 103–66 substituted ''1996'' for ''1993'' and inserted before period at end '', except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title to exceed 150 percent of the reserve stock level for Burley tobacco''.

1991—Subsec. (*l*). Pub. L. 102–237 inserted ''in a State'' after ''one farm'', struck out ''of Tennessee'' after ''in the State'', and inserted at end ''This subsection shall apply only to the States of Tennessee and Virginia.''

1990—Subsec. (g). Pub. L. 101–577, § 2(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 101–577, § 2(d), substituted ''thirty thousand pounds'' for ''fifteen thousand pounds''.

Subsec. (h). Pub. L. 101–577, § 2(b), substituted ''1994'' for ''1976'' and ''two of the three'' for ''of the five''.

Subsec. (*l*). Pub. L. 101–577, § 2(e), added subsec. (*l*).

1989—Subsec. (d). Pub. L. 101–134, § 2(a)(1)(A), substituted ''for the previous marketing year'' for ''October 1, 1982'' and ''immediately preceding 5 crop years'' for ''1978 crop year''.

Subsec. (e). Pub. L. 101–134, § 2(a)(1)(B), substituted ''previous marketing year'' for ''October 1, 1982'' wherever appearing in second sentence.

1988—Subsec. (k). Pub. L. 100–387 added subsec. (k).

1986—Subsec. (a). Pub. L. 99–272, § 1104(d), inserted provisions in third par. relating to the proclamation of the national marketing quota for Burley tobacco not later than 21 days after Apr. 7, 1986, or Feb. 1, 1986, whichever is later, and declaring as void any quota by proclamation prior to that date.

Pub. L. 99–241 inserted in third par. provision that the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than Mar. 1, 1986.

Subsec. (b). Pub. L. 99–272, § 1104(b), which directed the substitution of ''March 1'' for ''February 1'' wherever appearing in the fourth paragraph, was executed by making the substitution in the third paragraph, as the probable intent of Congress.

Subsec. (c). Pub. L. 99–272, § 1103(c)(1), designated existing provisions as pars. (1) and (2), and in par. (1) as so designated, substituted ''Except as provided in paragraph (3), the'' for ''The'', struck out ''With respect to burley tobacco, any such downward adjustment shall not exceed 10 per centum of such estimated utilization and exports.'', and added par. (3).

Subsec. (e). Pub. L. 99–272, § 1103(c)(2), inserted in second par. '', except in the case of Burley tobacco,'' after ''*Provided*, That''.

Subsec. (g). Pub. L. 99–272, § 1107, inserted provisions relating to filing of record of transfer after July 1 with the concurrence of the State committee that all parties agreed to such lease and transfer before July 1, and that failure to file did not result from gross negligence.

Subsec. (i)(1). Pub. L. 99–272, § 1105(a)(2), substituted ''103 per centum'' for ''110 per centum''.

1983—Subsec. (c). Pub. L. 98–59, § 2(1), substituted ''10 per centum'' for ''5 per centum'' after ''downward adjustment shall not exceed''.

Subsec. (e). Pub. L. 98–59, § 2(2), substituted in second par. ''90 per centum'' for ''95 per centum'' after ''*Provided*, That such national factor shall not be less than''.

Subsec. (g). Pub. L. 98–180 substituted provisos that not more than fifteen thousand pounds of Burley tobacco quota be leased and transferred to any farm under this section and that a lease or transfer of Burley tobacco quota not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year for proviso that not more than thirty thousand pounds of burley tobacco be leased and transferred to any farm under this section.

1982—Subsec. (a). Pub. L. 97–218, § 303(b), transferred former provisions of subsec. (b) into subsec. (a), as unlettered third paragraph of subsec. (a), and, in that paragraph, substituted ''shall be in effect for burley tobacco'' for ''shall be in effect for such kind of tobacco'' in fourth sentence thereof, inserted ''for burley tobacco'' before ''under this section'' wherever appearing in first and second sentences thereof, and before ''as provided in this section'' in second proviso.

Subsec. (b). Pub. L. 97–218, § 303(c), added subsec. (b). Former subsec. (b) was transferred into subsec. (a) as an unlettered paragraph and amended.

Subsec. (c). Pub. L. 97–218, § 303(d), substituted ''The national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced'' for ''The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced'', substituted ''With respect to burley tobacco, any such downward adjustment'' for ''Any such downward adjustment'', substituted ''marketing quotas are in effect for a kind of tobacco under this section'' for ''marketing quotas are in effect under this section'', and substituted ''from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota'' for ''from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota''.

Subsec. (d). Pub. L. 97–218, § 303(e), substituted ''first proclaimed for a kind of tobacco under this section'' for ''first proclaimed under this section'', substituted ''for which an acreage allotment for such kind of tobacco was established'' for ''for which a burley tobacco acreage allotment was established'', inserted '', in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco'' following ''beginning October 1, 1970'', substituted ''the 1966 crop year, in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco'' for ''the 1966 crop year'', substituted ''*Provided*, That if the kind of tobacco involved was produced'' for ''*Provided*, That if burley tobacco was produced'', substituted ''such kind of tobacco'' for ''burley tobacco'' wherever appearing in the remainder of the first proviso and in the second proviso, in the third proviso substituted ''*And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco:'' for ''*And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre'', and inserted fourth proviso.

Subsec. (e). Pub. L. 97–218, § 303(f), inserted provision regarding the determination of preliminary farm marketing quotas for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, in fourth sentence substituted ''for all farms for which marketing quotas for the kind of tobacco involved will be determined'' for ''for all farms for which burley tobacco marketing quotas will be determined'', and in seventh sentence substituted ''experience of the farm operator with respect to the kind of tobacco involved; the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco'' for ''burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco''.

Subsec. (f). Pub. L. 97–218, § 303(g), substituted ''When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco'' for ''When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco''.

Subsec. (g). Pub. L. 97–218, § 303(h), substituted ''When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjustments) for such kind of tobacco'' for ''When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco'', and substituted ''*Provided further*, That not more than thirty thousand pounds may be leased and transferred to any farm under this section with respect to burley tobacco'' for ''*Provided further*, That not more than fifteen thousand pounds may be leased and transferred to any farm under this section''.

Subsec. (i)(1). Pub. L. 97–218, § 303(i)(1), substituted ''to encourage additional marketings of any grades of the kind of tobacco involved'' for ''to encourage additional marketings of any grades of burley tobacco'' in proviso.

Subsec. (i)(3). Pub. L. 97–218, § 303(i)(2), substituted ''is in effect with respect to burley tobacco'' for ''is in effect''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1105(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1107 of Pub. L. 99–272 provided that the amendment made by that section is effective with respect to 1985 and subsequent crops of Burley tobacco.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 211 of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

BURLEY TOBACCO QUOTA ADJUSTMENT

Section 304(b) of Pub. L. 100–387 provided that: ''Notwithstanding any other provision of law, if a producer has produced burley tobacco in 1988 in an amount less than the producer's farm marketing quota for 1988 due to natural disaster, the Secretary may adjust the producer's burley tobacco farm marketing quota for the 1989 crop, as established under section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e) [7 U.S.C. 1314e]), by adding the accumulated undermarketings of the basic quota for 1988 crop, including undermarketings of leased quota, to the producer's basic quota for the 1989 crop, except that such adjustment may not exceed 125 percent of the producer's basic quota.''

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

BURLEY TOBACCO MARKETING YEARS 1971, 1972, AND 1973

Action of Secretary under section 1312 of this title for burley tobacco for marketing years 1971, 1972, and 1973, prior to Apr. 14, 1971, without any effect, see section 4 of Pub. L. 92–10, set out as a note under section 1312 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1378, 1445 of this title.

§ 1314f. Nonquota tobacco subject to quota

(a) Notwithstanding any other provision of law, effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of quota tobacco produced in the area having the highest price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.].

(b) Subsection (a) of this section shall not apply to—

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota area on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect;

(2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut and Massachusetts, and cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia and Florida;

(4) tobacco produced in a quota area that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco; and

(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 1312(c) of this title, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after July 20, 1982.

(Feb. 16, 1938, ch. 30, title III, § 320, as added Pub. L. 93–411, Sept. 3, 1974, 88 Stat. 1089; amended Pub. L. 95–592, § 17, Nov. 4, 1978, 92 Stat. 2534; Pub. L. 97–98, title XI, § 1108, Dec. 22, 1981, 95 Stat. 1266; Pub. L. 97–218, title II, § 204, July 20, 1982, 96 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1982—Subsec. (b)(5). Pub. L. 97–218 added par. (5).

1981—Pub. L. 97–98 designated existing provision as subsec. (a), provided that application of this section be to the 1982 and subsequent crops instead of crops beginning with the 1975 crop, substituted provision that any kind of tobacco grown in an area where marketing

quotas are in effect be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area for provision that any tobacco produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas be subject to the quota for the kind of tobacco traditionally produced in the area, and struck out provisions exempting nonquota tobacco from this section if the Secretary or designee finds that such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota and providing that no marketing quota penalty be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which is determined to be Burley tobacco (Type 31), and added subsec. (b).

1978—Pub. L. 95–592 inserted provision relating to nonassessment of marketing quota penalties as a result of marketing of 1975 crop Maryland tobacco (Type 32) which was determined to be Burley tobacco (Type 31) under provisions of this section.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1108 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with the 1982 crop of tobacco.

§ 1314g. Submission of purchase intentions by cigarette manufacturers

(a) Quantity of intended purchases; aggregation not to allow identification

(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after April 7, 1986, or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the ''quantity of intended purchases'').

(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

(b) Failure to submit; determination of quantity of intended purchases by Secretary

If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this chapter, based on—

(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

(c) Confidentiality of information; disclosure; publication of identity of violators; penalties

(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

(A)(i) brought at the direction, or on the request, of the Secretary; or

(ii) to which the Secretary or any officer of the United States is a party; and

(B) involving enforcement of this chapter.

(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this chapter, together with a statement of the particular provisions of the chapter violated by such person.

(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

(B) removed from office.

(d) Exemption from public disclosure

Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(Feb. 16, 1938, ch. 30, title III, § 320A, as added Pub. L. 99–272, title I, § 1103(d), Apr. 7, 1986, 100 Stat. 88.)

EFFECTIVE DATE

Section 1103(d) of Pub. L. 99–272 provided that this section is effective for 1986 and each subsequent crop of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314h, 1314i, 1445–3 of this title.

§ 1314h. Purchase requirements; penalty

(a) Statement of quantity purchased during marketing year

(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary,

each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

(b) Failure to purchase at least 90 percent of quantity of intended purchases; reduction in quantity of intended purchases

(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of this section a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c) of this section.

(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

(B) For purposes of this section, the term ''marketed'' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) of this section for a price support advance.

(c) Penalty for failure to purchase specified amount

The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

(1) twice the per pound assessment (as determined under section 1445–1 or 1445–2 of this title) for the kind of tobacco involved; by

(2) the quantity by which—

(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of this section of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 1314g of this title (as that quantity may be reduced under subsection (b)(2) of this section).

(d) Transmission of penalty by Secretary; deposit in No Net Cost Fund or Account

(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 1445–1 or 1445–2 of this title.

(e) Confidentiality of information submitted; disclosure; publication of identity of violators; exemption from public disclosure; penalties

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(f) "Quota tobacco" defined

As used in this section, the term ''quota tobacco'' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

(Feb. 16, 1938, ch. 30, title III, § 320B, as added Pub. L. 99–272, title I, § 1106(a), Apr. 7, 1986, 100 Stat. 90.)

EFFECTIVE DATE

Section 1106(a) of Pub. L. 99–272 provided that this section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314c, 1314e, 1314i, 1372 of this title.

§ 1314i. Domestic marketing assessment

(a) Certification

A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year, the percentage of the quantity of tobacco used by the manufacturer to produce cigarettes during the year that is produced in the United States.

(b) Penalties

(1) In general

Subject to subsection (f) of this section, a domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year a quantity of tobacco grown in the United States that is at least 75 percent of the total quantity of tobacco used by the manufacturer, or to comply with subsection (a) of this section, shall be subject to the requirements of subsections (c), (d), and (e) of this section.

(2) Failure to certify

For purposes of this section, if a manufacturer fails to comply with subsection (a) of this section, the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

(3) Reports and records

(A) In general

The Secretary shall require manufacturers of domestic cigarettes to make such reports and maintain such records as are necessary to carry out this section. If the reports and records are insufficient, the Secretary may request other persons to provide supplemental information.

(B) Examinations

For the purpose of ascertaining the correctness of any report or record required under this section, or of obtaining further information required under this section, the Secretary and the Office of Inspector General may examine such records, books, and other materials as the Secretary has reason to believe may be relevant. In the case of a manufacturer of domestic cigarettes, the Secretary may charge a fee to the manufacturer to cover the reasonable costs of any such examination.

(C) Penalties

Any person who fails to provide information required under this paragraph or who provides false information under this paragraph shall be subject to section 1001 of title 18.

(D) Confidentiality

Section 1314g(c) of this title shall apply to information submitted by manufacturers of domestic cigarettes and other persons under this paragraph.

(E) Disclosure

Notwithstanding any other provision of law, information on the percentage or quantity of domestic or imported tobacco in cigarettes or on the volume of cigarette production that is submitted under this section shall be exempt from disclosure under section 552 of title 5.

(c) Domestic marketing assessment

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

(2) Amount

The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

(B) the difference between—

(i) ½ of the sum of—

(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

(II) the average price per pound received by domestic producers for Fluecured tobacco during the preceding calendar year; and

(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

(3) Collection

An assessment imposed under this subsection shall be—

(A) collected by the Secretary and transmitted to the Commodity Credit Corporation; and

(B) enforced in the same manner as provided in section 1314h of this title.

(d) Purchase of Burley tobacco

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Burley tobacco required to be purchased by all manufacturers

under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(e) Purchase of Flue-cured tobacco

(1) In general

A domestic manufacturer of cigarettes described in subsection (b) of this section shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 1314h(a)(2) of this title, at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) Quantity

Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) Limitation

If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

(4) Noncompliance

If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) Purchase requirements

Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 1314h of this title.

(f) Crop losses due to disasters

(1) In general

If the Secretary, in consultation with producer-owned cooperative marketing associations, determines that because of drought, insect or disease infestation, or other natural disaster, or other condition beyond the control of producers, the total quantity of a crop of domestic Burley tobacco or Flue-cured tobacco that is harvested and suitable for marketing is substantially less than the expected yield for the crop, and that pool inventories for the kind of tobacco involved have been depleted, effective for the calendar year following the year in which the crop loss occurs, the Secretary may reduce the minimum percentage of domestic tobacco specified in subsection (a) of this section to a percentage below 75 percent, as determined by the Secretary, that reflects the reduced availability of domestic supplies of the kind of tobacco involved.

(2) Determination of expected yield

For purposes of paragraph (1), the Secretary shall determine the expected yield for a crop of Burley tobacco or Flue-cured tobacco by taking into consideration—

(A) the total acreage planted to the crop (including acreage that the producers were prevented from planting because of a condition referred to in paragraph (1)); and

(B) normal farm yields established for the crop.

(3) Deadline for determinations

The Secretary shall make determinations under paragraph (1) about crop losses and announce the reduced percentage of the domestic tobacco pool not later than November 30 of the year in which the applicable crop of Burley tobacco or Flue-cured tobacco is harvested.

(g) Effective date

This section shall be effective only for calendar year 1994.

(Feb. 16, 1938, ch. 30, title III, § 320C, as added Pub. L. 103–66, title I, § 1106(a), Aug. 10, 1993, 107 Stat. 318; amended Pub. L. 103–465, title IV, § 422(a), Dec. 8, 1994, 108 Stat. 4964.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–465 added subsec. (g).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 422(e) of Pub. L. 103–465 provided that: ''This section [amending this section, section 1445 of this title, and section 1313 of Title 19, Customs Duties, and enacting provisions set out as a note under section 1445

of this title] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421 [set out as a note under section 2135 of Title 19], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.''

[Proc. No. 6821, Sept. 12, 1995, 60 F.R. 47663, effective Sept. 13, 1995, established tariff-rate quotas on certain tobacco.]

§ 1314j. Tobacco production and marketing information

(a) In general

Notwithstanding any other provision of law, the Secretary may, subject to subsection (b) of this section, release marketing information submitted by persons relating to the production and marketing of tobacco to State trusts or similar organizations engaged in the distribution of national trust funds to tobacco producers and other persons with interests associated with the production of tobacco, as determined by the Secretary.

(b) Limitations

(1) In general

Information may be released under subsection (a) of this section only to the extent that—

(A) the release is in the interest of tobacco producers, as determined by the Secretary; and

(B) the information is released to a State trust or other organization that is created to, or charged with, distributing funds to tobacco producers or other parties with an interest in tobacco production or tobacco farms under a national or State trust or settlement.

(2) Exemption from release

The Secretary shall, to the maximum extent practicable, in advance of making a release of information under subsection (a) of this section, allow, by announcement, a period of at least 15 days for persons whose consent would otherwise be required by law to effectuate the release, to elect to be exempt from the release.

(c) Assistance

(1) In general

In making a release under subsection (a) of this section, the Secretary may provide such other assistance with respect to information released under subsection (a) of this section as will facilitate the interest of producers in receiving the funds that are the subject of a trust described in subsection (a) of this section.

(2) Funds

The Secretary shall use amounts made available for salaries and expenses of the Department to carry out paragraph (1).

(d) Records

(1) In general

A person that obtains information described in subsection (a) of this section shall maintain records that are consistent with the purposes of the release and shall not use the records for any purpose not authorized under this section.

(2) Penalty

A person that knowingly violates this subsection shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

(e) Application

This section shall not apply to—

(1) records submitted by cigarette manufacturers with respect to the production of cigarettes;

(2) records that were submitted as expected purchase intentions in connection with the establishment of national tobacco quotas; or

(3) records that aggregate the purchases of particular buyers.

(Feb. 16, 1938, ch. 30, title III, § 320D, as added Pub. L. 106–47, § 1, Aug. 13, 1999, 113 Stat. 228, and Pub. L. 106–78, title VII, § 755(b), Oct. 22, 1999, 113 Stat. 1170; amended Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 211], Nov. 29, 1999, 113 Stat. 1536, 1501A–295.)

CODIFICATION

Pub. L. 106–47, § 1, and Pub. L. 106–78, § 755(b), enacted substantially identical sections 320D to act of Feb. 16, 1938. Section 755(b) of Pub. L. 106–78 was repealed by Pub. L. 106–113. This section is based on the text of section 320D of act of Feb. 16, 1938, as added by Pub. L. 106–47, § 1.

AMENDMENTS

1999—Pub. L. 106–113 repealed Pub. L. 106–78, § 755(b). See Codification note above.

§ 1315. Burley tobacco acreage allotments

The farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided*, *however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this section shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota.

(July 12, 1952, ch. 709, 66 Stat. 597; Mar. 31, 1955, ch. 21, § 2, 69 Stat. 24.)

CODIFICATION

Section was not enacted as a part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1955—Act Mar. 31, 1955, amended section generally by reducing minimum acreage allotments.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Mar. 31, 1955, provided that the amendment made by that act is effective for the 1956 and subsequent crops of burley tobacco.

ACREAGE ALLOTMENT BASIS OF QUOTA; AMENDMENT OF CLAUSE (1) AND PROVISO

Part of section 317(h) of act Feb. 16, 1938, ch. 30, title III, as added by Pub. L. 89–12, § 1, Apr. 16, 1965, 79 Stat. 72, and classified as part of section 1314c(h) of this title, provided that: ''Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

''(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the pro-

visions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under the preceding provisions of this subsection [section 1314c(h) of this title];

''(B) clause (1) of the Act of July 12, 1952 [this section], shall for such purpose read as follows: '(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'; and

''(C) the proviso of that Act [this section] shall for such purpose read as follows: '*Provided, however*, That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1316. Transfer of allotments subsequent to 1965

Notwithstanding the provisions of sections 1314b(c) and 1314c(b) of this title, relating to transfer of allotments for years subsequent to 1965, whenever acreage-poundage quotas are in effect for any kind of tobacco as provided in section 1314c of this title, the transfer shall be on a pound for pound basis and the acreage allotment for the transferee farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the transferee farm, and the acreage allotment for the transferor farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferor farm.

(Pub. L. 89–321, title VII, §703, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 91–284, §6, June 19, 1970, 84 Stat. 314; Pub. L. 97–218, title II, §205(b), July 20, 1982, 96 Stat. 206.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter. The first sentence of section 703 of Pub. L. 89–321 amended section 1314b(a) of this title.

AMENDMENTS

1982—Pub. L. 97–218 substituted ''transfer'' for ''lease and transfer'', ''transferee'' for ''lessee'', ''transferor'' for ''lessor'', and ''transferred'' for ''leased'', wherever appearing.

1970—Pub. L. 91–284 struck out ''except in the case of burley tobacco, and other kinds of tobacco not subject to section 1314b of this title,'' after ''any kind of tobacco as provided in section 1314c of this title,''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–218 effective July 20, 1982, but not to apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before that date, see section 207 of Pub. L. 97–218, set out as a note under section 1314b of this title.

SUBPART II—ACREAGE ALLOTMENTS—CORN

AMENDMENTS

1954—Act Aug. 28, 1954, ch. 1041, title III, §303, 68 Stat. 902, substituted ''Acreage Allotments—Corn'' for ''Marketing Quotas—Corn'' in subpart II heading.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1321. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Corn is a basic source of food for the Nation, and corn produced in the commercial corn-producing area moves almost wholly in interstate and foreign commerce in the form of corn, livestock, and livestock products.

Abnormally excessive and abnormally deficient supplies of corn acutely and directly affect, burden, and obstruct interstate and foreign commerce in corn, livestock, and livestock products. When abnormally excessive supplies exist, transportation facilities in interstate and foreign commerce are overtaxed, and the handling and processing facilities through which the flow of interstate and foreign commerce in corn, livestock, and livestock products is directed become acutely congested. Abnormally deficient supplies result in substantial decreases in livestock production and in an inadequate flow of livestock and livestock products in interstate and foreign commerce, with the consequence of unreasonably high prices to consumers.

Violent fluctuations from year to year in the available supply of corn disrupt the balance between the supply of livestock and livestock products moving in interstate and foreign commerce and the supply of corn available for feeding. When available supplies of corn are excessive, corn prices are low and farmers overexpand livestock production in order to find outlets for corn. Such expansion, together with the relative scarcity and high price of corn, forces farmers to market abnormally excessive supplies of livestock in interstate commerce at sacrifice prices, endangering the financial stability of producers, and overtaxing handling and processing facilities through which the flow of interstate and foreign commerce in livestock and livestock products is directed. Such excessive marketings deplete livestock on farms, and livestock marketed in interstate and foreign commerce consequently becomes abnormally low, with resultant high prices to consumers and danger to the financial stability of persons engaged in transporting, handling, and processing livestock in interstate and foreign commerce. These high prices in turn result in another overexpansion of livestock production.

Recurring violent fluctuations in the price of corn resulting from corresponding violent fluctuations in the supply of corn directly affect the movement of livestock in interstate commerce from the range cattle regions to the regions where livestock is fattened for market in interstate and foreign commerce, and also directly affect the movement in interstate commerce of corn marketed as corn which is transported from the regions where produced to the regions where livestock is fattened for market in interstate and foreign commerce.

Substantially all the corn moving in interstate commerce, substantially all the corn fed to livestock transported in interstate commerce for fattening, and substantially all the corn fed to livestock marketed in interstate and foreign commerce, is produced in the commercial corn-producing area. Substantially all the corn produced in the commercial corn-producing area,

with the exception of a comparatively small amount used for farm consumption, is either sold or transported in interstate commerce, or is fed to livestock transported in interstate commerce for feeding, or is fed to livestock marketed in interstate and foreign commerce. Almost all the corn produced outside the commercial corn-producing area is either consumed, or is fed to livestock which is consumed, in the State in which such corn is produced.

The conditions affecting the production and marketing of corn and the livestock products of corn are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of disparities between the supplies of livestock moving in interstate and foreign commerce and the supply of corn available for feeding, and provide for orderly marketing of corn in interstate and foreign commerce and livestock and livestock products in interstate and foreign commerce.

The national public interest requires that the burdens on interstate and foreign commerce above described be removed by the exercise of Federal power. By reason of the administrative and physical impracticability of regulating the movement of livestock and livestock products in interstate and foreign commerce and the inadequacy of any such regulation to remove such burdens, such power can be feasibly exercised only by providing for the withholding from market of excessive and burdensome supplies of corn in times of excessive production, and providing a reserve supply of corn available for market in times of deficient production, in order that a stable and continuous flow of livestock and livestock products in interstate and foreign commerce may at all times be assured and maintained.

(Feb. 16, 1938, ch. 30, title III, § 321, 52 Stat. 48.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§ 1322. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section, acts Feb. 16, 1938, ch. 30, title III, § 322, 52 Stat. 49; July 3, 1948, ch. 827, title II, § 203, 62 Stat. 1255; Oct. 31, 1949, ch. 792, title IV, § 409(e), 63 Stat. 1057, related to establishment, referendum, and suspension of farm marketing quotas.

§ 1322a. Repealed. July 3, 1948, ch. 827, title II, § 203(b), 62 Stat. 1256

Section, act July 26, 1939, ch. 378, 53 Stat. 1125, related to time for proclamation of referendum.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

§§ 1323 to 1325. Repealed. Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902

Section 1323, act Feb. 16, 1938, ch. 30, title III, § 323, 52 Stat. 50, related to amount of farm marketing quota with respect to corn.

Section 1324, act Feb. 16, 1938, ch. 30, title III, § 324, 52 Stat. 50, related to storage amounts.

Section 1325, act Feb. 16, 1938, ch. 30, title III, § 325, 52 Stat. 51, related to penalties for marketing corn in excess of quota.

§ 1326. Adjustment of farm marketing quotas

(a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotments in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 1324 of this title which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

(Feb. 16, 1938, ch. 30, title III, § 326, 52 Stat. 51.)

REFERENCES IN TEXT

Section 1324 of this title, referred to in subsec. (b), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

REPEALS

Act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, repealed this section insofar as it is applicable to corn. Section has been made applicable to wheat by sections 1330(6) and 1340(6) of this title.

CROSS REFERENCES

Wheat marketing quotas, effect of increased acreage allotments, see section 1334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1340 of this title.

§§ 1327 to 1329. Omitted

CODIFICATION

Sections provided for establishment of a commercial corn-producing area and corn acreage allotments, which were discontinued. See sections 1329a, 1444a, and 1444b of this title.

Section 1327, acts Feb. 16, 1938, ch. 30, title III, § 327, 52 Stat. 51; Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 903, provided for proclamation of commercial corn-producing area not later than February 1 of each year.

Section 1328, acts Feb. 16, 1938, ch. 30, title III, § 328, 52 Stat. 52; Apr. 7, 1938, ch. 107, § 6, 52 Stat. 202; July 3, 1948, ch. 827, title II, § 207(a), 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 409(f), 63 Stat. 1057; Aug. 28, 1954, ch. 1041, title III, § 305, 68 Stat. 903, provided for establish-

ment of acreage allotment of corn for each calendar year and proclamation of such acreage allotment not later than February 1 of each year.

Section 1329, acts Feb. 16, 1938, ch. 30, title III, § 329, 52 Stat. 52; Aug. 28, 1954, ch. 1041, title III, § 306, 68 Stat. 903, provided for apportionment of acreage allotment for corn.

§ 1329a. Discontinuance of acreage allotments on corn

Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.

(Feb. 16, 1938, ch. 30, title III, § 330, as added Oct. 31, 1949, ch. 792, title I, § 104(b)(1), as added Pub. L. 85–835, title II, § 201, Aug. 28, 1958, 72 Stat. 994.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1330. Omitted

CODIFICATION

Section, acts May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905, initially contained supplemental provisions relating to wheat and corn marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, corn, wheat, rice, tobacco, and peanuts, but was amended generally in 1954 to make it inapplicable to corn. See section 1340 of this title.

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SUBPART III—MARKETING QUOTAS—WHEAT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.

Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce, and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.

The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.

Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the chapter.

The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in inter-

state and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

The provisions of this subpart affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.

(Feb. 16, 1938, ch. 30, title III, § 331, 52 Stat. 52; Pub. L. 87–703, title III, § 310, Sept. 27, 1962, 76 Stat. 618.)

AMENDMENTS

1962—Pub. L. 87–703 provided additional findings respecting the addition of wheat to total supply of wheat and effect of such addition on price of wheat and supply and price of livestock and livestock products, the need to prevent the use of acreage diverted from wheat production to produce other commodities in surplus supply and the consequences of a small or large change in the supply of a commodity and the necessity of a cooperative plan to wheat producers to provide for flow of wheat at fair and reasonable prices to farmers and consumers and to prevent diverted acreage from production of wheat from adversely affecting other commodities in interstate and foreign commerce.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101–624, title III, § 303, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.''

Pub. L. 99–198, title III, § 310(b), Dec. 23, 1985, 99 Stat. 1395, provided that: ''Sections 331, 339, 379b, and 379c of such Act [the Agricultural Adjustment Act of 1938] (7 U.S.C. 1331, 1339, 1379b, and 1379c) shall not be applicable to the 1986 through 1990 crops of wheat.''

Pub. L. 97–98, title III, § 303, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title] shall not be applicable to the 1982 through 1985 crops of wheat.''

Pub. L. 95–113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, provided that: ''Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended [this section and sections 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title], shall not be applicable to the 1978 through 1981 crops of wheat.''

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

§ 1332. National marketing quota

(a) Proclamation; duration of program

Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the chapter.

(b) Amount; minimum

If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof, and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the chapter: *Provided*, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: *And provided further*, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.

(c) National emergencies or material increase in demand; investigation; increase or termination

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a

material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If, on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this subpart by a uniform percentage.

(d) Farm marketing quotas for wheat crops planted in calendar years 1966–1970

Notwithstanding any other provision of this chapter, the Secretary shall proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

(Feb. 16, 1938, ch. 30, title III, §332, 52 Stat. 53; Aug. 28, 1954, ch. 1041, title III, §307, 68 Stat. 903; Pub. L. 87–703, title III, §311, Sept. 27, 1962, 76 Stat. 619; Pub. L. 89–321, title V, §501(1), Nov. 3, 1965, 79 Stat. 1199; Pub. L. 90–559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 99–198, title III, §302, Dec. 23, 1985, 99 Stat. 1378.)

AMENDMENTS

1985—Pub. L. 99–198 temporarily substituted ''Proclamation of marketing quotas'' for ''National marketing quota'' in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99–198 amended subsec. (a) generally, temporarily substituting provisions defining the terms ''base period'' and ''marketing quota period'' for provisions which authorized the Secretary to proclaim a national marketing quota for wheat for either a two- or three-year period. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99–198 amended subsec. (b) generally, temporarily substituting provisions authorizing the proclamation of a national marketing quota for each marketing year, not later than June 15, 1986, in an amount which the Secretary determines is required to meet anticipated needs during such marketing year, and the conducting of a marketing quota referendum not later than Aug. 1, 1986 for provisions which had authorized the proclamation of a national marketing quota upon a determination made between Jan. 1 and Apr. 15 of the calendar year preceding the year in which the marketing year began, which determination had to provide a minimum of one billion bushels for any marketing year, and investigation of stocks to adjust for imports and excessive or insufficient amounts generally. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99–198 amended subsec. (c) generally, temporarily substituting provisions requiring the Secretary to adjust or terminate the national marketing quota in the event of a national emergency or material change in the demand for wheat for provisions which had required the Secretary to cause an immediate investigation to be made to determine whether termination or increase in the quota was necessary in order to meet such emergency or increase in demand, and struck out provisions requiring the Secretary to proclaim such findings and the amount of any increase, with any such increase to be based on a uniform percentage. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99–198 amended section generally, temporarily striking out subsec. (d) which provided for farm marketing quotas for wheat crops planted in calendar years 1969–1970. See Effective and Termination Dates of 1985 Amendment note below.

1968—Subsec. (d). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Subsec. (b). Pub. L. 89–321 changed item (iv) from the average amount of wheat which was used for livestock feed during 1959–60 to the amount which will be utilized during the marketing year for which the quota is being determined for livestock feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 1339c of this title.

Subsec. (d). Pub. L. 89–321 added subsec. (d).

1962—Pub. L. 87–703 substituted provisions for proclamation of a national marketing quota upon a determination made prior to April 15 in any calendar year, the duration of such a program, the amount of, including the minimum, quota, and investigation of stocks to increase or terminate the quota during national emergencies or material increase in demand for provision for proclamation, not later than May 15 of each calendar year, of a national marketing quota for the crop produced in the next calendar year.

1954—Act Aug. 28, 1954, struck out proclamations relating to supplies, and changed proclamation date from July 15 to May 15.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 302 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 501 of Pub. L. 89–321 provided that the amendments made by that section [amending this section and sections 1333, 1334, 1335, and 1339 of this title] are ''effective beginning with the crop planted for harvest in the calendar year 1966''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Pub. L. 101–270, Apr. 10, 1990, 104 Stat. 134, provided: ''That section 332 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332) shall not be applicable to the 1991 crop of wheat.''

Section 310(a) of Pub. L. 99–198 provided that: ''Sections 332, 333, 334, 335, 336, and 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332–1336 and 1338) shall not be applicable to the 1986 crop of wheat.''

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, §404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, §1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

1965 CROP NATIONAL MARKETING QUOTA AND CROP ACREAGE ALLOTMENT

Section 201 of Pub. L. 88–297, title II, Apr. 11, 1964, 78 Stat. 178, directed Secretary to not proclaim a national marketing quota for 1965 crop of wheat and that farm marketing quotas shall not be in effect for such crop of wheat, and required Secretary to proclaim a national acreage allotment for 1965 crop of wheat which shall be the number of acres which he determined would make available an adequate supply of wheat, but not less than forty-nine million five hundred thousand acres.

DEFERRAL OF PROCLAMATION FOR 1963 CROP

Pub. L. 87–485, June 15, 1962, 76 Stat. 103, authorized Secretary of Agriculture to defer until July 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

Pub. L. 87–450, May 15, 1962, 76 Stat. 69, authorized Secretary of Agriculture to defer until June 15, 1962, any proclamation under this section with respect to a national acreage allotment for 1963 crop of wheat and any proclamation under section 1335 of this title for such crop of wheat.

DEFERRAL OF PROCLAMATION FOR 1960 CROP

Pub. L. 86–27, May 15, 1959, 73 Stat. 25, authorized Secretary of Agriculture to defer until June 1, 1959, any proclamation under this section with respect to a national acreage allotment for 1960 crop of wheat and any proclamation under section 1335 of this title with respect to marketing quotas for such crop of wheat.

§ 1333. National acreage allotment

The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.

(Feb. 16, 1938, ch. 30, title III, § 333, 52 Stat. 53; June 20, 1938, ch. 518, 52 Stat. 775; July 26, 1939, ch. 377, 53 Stat. 1125; July 3, 1948, ch. 827, title II, § 207(b), 62 Stat. 1257; Pub. L. 87–703, title III, § 312, Sept. 27, 1962, 76 Stat. 620; Pub. L. 89–321, title V, § 501(2), Nov. 3, 1965, 79 Stat. 1199; Pub. L. 99–198, title III, § 303, Dec. 23, 1985, 99 Stat. 1379.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions relating to the establishment and determination of a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 1332 of this title for provisions relating to the proclamation and determination of a national acreage allotment for each crop of wheat. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89–321 substituted projected national yield for expected yield in the determination of the basis to be used in arriving at the national acreage allotment, inserted limiting parenthetical reference to acreage other than that harvested because of program incentives, and struck out references to expected production on the increases in acreage allotments for farms based upon small-farm base acreages pursuant to section 1335 of this title and to the expected production on the increased acreages resulting from the small-farm exemption pursuant to section 1335 of this title.

1962—Pub. L. 87–703 substituted provision for proclamation of a national acreage allotment at the time of proclamation of the national marketing quota in an amount that would be the number of acres which on the basis of expected yields would, together with the expected production on increases in acreage allotments for small farms and on increased acreages resulting from the small-farm exemption, make available a supply equal to the national marketing quota for provision for determination of the national acreage allotment as such acreage as on the basis of the national average yield would produce an amount, which, with estimated carryover and imports, would make available a supply equal to a normal year's domestic consumption and exports plus 30 per centum and prescribing a national acreage allotment for wheat for 1938 at sixty-two million five hundred thousand acres and for any year at not less than fifty-five million acres.

1948—Act July 3, 1948, required the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

1939—Act July 26, 1939, amended last sentence.

1938—Act June 20, 1938, inserted last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 303 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

1965 CROP ACREAGE ALLOTMENT

Proclamation of a national acreage allotment for 1965 crop of wheat that will make available an adequate supply of wheat but shall not be less than forty-nine

million five hundred thousand acres, see section 201 of Pub. L. 88–297, set out as a note under section 1332 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334. Apportionment of national acreage allotment

(a) Apportionment among States; special acreage reserve

The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 1335 of this title, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal grain crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for the production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) Apportionment among counties

The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967 the increased acreage in the county allotted for 1966 pursuant to section 1335 of this title, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c) Apportionment among farms; overplanted allotments; reductions; notice

(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of

such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case wheat acreage on the farm which is not in excess of wheat acreage allotment, the acreage diverted under such wheat allotment programs: *Provided*, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat for the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty-five million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.

(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the basis of past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop-rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: *Provided*, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i), any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum; and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary to provide fair and equitable treatment to such producers.

(d) Repealed. Pub. L. 89–321, title V, § 501(6), Nov. 3, 1965, 79 Stat. 1201

(e) Increase in acreage allotments and marketing quotas for class II durum wheat

If, with respect to the 1962 and 1963 crops of wheat, the Secretary determines that the acreage allotments of farms producing durum wheat are inadequate to provide for the production of a sufficient quantity of durum wheat to satisfy the demands therefor (but not including export demand involving a subsidy by, or a loss to, the Federal Government), he shall increase the farm marketing quotas and acreage allotments for such crop of wheat for farms located in counties in the States of North Dakota, Minnesota, Montana, South Dakota, and California, designated by the Secretary as counties which (1) are capable of producing durum wheat (class II), and (2) have produced such wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested. The Secretary shall determine the percentage factor by which the average acreage of durum wheat (class II) produced during the last two-year period for which statistics are available (excluding any increases in durum wheat acreage as a result of increases in wheat acreage allotments authorized by this subsection) must be increased to satisfy such demand. The wheat acreage allotment for any farm established for such crop without regard to this subsection, after reduction in the case of the 1962 crop as required by subsection (c)(2) of this section (hereinafter referred to as the ''original allotment''), shall be increased by an acreage computed by multiplying the average acreage of durum wheat (class II) on the farm during such two-year period (excluding any increase in the acreage of durum wheat as a result

of an increase in the wheat acreage allotment for the farm authorized by this subsection) by such percentage factor: *Provided*, That such increased allotment shall not exceed the cropland on the farm well suited to wheat. The increase in the wheat acreage allotment for any farm shall be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during such two-year period plus the number of acres by which the allotment is increased. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. As used in this subsection the term ''durum wheat'' means durum wheat (class II) other than the varieties known as ''Golden Ball'' and ''Peliss''. Any farm receiving an increased allotment under this subsection shall not be required as a condition of eligibility for price support, or permitted, to participate in the special 1962 wheat program formulated under section 124 of the Agricultural Act of 1961, or section 307 of the Food and Agriculture Act of 1962. The Secretary shall give growers and millers of durum wheat and manufacturers of semolina products an opportunity to present their views and recommendations, prior to making any determination hereunder.

(f) Voluntary surrender of acreage allotment

Any part of any 1955, 1956, or 1957 farm wheat acreage allotment on which wheat will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of wheat tillable acres, crop rotation practices, type of soil, and topography. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (c) of this section. Any allotment transferred under this provision shall be regarded for the purposes of subsection (c) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having wheat planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any 1955, 1956, or 1957 farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage surrendered, reapportioned under this subsection, and planted shall be credited to the State and county in determining future acreage allotments.

(g) Plantings in excess of allotments or where no allotment is established

Notwithstanding any other provision of law, no acreage in the commercial wheat-producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat-producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.

(h) Omitted

(i) Increase in acreage allotments for any kind of wheat in short supply; storage reduction and land-use provisions inapplicable to such wheat

If, with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of sections 1326(b) and 1340(6) of this title, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.

(j) Increased durum wheat acreage allotments to Tulelake area, California, for 1970 and subsequent years; factors determinative; effect of increased allotments on marketing allocations and diversion payments

Notwithstanding any other provision of this chapter, the Secretary shall increase the acre-

age allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum[1] wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 1379b of this title, and (2) shall be conditioned upon the production of Durum[1] wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 1339 of this title.

(k) Transfer of farm wheat acreage allotments in case of natural disasters

Notwithstanding any other provision of this chapter, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm from which it was transferred for the purposes of acreage history credits under this chapter.

[1] So in original. Probably should not be capitalized.

(Feb. 16, 1938, ch. 30, title III, § 334, 52 Stat. 53; Apr. 7, 1938, ch. 107, § 7, 52 Stat. 203; Feb. 6, 1942, ch. 44, § 2, 56 Stat. 52; July 14, 1953, ch. 194, § 1, 67 Stat. 151; Jan. 30, 1954, ch. 2, § 4, 68 Stat. 6; Aug. 28, 1954, ch. 1041, title III, § 308, 68 Stat. 903; Feb. 19, 1955, ch. 8, 69 Stat. 9; Mar. 16, 1956, ch. 86, 70 Stat. 50; May 28, 1956, ch. 327, title III, § 301, 70 Stat. 203; Aug. 7, 1956, ch. 1030, § 2, 70 Stat. 1117; Pub. L. 85–13, Apr. 2, 1957, 71 Stat. 10; Pub. L. 85–203, § 2, Aug. 28, 1957, 71 Stat. 477; Pub. L. 85–366, Apr. 4, 1958, 72 Stat. 78; Pub. L. 85–390, May 1, 1958, 72 Stat. 101; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 86–385, Feb. 20, 1960, 74 Stat. 4; Pub. L. 86–419, Apr. 9, 1960, 74 Stat. 39; Pub. L. 87–128, title I, §§ 121, 125, Aug. 8, 1961, 75 Stat. 296, 300; Pub. L. 87–357, Oct. 4, 1961, 75 Stat. 778; Pub. L. 87–703, title III, §§ 308(a), 313, Sept. 27, 1962, 76 Stat. 618, 620; Pub. L. 88–64, July 17, 1963, 77 Stat. 79; Pub. L. 88–297, title II, § 202(1)–(5), Apr. 11, 1964, 78 Stat. 178, 179; Pub. L. 89–321, title V, § 501(3)–(7), Nov. 3, 1965, 79 Stat. 1199–1201; Pub. L. 90–243, Jan. 2, 1968, 81 Stat. 781; Pub. L. 91–220, Mar. 31, 1970, 84 Stat. 86; Pub. L. 99–198, title III, § 304, Dec. 23, 1985, 99 Stat. 1379.)

REFERENCES IN TEXT

Section 124 of the Agricultural Act of 1961, referred to in subsec. (e), is section 124 of Pub. L. 87–128 which was set out below.

Section 307 of the Food and Agriculture Act of 1962, referred to in subsec. (e), is section 307 of Pub. L. 87–703 which was set out below.

CODIFICATION

For omission of subsec. (h), see 1963 Amendment note below.

AMENDMENTS

1985—Pub. L. 99–198, in amending section generally, temporarily substituted ''Farm marketing quotas'' for ''Apportionment of national acreage allotment'' in section catchline. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (a). Pub. L. 99–198 amended subsec. (a) generally, temporarily substituting provisions requiring the Secretary to establish, for each crop of wheat for which a national marketing quota under section 1332 of this title has been proclaimed, a farm marketing quota for each farm on which wheat was planted, or considered planted, for harvest during the base period for provisions which required the Secretary to apportion the national acreage allotment for wheat, less a national acreage reserve and a special reserve which were provided for herein, among the States on the basis of each State's allotment for the preceding year, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (b). Pub. L. 99–198 amended subsec. (b) generally, temporarily substituting provisions establishing a formula for determination of the farm marketing quota for provisions which required the Secretary to apportion each State's acreage allotment for wheat among the counties of the State, less a reserve not to exceed 3 per centum thereof, on the basis of the preceding year's wheat allotment in each such county, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (c). Pub. L. 99–198 amended subsec. (c) generally, temporarily substituting provisions defining the circumstances under which wheat shall be considered to have been planted for harvest on the farm in any

crop year for provisions relating to the apportionment among farms of each county's allotment under this section. See Effective and Termination Dates of 1985 Amendment note below.

Subsec. (d). Pub. L. 99–198, in amending section generally, temporarily added subsec. (d).

Subsecs. (e) to (k). Pub. L. 99–198, in amending section generally, temporarily struck out subsecs. (e) to (k) as follows:

Subsec. (e) related to increase in acreage allotments and marketing quotas for class II durum wheat.

Subsec. (f) related to voluntary surrender of acreage allotments for 1955, 1956, and 1957 crops of wheat.

Subsec. (g) related to plantings in excess of allotments or where no allotment was established, in the case of 1958 and subsequent crops of wheat.

Subsec. (h). There is no subsec. (h) for 1964 and subsequent crop years. Subsec. (h) was omitted pursuant to the 1963 amendment to this section by Pub. L. 88–64. See 1963 Amendments note set out under this section.

Subsec. (i) related to an increase in acreage allotments for any kind of wheat in short supply, and enumerated provisions of law inapplicable to such wheat.

Subsec. (j) related to increased durum wheat acreage allotments to the Tulelake area in California for 1970 and subsequent crops of wheat.

Subsec. (k) related to transfer of farm wheat acreage allotments in case of natural disasters.

See Effective and Termination Dates of 1985 Amendment note below.

1970—Subsec. (j). Pub. L. 91–220 removed the 1963 deadline on the Secretary's power to increase acreage allotments, empowering him to do so for the 1970 and subsequent wheat crops, made the area increase for each crop determinable, among other factors, by the extent to which applications are received therefor, removed requirement that acreage planted to wheat pursuant to increased allotments be considered in establishing future state, county and farm acreage allotments except where such consideration may be desirable in providing increased allotments for production of Durum wheat in subsequent years, conditioned wheat acreage allotments upon the production of Durum wheat on the original and increased acreage allotment, prohibited consideration of the increased acreage allotment in computing the farm wheat marketing allocation under section 1379b of this title, made producers on farms receiving increased allotments ineligible for diversion payments under section 1339 of this title, and struck out provisions prohibiting such producers from receiving price support, provisions making land use rules of section 1339 of this title inapplicable to farms receiving additional allotments, and provisions relating to 1962 and 1963 wheat crops.

1968—Subsec. (a). Pub. L. 90–243 inserted provisions allowing the Secretary to make additional use, with specified limitations, of the 1 percent national wheat acreage allotment reserve in counties which have wheat as the principal grain crop, an average ratio of wheat acreage allotment to cropland on old wheat farms at least 20 percent below that in an adjoining county or alternative ratio, a low ratio caused by a shift prior to 1951 from wheat to an alternative crop or crops which have become unprofitable because of plant disease or sustained loss of markets, and no alternative income-producing crop.

1965—Subsec. (a). Pub. L. 89–321, §501(3), substituted the preceding year's allotment for the acreage seeded for the production of wheat over the preceding ten-year period as the basis for determining the state's apportioned share of the national acreage allotment and made provision for a special acreage reserve to be apportioned only to counties where wheat is a major income-producing crop.

Subsec. (b). Pub. L. 89–321, §501(4), substituted the county's allotment covering the preceding year for the acreage seeded for the production of wheat during the ten calendar years immediately preceding the calendar year in which the national acreage allotment is determined as the basis for determining the county's allotment.

Subsec. (c)(3), (4). Pub. L. 89–321, §501(5), added pars. (3) and (4).

Subsec. (d). Pub. L. 89–321, §501(6), repealed subsec. (d) dealing with farms on which the entire amount of the farm marketing excess has been delivered to the Secretary or stored in accordance with applicable provisions.

Subsec. (g). Pub. L. 89–321, §501(7), struck out ''except as prescribed in the provisos to the first sentence of subsections (a) and (b) respectively of this section'' after ''county acreage allotments.''

1964—Subsec. (a). Pub. L. 88–297, §202(1), provided (1) for the apportionment among the States of the national acreage allotment for wheat less the special acreage reserve; (2) that in establishing State acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965; and (3) beginning with the 1965 crop, a special acreage reserve and uses of such reserve and apportionment to counties of such reserve.

Subsec. (b). Pub. L. 88–297, §202(2), provided that in establishing county acreage allotments, the acreage seeded for the production of wheat plus the acreage diverted for 1965 for any farm shall be the base acreage of wheat determined for the farm under regulations for determining farm wheat acreage allotments for 1965.

Subsec. (c)(1). Pub. L. 88–297, §202(3), inserted in third sentence, cls. (i) and (ii), ''or 1965'' after ''1958'' wherever appearing and in third sentence, cl. (iii), ''except 1965'' after ''any subsequent year.''

Subsec. (g). Pub. L. 88–297, §202(4), inserted in first sentence ''except 1965'' after ''in 1958 or thereafter''.

Subsec. (k). Pub. L. 88–297, §202(5), added subsec. (k).

1963—Subsec. (h). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. Pub. L. 87–703, §313(2), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (h). Pub. L. 88–64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j).

Subsec. (i). Pub. L. 88–64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). Pub. L. 87–703, §313(4), added subsec. (i) (effective with the 1964 Wheat Crop). See 1962 Amendment note hereunder.

Subsec. (j). Pub. L. 88–64 redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j), inserted ''privately owned'' before ''farms'' in first and second sentences and increased from eight to twelve thousand acres the total acreage allotment for each crop.

1962—Subsec. (e). Pub. L. 87–703, §§308(a), 313(1), inserted provision respecting participation in the special wheat program formulated under section 307 of the Food and Agriculture Act of 1962 and substituted ''the 1962 and 1963 crops'' for ''any of the 1962, 1963, and 1964 crops'', respectively.

Subsec. (g). Pub. L. 87–703, §313(2), redesignated former subsec. (h) as (g). Former subsec. (g), which related to weather conditions, underplanting, and subnormal production affecting acreage allotments, was repealed by such section 313(2). See section 1377 of this title.

Subsec. (h). Pub. L. 87–703, §313 (2), (3), redesignated former subsec. (i) as (h) and inserted the sentence ''The land-use provisions of section 1339 of this title shall not be applicable to any farm receiving an additional allotment under this subsection.'' Former subsec. (h) redesignated (g). See Effective Date of 1962 Amendment note below making the changes effective with the 1964 Wheat Crop. Pub. L. 88–64, §1(a), redesignated former subsec. (i) (so designated through the 1963 Wheat Crop) as (j). There is no subsec. (h) for 1964 and Subsequent Wheat Crops. See 1963 Amendment note above.

Subsec. (i). Pub. L. 87–703, §313(4), added subsec. (i). Former subsec. (i) redesignated (h).

1961—Subsec. (c). Pub. L. 87–128, §121, designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 87–128, §125, authorized the Secretary to increase durum wheat acreage allotment during 1962, 1963, and 1964 crops of wheat when he determines that acreage allotments established for durum wheat farms will be inadequate to produce a sufficient quantity of durum wheat to meet demand therefor, not including export demand involving a subsidy by or loss to the Federal Government, by such percentage factor as is determined to be necessary to provide for the increase in quantity the increase not to exceed the cropland on the farm well suited to wheat and to be conditioned upon the production of an acreage of durum wheat (class II) at least equal to the average acreage of such wheat produced during prescribed two-year period plus the number of acres by which the allotment is increased, provided that any farm receiving an increased durum wheat allotment shall not be required as a condition of price support, or permitted, to participate in the special 1962 wheat diversion program, and required the Secretary to become familiar with the views and recommendations of durum wheat grower and millers and manufacturers of semolina products prior to making any determinations. Former provisions of the subsection related to increase in allotment for durum wheat farms for 1957 crop of wheat, conditioned upon the production of durum wheat (class II) on the increased acreage and determined by adding to the allotment established without regard to subsec. (e) an acreage equal to the acreage by which the original allotment exceeded the 1957 acreage on the farm of classes of wheat other than durum wheat (class II), but not exceeding the smaller of the cropland on the farm well suited to wheat or the wheat acreage on the farm.

Subsec. (i). Pub. L. 87–357 substituted ''1958 through 1963'' for ''1958 through 1961'', and excluded from any general reduction in farm acreage allotments or farm acreage diversion program for the 1962 or 1963 wheat crop, the farms for which acreage allotments are increased under the provisions hereof, unless such reduction is specifically made applicable.

1960—Subsec. (d). Pub. L. 86–419 added subsec. (d).

Subsec. (i). Pub. L. 86–385 substituted ''1958 through 1961'' for ''1958 and 1959''.

1958—Subsec. (a). Pub. L. 85–366, §1(1), inserted proviso that in establishing State acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage allotment for such year.

Subsec. (b). Pub. L. 85–366, §1(2), inserted proviso that in establishing county acreage allotments acreage seeded plus acreage diverted for 1959 and subsequent years for farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty shall be base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, farm's seeded plus diverted acreage for year excess was produced shall be reduced to acreage for such year.

Subsec. (c). Pub. L. 85–366, §1(3), inserted sentence relating to establishment of farm acreage allotment for 1958 and past acreage for 1959 and subsequent years, with the proviso that for 1959 and subsequent years, any farm on which entire marketing excess is delivered to Secretary or stored to avoid penalty, the past acreage for the year of delivery or storage shall be the base acreage determined for farm by Secretary's regulations for such year, but if such stored wheat is subsequently depleted, resulting in penalty, past acreage of wheat for year excess was produced shall be reduced to farm allotment for such year.

Subsec. (d). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85–835, repealed subsec. (d) which related to adjustment of allotment upon acquisition of part of farms by United States for defense.

Subsec. (h). Pub. L. 85–366, §1(4), substituted ''future State and county acreage allotments except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section'' for ''future State, county, and farm acreage allotments''.

Subsec. (i). Pub. L. 85–390 added subsec. (i).

1957—Subsec. (e). Pub. L. 85–13 substituted ''1957'' for ''1956'' in two places, substituted ''1952 through 1956'' for ''1951 through 1955'', prohibited increase of acreage allotment under subsec. (e) by more than 60 acres, inserted clause providing for fixing ''farm acreage allotment'' as allotment established without regard to subsec. (e) and clause providing for counting each acre planted to durum wheat as one-half acre of wheat for application of section 1821(a)(1) of this title, and inserted provision that ''wheat acreage on the farm'' includes acreage in the wheat acreage report.

Subsec. (h). Pub. L. 85–203 added subsec. (h).

1956—Subsec. (e). Act Mar. 16, 1956, extended increased durum allotment to the 1956 crop and to certain counties in California, shortened the production history from 10 to 5 years and advanced it 1 year to include 1955, and made increased durum allotment dependent upon reduced planting of other wheat.

Subsec. (f). Act May 28, 1956, substituted ''1955, 1956, or 1957'' for ''1955'', in two places.

Subsec. (g). Act Aug. 7, 1956, added subsec. (g).

1955—Subsec. (e). Act Feb. 19, 1955, removed for 1955, requirements restricting increased acreage allotments to producers who devote a normal share of their original allotment to durum and who have produced durum in 1 or more of the preceding 3 years.

1954—Subsec. (e). Act Jan. 30, 1954, added subsec. (e).

Subsec. (f). Act Aug. 28, 1954, added subsec. (f).

1953—Subsec. (a). Act July 14, 1953, provided a reserve of up to 1 percent of the national acreage allotment for counties in which new areas have come into production.

Subsec. (b). Act July 14, 1953, provided for a 3 percent reserve of State acreage allotments for new farms.

Subsec. (c). Act July 14, 1953, recognized the use of past acreage as a factor in making farm allotments and placed the reserves for new farms on a State basis instead of a county basis.

Subsec. (d). Act July 14, 1953, made the provision relating to farms acquired for national-defense purposes apply to farms acquired in 1950 or thereafter instead of 1940 or thereafter.

1942—Subsec. (d). Act Feb. 6, 1942, added subsec. (d).

1938—Subsec. (b). Act Apr. 7, 1938, struck out ''net'' before ''acreage diverted'' from parenthetical provision.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 304 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 313 of Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 7, 1956, provided that the amendment made by that act is effective beginning with 1957 crop of wheat.

EFFECTIVE DATE OF 1955 AMENDMENT

Act Feb. 19, 1955, provided that the amendment made by that act is effective beginning with 1955 crop of wheat.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 5 of act July 14, 1953, provided that: ''Sections 1, 2, and 3 of this Act [amending this section and sections 1339 and 1340 of this title] shall become effective with respect to the 1954 and subsequent crops of wheat.''

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (d), see note set out under section 1378 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(2), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1972 through 1977 crops of wheat.

FARM ACREAGE ALLOTMENTS FOR 1966 CROP OF WHEAT

Section 512 of Pub. L. 89–321 required the national, State, county, and farm acreage allotments for 1966 crop of wheat to be established in accordance with the provisions of law in effect prior to Nov. 3, 1965.

1963 DIVERTED WHEAT ACREAGE PROGRAM

Section 307 of Pub. L. 87–703 provided that payments were authorized to be made in cash or wheat by the Commodity Credit Corporation to producers on any farm, except farms with new farm wheat allotments, if marketing quotas were in effect for the 1963 wheat crop, if they diverted certain acreage from wheat production, and if they devoted such acreage to conservation uses; that such acreage was to be in addition to acreage diverted to conservation uses for which payment was made under other federal programs although cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to fifty per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

APPLICABILITY OF 1963 DIVERTED WHEAT ACREAGE PROGRAM TO INCREASED ALLOTMENT FARMS

Section 308(b) of Pub. L. 87–703 provided that the special wheat program formulated under section 307 of Pub. L. 87–703 [set out above] was not applicable to any farm receiving an additional acreage allotment for wheat in short supply under section 334(i) of the Agricultural Adjustment Act of 1938, as amended [subsec. (i) of this section].

1962 DIVERTED WHEAT ACREAGE PROGRAM

Section 124 of Pub. L. 87–128, as amended by Pub. L. 87–410, Mar. 3, 1962, 76 Stat. 19; Pub. L. 87–451, §§ 1–3, May 15, 1962, 76 Stat. 70, provided that producers on any farm, except farms with a new farm wheat allotment, were entitled to payments if marketing quotas were in effect for the 1962 wheat crop, if they diverted certain acreage from wheat production, and if such diverted acreage were devoted to conservation uses; that the payments were to be made by the Commodity Credit Corporation in cash or wheat and computed as therein provided; that additional acreage could be diverted and payments made with respect thereto; that any diverted acreage was to be in addition to acreage diverted for conservation uses for which payment is made under any other federal program except that cost-sharing payments under the agricultural conservation program or the Great Plains program were not precluded; that advance payments up to 50 per cent could be made; that wheat stored to avoid a marketing quota penalty was not to be released for underplanting based on such diverted acreage; that the Secretary could promulgate regulations; and that the Commodity Credit Corporation could use its capital funds and assets to make payments.

ACREAGE ALLOTMENT FOR 1954 CROP

Section 4(a) of act July 14, 1953, provided that the National acreage allotment for 1954 crop of wheat shall not be less than sixty-two million acres.

ACREAGE ALLOTMENT FOR 1950 CROP

Section 5 of act Aug. 29, 1949, ch. 518, 63 Stat. 677, provided that the farm acreage allotment of wheat for 1950 crop for any farm was not to be less than the larger of—

(A) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1949, and

(2) any other acreage seeded for the production of wheat in 1948 which was fallowed and from which no crop was harvested in the calendar year 1949, or

(B) 50 per centum of—

(1) the acreage on the farm seeded for the production of wheat in 1948, and

(2) any other acreage seeded for the production of wheat in 1947 which was fallowed and from which no crop was harvested in the calendar year 1948,

adjusted in the same ratio as the national average seedings for the production of wheat during the ten calendar years 1939–1948 (adjusted as provided by this chapter) bore to the national acreage allotment for wheat for the 1950 crop: *Provided*, That no acreage was to be included under (A) or (B) which the Secretary, by appropriate regulations, determined would become an undue erosion hazard under continued farming. To the extent that the allotment to any county was insufficient to provide for such minimum farm allotments, the Secretary was to allot such county such additional acreage (which was to be in addition to the county, State, and national acreage allotments otherwise provided for under the Agricultural Adjustment Act of 1938, as amended [this chapter]) as was necessary in order to provide for such minimum farm allotments.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1334a. Omitted

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title III, § 314, 68 Stat. 905, related to 1955 wheat acreage allotment in areas where a summer fallow crop rotation of wheat was a common practice.

§ 1334a–1. Summer fallow farms; upper limit on required set aside acreage for 1971 through 1977 wheat, feed grain, and cotton crops

Notwithstanding any other provision of law, for the 1971 through 1977 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

(Pub. L. 91–524, title IV, § 410, Nov. 30, 1970, 84 Stat. 1367; Pub. L. 93–86, § 1(17), Aug. 10, 1973, 87 Stat. 230.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–86 substituted ''1971 through 1977'' for ''1971, 1972, and 1973''.

§ 1334b. Designation of States outside commercial wheat-producing areas

If the acreage allotment for any State for any crop of wheat is twenty-five thousand acres or less, the Secretary, in order to promote efficient administration of this chapter and the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may designate such State as outside the commercial wheat-producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.

(Feb. 16, 1938, ch. 30, title III, § 334a, as added Pub. L. 87–703, title III, § 314, Sept. 27, 1962, 76 Stat. 620.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

Notwithstanding any other provision of this subpart, no farm marketing quota for any crop of wheat shall be applicable to any farm with a farm acreage allotment of less than fifteen acres if the acreage of such crop of wheat does not exceed the small-farm base acreage determined for the farm, unless the operator elects in writing on a form and within the time prescribed by the Secretary to be subject to the farm acreage allotment and marketing quota. The small-farm base acreage for a farm shall be the smaller of (A) the average acreage of the crop of wheat planted for harvest in the three years 1959, 1960, and 1961, or such later three-year period, excluding 1963, determined by the Secretary to be representative, with adjustments for abnormal weather conditions, established crop-rotation practices on the farm, and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable small-farm base acreage, or (B) fifteen acres. The acreage allotment for any farm shall be the larger of (1) the small-farm base acreage determined as provided above on the basis of the three-year period 1959–1961, reduced by the same percentage by which the national acreage allotment for the crop is reduced below fifty-five million acres, or (2) the acreage allotment determined without regard to (1) above. If the operator of any such farm fails to make such election with respect to any crop of wheat, (i) for the purposes of section 1340 of this title, the farm acreage allotment for such crop of wheat shall be deemed to be the larger of (A) the small-farm base acreage or (B) the acreage allotment for the farm, (ii) the land-use provisions of section 1339 of this title shall be inapplicable to the farm, (iii) such crop of wheat shall not be eligible for price support, and (iv) wheat marketing certificates applicable to such crop shall not be issued with respect to the farm. The additional acreage required to provide acreage allotments for farms based upon small-farm base acreages under this section shall be in addition to National, State, and county acreage allotments. This section shall not be applicable to the crops planted for harvest in 1967 and subsequent years.

(Feb. 16, 1938, ch. 30, title III, § 335, 52 Stat. 54; July 26, 1939, ch. 379, 53 Stat. 1126; June 6, 1940, ch. 237, 54 Stat. 232; July 3, 1948, ch. 827, title II, §§ 204(a), 62 Stat. 1256; Aug. 28, 1954, ch. 1041, title III, § 309, 68 Stat. 903; Pub. L. 85–203, § 1, Aug. 28, 1957, 71 Stat. 477; Pub. L. 87–128, title I, § 122(e), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87–703, title III, § 315, Sept. 27, 1962, 76 Stat. 621; Pub. L. 89–321, title V, § 501(8), Nov. 3, 1965, 79 Stat. 1201; Pub. L. 99–198, title III, § 305, Dec. 23, 1985, 99 Stat. 1380.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions relating to marketing penalties for provisions for small-farm exemptions from marketing quotas. See Effective and Termination Dates of 1985 Amendment note below.

1965—Pub. L. 89–321 made section inapplicable to crops planted for harvest in 1967 and subsequent years.

1962—Pub. L. 87–703 substituted provisions for small-farm exemption from marketing quotas for provisions of subsecs. (a), (b), (c), (e), and (f), respecting the establishment of marketing quotas, the amount of national and farm marketing quotas, designation of States outside commercial wheat-producing areas (now covered by section 1334b of this title), and feed wheat exemption permitting any producer to harvest up to 30 acres of

wheat without penalty if the entire crop is used on the farm where produced.

1961—Subsec. (d). Pub. L. 87–128 repealed subsec. (d) which provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

1957—Subsec. (f). Pub. L. 85–203 added subsec. (f).

1954—Subsec. (a). Act Aug. 28, 1954, § 309(a), substituted ''May 15'' for ''July 1''.

Subsec. (e). Act Aug. 28, 1954, § 309(b), added subsec. (e).

1948—Subsec. (a). Act July 3, 1948, changed conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

1940—Subsec. (d). Act June 6, 1940, substituted ''two hundred'' for ''one hundred''.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 305 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–321 effective beginning with the crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 122(e) of Pub. L. 87–128 provided that the amendment made by that section is effective with 1962 crop of wheat.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

CROSS REFERENCES

Agreements for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

Price support levels, see section 1441 of this title.

Supplemental provisions relating to corn and wheat marketing quotas, see section 1340 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1336, 1339, 1379c, 1441, 1445a of this title.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after December 20, 1985.

(Feb. 16, 1938, ch. 30, title III, § 336, 52 Stat. 55; July 3, 1948, ch. 827, title II, § 204(b), 62 Stat. 1256; Pub. L. 87–104, July 25, 1961, 75 Stat. 220; Pub. L. 87–128, title I, § 122(f), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87–540, July 19, 1962, 76 Stat. 170; Pub. L. 87–703, title III, § 316, Sept. 27, 1962, 76 Stat. 621; Pub. L. 88–297, title II, § 202(6), Apr. 11, 1964, 78 Stat. 179; Pub. L. 89–82, July 24, 1965, 79 Stat. 258; Pub. L. 91–348, July 23, 1970, 84 Stat. 448; Pub. L. 91–455, Oct. 15, 1970, 84 Stat. 969; Pub. L. 93–68, July 10, 1973, 87 Stat. 161; Pub. L. 95–48, June 17, 1977, 91 Stat. 229; Pub. L. 97–24, § 1, July 23, 1981, 95 Stat. 143; Pub. L. 97–62, Oct. 14, 1981, 95 Stat. 1010; Pub. L. 97–67, § 2, Oct. 20, 1981, 95 Stat. 1039; Pub. L. 97–77, § 2(b), Nov. 13, 1981, 95 Stat. 1069; Pub. L. 99–63, July 11, 1985, 99 Stat. 119; Pub. L. 99–198, title III, § 306, Dec. 23, 1985, 99 Stat. 1382.)

CODIFICATION

''December 20, 1985'' substituted in text for ''adjournment sine die of the first session of the Ninety-ninth Congress''.

AMENDMENTS

1985—Pub. L. 99–198, temporarily amended section generally. Prior to amendment, section read as follows: ''If a national marketing quota for wheat for one, two,

or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.'' See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99–63 substituted ''year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress'' for ''year beginning June 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982''.

1981—Pub. L. 97–77 substituted ''January 1, 1982'' for ''November 15, 1981'' in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97–62 and Pub. L. 97–67 made identical amendments providing for substitution of ''November 15, 1981'' for ''October 15, 1981'' in sentence covering the date of the referendum for the national marketing quota for wheat for the marketing year beginning June 1, 1982.

Pub. L. 97–24 substituted ''June 1, 1982'' for ''June 1, 1978'', ''Ninety-seventh Congress'' for ''Ninety-fifth Congress'', and ''October 15, 1981'' for ''October 15, 1977''.

1977—Pub. L. 95–48 substituted provisions extending the date for the conduct of the referendum with respect to the national marketing for wheat for the marketing year beginning June 1, 1978, by allowing the referendum to be conducted not later than thirty days after the adjournment sine die of the first session of the Ninety-fifth Congress or Oct. 15, 1977, whichever is earlier, for provisions which had set the time limits for the referendums with respect to the national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, respectively.

1973—Pub. L. 93–68 extended time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1974 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment of the first session of the Ninety-third Congress or Oct. 15, 1973.

1970—Pub. L. 91–455 inserted provision extending until 30 days after adjournment sine die of the second session of the 91st Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop.

Pub. L. 91–348 extended the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1971 crop of wheat, if marketing quotas are to be in effect for that crop, to the earlier of thirty days after adjournment sine die of the second session of the ninety-first Congress or October 15, 1970.

1965—Pub. L. 89–82 extended until 30 days after adjournment sine die of the first session of the 89th Congress the time within which the Secretary of Agriculture is required to conduct a referendum with respect to the 1966 crop of wheat, if marketing quotas are to be in effect for that crop.

1964—Pub. L. 88–297 substituted ''not later than August 1 of the calendar year in which such national marketing quota is proclaimed'' for ''not later than sixty days after such proclamation is published in the Federal Register''.

1962—Pub. L. 87–703 substituted provisions for a referendum to be held not later than sixty days after publication in the Federal Register of national marketing quota proclamation to determine if the farmers favor or oppose the quota for the year or years for which proclaimed, making producers on farms having farm acreage allotments eligible to vote except farmers with small farm base acreage for which the operator did not elect to be subject to the program, directing results of referendum to be proclaimed within 30 days after date of referendum for provisions for referendum between date of proclamation of national marketing quota and July 25, making farmers, who produced more than 15 acres of wheat eligible to vote, excluding farmers who obtained the feed wheat exemption for the immediately preceding crop, permitting such referendum for marketing year beginning July 1, 1962, to be held not later than Aug. 26, 1961, and excluding farmers from voting in the 1961 referendum who had not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 and permitting such referendum for marketing year beginning July 1, 1963, to be held not later than Aug. 31, 1962.

Pub. L. 87–540 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1963, not later than August 31, 1962.

1961—Pub. L. 87–128 prohibited farmers who have not produced in excess of 13.5 acres of wheat in at least one of the years 1959, 1960, or 1961 from voting in the referendum conducted with respect to the national marketing quota for the marketing year beginning July 1, 1962.

Pub. L. 87–104 inserted provisions for conducting wheat marketing quota referendum for marketing year beginning July 1, 1962, not later than August 26, 1961.

1948—Act July 3, 1948, substituted ''July 25'' for ''June 10''.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 306 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

DATE OF REFERENDUM FOR 1954 CROP

Act July 14, 1953, ch. 194, § 4(b), 67 Stat. 152, provided that the referendum with respect to 1954 crop of wheat could be held as late as Aug. 15, 1953.

CROSS REFERENCES

Referendum on orders regulating handling of commodities, see section 608c of this title.

§ 1337. Repealed. Pub. L. 87–703, title III, § 317, Sept. 27, 1962, 76 Stat. 622

Section, act Feb. 16, 1938, ch. 30, title III, § 337, 52 Stat. 55, related to adjustment and suspension of quotas.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

§ 1338. Transfer of quotas

Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(Feb. 16, 1938, ch. 30, title III, § 338, 52 Stat. 55; Pub. L. 99–198, title III, § 307, Dec. 23, 1985, 99 Stat. 1382.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, temporarily substituting provisions for voluntary surrender of any part of a farm marketing quota by the producer and reallocation by the Secretary to other farms having farm marketing quotas for provisions authorizing allocation of excess quotas to other farms on which the acreage allotment had not been exceeded. See Effective and Termination Dates of 1985 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 307 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1987 through 1990 crops of wheat.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 crop of wheat, see section 310(a) of Pub. L. 99–198, set out as a note under section 1332 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1339. Land use

(a) Penalties: computation, lien, joint and several liability and interest; exceptions: nonsurplus supply crops, substantial impairment, and nonproduction of wheat; diverted acreage: amount, annual identity, and grazing; crops available for marketing

(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be

jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this part.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

(b) Payment program for 1964 through 1970 crops; terms and conditions; amount; additional diverted acreage; conservation and soil-conserving uses; adjustment; knowledge of exceeding acreage allotment; acreage allotment not exceeded by delivery to Secretary of farm marketing excess or storage in accordance with regulations to avoid or postpone payment of penalty or by farms exempt from marketing quota; new farms ineligible for payments; sharing and medium of payments

The Secretary is authorized to formulate and carry out a program with respect to the crops of wheat planted for harvest in the calendar years 1964 through 1970 under which, subject to such terms and conditions as he determines are desirable to effectuate the purposes of this section, payments may be made in amounts not in excess of 50 per centum of the estimated basic county support rate for wheat not accompanied by marketing certificates on the normal production of the acreage diverted taking into account the income objectives of the chapter, determined by the Secretary to be fair and reasonable with respect to acreage diverted pursuant to subsection (a) of this section. Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat. The Secretary may permit producers on any farm to divert from the production of wheat an acreage, in addition to the acreage diverted pursuant to subsection (a) of this section, equal to 50 per centum of the farm acreage allotment for wheat: *Provided*, That the producers on any farm may, at their election, divert such acreage in addition to the acreage diverted pursuant to subsection (a) of this section, as will bring the total acreage diverted on the farm to twenty-five acres. Such program shall require (1) that the diverted acreage shall be devoted to conservation uses approved by the Secretary; (2) that the total acreage of cropland on the farm devoted to soil-conserving uses, including summer fallow and idle land but excluding the acreage diverted as provided above, shall be not less than the total average acreage of cropland devoted to soil-conserving uses including summer fallow and idle land on the farm during a representative period, as determined by the Secretary, adjusted to the extent the Secretary determines appropriate for (i) abnormal weather conditions or other factors affecting production, (ii) established crop-rotation practices on the farm, (iii) participation in other Federal farm programs, (iv) unusually high percentage of land on the farm devoted to conserving uses, and (v) other factors which the Secretary determines should be considered for the purpose of establishing a fair and equitable soil-conserving acreage for the farm; and (3) that the producer shall not knowingly exceed (i) any farm acreage allotment in effect for any commodity produced on the farm, and (ii) except as the Secretary may by regulations prescribe, with the farm acreage allotments on any other farm for any crop in which the producer has a share: *Provided*, That no producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty: *And provided further*, That no producer shall be deemed to have exceeded a farm acreage allotment for any crop of wheat if the farm is exempt from the farm marketing quota for such crop under section 1335 of this title. The producers on a new farm shall not be eligible for payments hereunder. The Secretary shall provide for the sharing of payment among producers on the farm on a fair and equitable basis. Payments may be made in cash or in wheat.

(c) Adjustment of payments

The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the land-use program formulated under subsection (b) of this section.

(d) Advance payments

Not to exceed 50 per centum of any payment to producers under subsection (b) of this section may be made in advance of determination of performance.

(e) Diverted acreage used for production of certain crops; rate of payment; limitation on rate

The Secretary may permit all or any part of the diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production of the commodity is needed to provide an adequate supply, is not likely to increase the cost of the price-support program and will not adversely affect farm income, subject to the condition that payment with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable taking into consideration the use of such acreage for the production of such crops: *Provided*, That in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(f) Additional terms and conditions

The program formulated pursuant to subsection (b) of this section may include such terms and conditions, including provision for the control of erosion, in addition to those specifically provided for herein, as the Secretary

determines are desirable to effectuate the purposes of this section.

(g) Regulations

The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

(h) Commodity Credit Corporation funds and authorization of appropriations for payments and administrative expenses

The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this section and to pay administrative expenses necessary in carrying out this section during the period ending June 30, 1965. There is authorized to be appropriated such amounts as may be necessary thereafter to pay such administrative expenses.

(Feb. 16, 1938, ch. 30, title III, § 339, as added Pub. L. 87–703, title III, § 318, Sept. 27, 1962, 76 Stat. 622; amended Pub. L. 88–297, title II, § 202(7)–(9), Apr. 11, 1964, 78 Stat. 179; Pub. L. 89–321, title V, §§ 501(9), (10), 507, Nov. 3, 1965, 79 Stat. 1201, 1204; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996.)

PRIOR PROVISIONS

A prior section 1339, act Feb. 16, 1938, ch. 30, title III, § 339, 52 Stat. 55, related to penalties for marketing wheat in excess of quotas, prior to repeal by act July 14, 1953, ch. 194, §§ 2, 5, 67 Stat. 151, 152, effective with respect to the 1954 and subsequent crops of wheat. See section 1340(2) of this title.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Subsec. (a)(1). Pub. L. 89–321, § 507, inserted ''(less an acreage equal to the increased acreage allotted for 1966 pursuant to section 1335 of this title)'' after ''national acreage allotment'' wherever appearing.

Subsec. (b). Pub. L. 89–321, § 501(9), substituted ''crops of wheat planted for harvest in the calendar years 1964 through 1969'' for ''1964 and 1965 crops of wheat'', ''50 per centum of the farm acreage allotment'' for ''20 per centum of the farm acreage allotment'', and ''twenty-five acres'' for ''fifteen acres''.

Subsec. (e). Pub. L. 89–321, § 501(10), authorized Secretary to permit all or part of diverted acreage to be devoted to mustardseed, crambe, and plantago ovato in addition to previously authorized guar, sesame, safflower, sunflower, castor beans, and flax, if he determines that such production of the commodity is needed, is not likely to increase cost of price-support program, and will not adversely affect farm income, and removed from proviso the prohibition against making available price supports for production of such crops on diverted acreage.

1964—Subsec. (a)(1). Pub. L. 88–297, § 202(7), temporarily suspended land-use penalties and made the diversion of land from the production of wheat only a condition of eligibility for receiving wheat marketing certificates. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (b). Pub. L. 88–297, § 202(8), inserted in first sentence ''for wheat not accompanied by marketing certificates'' after ''basic county support rate'' and inserted after first sentence ''Any producer who complies with his 1964 farm acreage allotment for wheat and with the other requirements of the program shall be eligible to receive payments under the program for the 1964 crop of wheat.''

Subsec. (h). Pub. L. 88–297, § 202(9), substituted ''June 30, 1965'' for ''June 30, 1963''.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501 of Pub. L. 89–321 effective beginning with crop planted for harvest in calendar year 1966, see section 501 of Pub. L. 89–321, set out as a note under section 1332 of this title.

Section 507 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1967.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(7) of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 505(1), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops planted for harvest in calendar years 1964 through 1970.

EFFECTIVE DATE

Section effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as an Effective Date of 1962 Amendment note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Pub. L. 91–524, title IV, § 404(1), Nov. 30, 1970, 84 Stat. 1366, as amended by Pub. L. 93–86, § 1(11), Aug. 10, 1973, 87 Stat. 229, provided that this section is not applicable to 1971 through 1977 crops of wheat.

DIVERSION PROGRAMS; GOOD FAITH PERFORMANCE; PAYMENTS

Performance in good faith as meeting requirements of this section and authorizing payments, see section 1339a of this title.

WHEAT DIVERSION PROGRAMS; CREDITS IN ESTABLISHMENT OF STATE, COUNTY AND FARM ACREAGE ALLOTMENTS FOR WHEAT

Credits to State, county and farm of acreage diverted from production of wheat as though actually devoted to such production, see section 1339b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 1379c, 1445a of this title.

§ 1339a. Good faith reliance

Notwithstanding any other provision of law, to the extent the Secretary of Agriculture considers it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance on the action or advice of an authorized representative of the Secretary. The Secretary may provide such

price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs. The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.

(Pub. L. 87–703, title III, § 326, Sept. 27, 1962, 76 Stat. 631; Pub. L. 88–26, § 4, May 20, 1963, 77 Stat. 47; Pub. L. 89–321, title III, § 303, Nov. 3, 1965, 79 Stat. 1192; Pub. L. 101–624, title XI, § 1132(c), Nov. 28, 1990, 104 Stat. 3515; Pub. L. 102–237, title I, § 118(d), Dec. 13, 1991, 105 Stat. 1842.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

AMENDMENTS

1991—Pub. L. 102–237 inserted at end ''The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.''

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''Notwithstanding any other provision of law, performance rendered in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or payments may be made therefor in accordance with such action or advice to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.''

1965—Pub. L. 89–321 substituted ''the requirements of any program under which price support is extended or payments are made to farmers, and price support may be extended or'' for ''the requirements of subsections (c), (d), (g), and (h) of section 590p of title 16, or of section 307 of the Food and Agriculture Act of 1962, section 1339 of this title, or of section 124 of the Agriculture Act of 1961''.

1963—Pub. L. 88–26 inserted reference to subsection (h) of section 590p of title 16.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

SHORT TITLE OF 1963 AMENDMENT

Section 1 of Pub. L. 88–26 provided: ''That this Act [amending this section and section 590p of Title 16 and provisions set out as note under section 1441 of this title] may be cited as the 'Feed Grain Act of 1963'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6998 of this title.

§ 1339b. Wheat diversion programs; credits in establishment of State, county and farm acreage allotments for wheat

In the establishment of State, county, and farm acreage allotments for wheat under this chapter, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 1339 of this title, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.

(Pub. L. 87–703, title III, § 327, Sept. 27, 1962, 76 Stat. 631.)

REFERENCES IN TEXT

Section 307 of this Act (the Food and Agriculture Act of 1962) and section 124 of the Agricultural Act of 1961, referred to in text, are set out as notes under section 1334 of this title.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1339c. Feed grains diversion programs for 1964 and subsequent years; feed grain acreage considered wheat acreage and wheat acreage considered feed grain acreage

Effective with the 1964 crop, during any year in which an acreage diversion program is in effect for feed grains, the Secretary shall, notwithstanding any other provision of law, permit producers of feed grains to have acreage devoted to the production of feed grains considered as devoted to the production of wheat and producers of wheat to have acreage devoted to the production of wheat considered as devoted to the production of feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program for feed grains or wheat. In establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, the Secretary may take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

(Pub. L. 87–703, title III, § 328, Sept. 27, 1962, 76 Stat. 631; Pub. L. 89–321, title V, § 514, Nov. 3, 1965, 79 Stat. 1206.)

AMENDMENTS

1965—Pub. L. 89–321 authorized the Secretary, in establishing terms and conditions for permitting wheat to be planted in lieu of oats and rye, to take into account the number of feed units per acre of wheat in relation to the number of feed units per acre of oats and rye.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1332 of this title.

§ 1339d. Hay production on set-aside or diverted acreage; storage; emergency use; loans

(a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 per centum of the acreage on the farm diverted from production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

(Pub. L. 91–524, title VIII, § 805, Nov. 30, 1970, 84 Stat. 1382.)

REFERENCES IN TEXT

The wheat program under title IV of this Act, the feed grain program under title V of this Act, and the cotton program under title VI of this Act, referred to in subsec. (a), mean the programs for such crops as set out in the Agricultural Act of 1970, Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, as amended. Title IV of that Act enacted section 1334a–1 of this title, amended sections 1301, 1305, 1306, 1378, 1379, 1379b, 1379c, 1379d, 1379e, 1379g, 1385, 1427, 1428, and 1445a of this title, and enacted provisions set out as notes under sections 1301, 1305, 1306, 1330 to 1334, 1335, 1336, 1338, 1339, and 1379c of this title. Title V of that Act amended section 1444b of this title and provisions set out as a note under section 1444b of this title. Title VI of that Act enacted sections 1342a, 1350a, and 2119 of this title, amended sections 1305, 1344b, 1350, 1374, 1378, 1379, 1385, 1427, 1428, 1444, and 1444a of this title, and enacted provisions set out as notes under sections 1305, 1342, 1342a, 1343, 1344, 1344b, 1345, 1346, 1377, 1378, 1379, 1385, 1427, 1428, 1444, and 1446d of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

Notwithstanding the other provisions of this chapter—

(1) The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a

farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof, the difference between the amount of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. The provisions of section 1326(b) and (c) of this title shall be applicable also to wheat.

(7) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this section. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer. If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for such penalty.

(8) The marketing penalty for rice produced in the calendar year in which any marketing year begins (if beginning with or after the 1941–1942 marketing year) shall be at a rate equal to 50 per centum of the basic rate of the loan for cooperators for such marketing year under section 1302 of this title and this section.

(9) Omitted.

(10) The provisions of this section are amendatory of and supplementary to this chapter, and all provisions of law applicable in respect of marketing quotas and loans under such chapter as so amended and supplemented shall be applicable, but nothing in this section shall be construed to amend or repeal sections 1301(b)(6), 1323(b), or 1335(d) of this title.

(11) The persons liable for the payment or collection of the penalty or any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.

(May 26, 1941, ch. 133, 55 Stat. 203; Dec. 26, 1941, ch. 626, § 2, 55 Stat. 860; Dec. 26, 1941, ch. 636, 55 Stat. 872; Aug. 29, 1949, ch. 518, § 3(b), 63 Stat. 676; July 14, 1953, ch. 194, § 3, 67 Stat. 151; Aug. 28, 1954, ch. 1041, title III, § 313, 68 Stat. 905; Pub. L. 87–128, title I, § 122(d), Aug. 8, 1961, 75 Stat. 297; Pub. L. 87–703, title III, §§ 309, 319, Sept. 27, 1962, 76 Stat. 618, 624; Pub. L. 87–801, Oct. 11, 1962, 76 Stat. 909; Pub. L. 89–321, title V, § 511(b), Nov. 3, 1965, 79 Stat. 1205.)

REFERENCES IN TEXT

Section 1302 of this title, referred to in par. (8), was repealed by act Oct. 31, 1949, ch. 792, title IV, § 414, 63 Stat. 1057.

Section 1323(b) of this title, referred to in par. (10), was repealed by act Aug. 28, 1954, ch. 1041, title III, § 304, 68 Stat. 902, and had provided that no farm marketing quota with respect to any crop of corn shall be applicable to any farm on which the normal production of the acreage planted to corn is less than 300 bushels.

Section 1335(d) of this title, referred to in par. (10), was repealed by Pub. L. 87–129, title I, § 122(e), Aug. 8, 1961, 75 Stat. 297, and had provided that no farm marketing quota with respect to wheat shall be applicable in any marketing year to any farm on which the normal production of the acreage planted to wheat of the current crop is less than 200 bushels.

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

Par. (9), which directed the Commodity Credit Corporation to make loans upon the 1941 to 1946 cotton, wheat, rice, tobacco, and peanut crops for which pro-

ducers did not disapprove marketing quotas at the rate of 85% of parity to cooperators and, to noncooperators, at the rate of 60% of the rate specified for cooperators and limited to that amount of the commodity as would be subject to penalty if marketed by the noncooperators, was omitted from the Code.

AMENDMENTS

1965—Par. (1). Pub. L. 89–321 substituted ''projected farm yield'' for ''normal yield of wheat per acre established for the farm''.

1962—Par. (1). Pub. L. 87–703, § 319(1), substituted requirement that computation of the farm marketing excess initially be double the farm normal yield of wheat times the excess acres, such excess acres being reduced to the actual yield times the excess acres, upon proof by the producer of the actual yield, for provision that the farm marketing excess could not be more than the actual production of wheat on the farm less the normal production of the farm acreage allotment and provided that the acreage of wheat not disposed of by the prescribed date would be considered wheat acreage, with the wheat production thereon appraised for the purposes of determining the farm marketing quota and farm marketing excess, that wheat acreage disposed of prior to the disposal date would not be considered acreage and that the acreage of volunteer wheat not disposed of would be considered wheat acreage.

Par. (2). Pub. L. 87–703, § 319(2), increased from 45 to 65 per centum the rate of penalty on farm marketing excess and provided for joint and several liability for such penalty.

Par. (3). Pub. L. 87–703, § 319(3), required computation of the farm marketing excess initially upon twice the normal yield and eliminated reference to corn. Act Aug. 28, 1954, had made the section in applicable to corn.

Par. (4). Pub. L. 87–703, § 319(4), inserted ''and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest'' after ''produced on the farm'' and struck out reference to corn. Act Aug. 28, 1954, had made the section inapplicable to corn.

Pars. (5), (6). Pub. L. 87–703, § 319(5), (6), struck out reference to corn. Act Aug. 28, 1954, had made section inapplicable to corn.

Par. (7). Pub. L. 87–703, § 319(7), (8), redesignated par. (8) as (7), and inserted provision for joint and several liability for penalty and struck out reference to corn, respectively. Act Aug. 28, 1954, had made section inapplicable to corn. Provisions of former par. (7), which provided a 15-acre exemption but provided for a farm marketing quota on 1962 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 13.5 acres, or (2) of the highest number of acres actually planted to, wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961 and provisions of former par. (7), added by Pub. L. 87–703, § 309, which provided for a farm marketing quota on 1963 crop of wheat to any farm on which the acreage of wheat exceeded the smaller of (1) 15 acres, or (2) the highest number of acres actually planted to wheat on the farm for harvest in any of the calendar years 1959, 1960, or 1961, or 1963 (provided by Pub. L. 87–801), were repealed by such section 319(7) and are covered by section 1335 of this title.

Pars. (8) to (10). Pub. L. 87–703, § 319(7), redesignated pars. (9) to (11) as (8) to (10). Former par. (8) redesignated (7).

Par. (11). Pub. L. 87–703, § 319(9), added par. (11). Former par. (11) redesignated (10).

Par. (12). Pub. L. 87–703, § 319(9), added par. (12). Former par. (12), which limited farm marketing excess for any crop of wheat and provided for return to producer of difference between amount of penalty or storage as computed upon farm marketing excess before adjustment and as computed upon adjusted farm marketing excess, where a downward adjustment in amount of farm marketing excess was made, was repealed by such section 319(9).

1961—Par. (7). Pub. L. 87–128 authorized Secretary to prescribe regulations relating to the exemption of farms from marketing quotas on any crop of wheat, specified the exemption for the 1962 crop and eliminated marketing penalty provisions relating to nonallotment farms under the Soil Conservation and Domestic Allotment Act.

1954—Act Aug. 28, 1954, amended section generally to make it inapplicable to corn.

1953—Act July 14, 1953, omitted penalty for marketing corn in excess of quotas and changed penalty for marketing wheat in excess of quotas from 50 per centum of basic loan rate on commodity for cooperators to 45 per centum of parity price.

1949—Par. (9). Act Aug. 29, 1949, struck out ''cotton and'' after ''penalty for''.

1941—Par. (10). Act Dec. 26, 1941, ch. 626, substituted ''1941, 1942, 1943, 1944, 1945 and 1946 crops of the commodities cotton, corn, wheat, rice, tobacco and peanuts'' for ''1941 crop of the commodities cotton, corn, wheat, rice, or tobacco'' and ''for the marketing year beginning in the calendar year in which such crop is harvested'' for ''marketing year beginning in 1941.''

Par. (12). Act Dec. 26, 1941, ch. 636, added par. (12).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 319 of Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT

Amendment by act July 14, 1953, effective with respect to 1954 and subsequent crops of wheat, see section 5 of act July 14, 1953, set out as a note under section 1334 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to crops of wheat planted for harvest in calendar years 1996 through 2002, see section 7301(c) of this title.

Pub. L. 101–624, title III, § 304, Nov. 28, 1990, 104 Stat. 3400, provided that: ''The joint resolution entitled 'A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.''

Pub. L. 99–198, title III, § 311, Dec. 23, 1985, 99 Stat. 1395, provided that: ''The joint resolution entitled 'A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1990.''

Pub. L. 97–98, title III, § 304, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Public Law 74, Seventy-seventh Con-

gress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1982 through 1985.''

Pub. L. 95–113, title IV, § 406, Sept. 29, 1977, 91 Stat. 927, provided that: ''Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981.''

Pub. L. 91–524, title IV, § 406, Nov. 30, 1970, 84 Stat. 1367, as amended by Pub. L. 93–86, § 1(13), Aug. 10, 1973, 87 Stat. 229, provided that: ''Public Law 74, Seventy-seventh Congress (68 Stat. 905) [this section], shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971 through 1977.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1335, 7301 of this title.

SUBPART IV—MARKETING QUOTAS—COTTON

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1341. Legislative findings

American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.

Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.

The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nationwide and foreign markets, cannot maintain normal carry-overs of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this subpart affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

(Feb. 16, 1938, ch. 30, title III, § 341, 52 Stat. 55.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

1947 MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Joint Res. July 24, 1946, ch. 616, 60 Stat. 662, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of fats and oils and protein feeds.

§ 1342. National marketing quota; proclamation; amount; date of proclamation

Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: *Provided*, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustment in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security; but the Secretary, in making such adjustments, may not reduce the national marketing quota for any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. Notwithstanding the foregoing provisions of this section, the national marketing quota for cotton for 1957 and 1958 shall be not less than the number of bales required to pro-

vide a national acreage allotment for 1957 and 1958 equal to the national acreage allotment for 1956: *Provided*, That if the acreage allotment for any State for 1957 or 1958 is less than its allotment for the preceding year by more than 1 per centum, such State allotment shall be increased so that the reduction shall not exceed 1 per centum per annum, and the acreage required for such increase shall be in addition to the national acreage allotment for such year. Additional acreage apportioned to a State for 1957 or 1958 under the foregoing proviso shall not be taken into account in establishing future State allotments. Notwithstanding any other provision of this chapter, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.

(Feb. 16, 1938, ch. 30, title III, §342, 52 Stat. 56; Aug. 29, 1949, ch. 518, §1, 63 Stat. 670; May 28, 1956, ch. 327, title III, §302, 70 Stat. 203; Pub. L. 85–835, title I, §103(1), (2), Aug. 28, 1958, 72 Stat. 989, 990.)

AMENDMENTS

1958—Pub. L. 85–835, §103(1), substituted proviso prescribing, beginning with the 1961 crop, a minimum national marketing quota for cotton equal to estimated domestic consumption and exports less imports subject to adjustment assuring maintenance of adequate but not excessive stocks, the adjustment not to reduce the national marketing quota for any year below the larger of (1) estimated domestic consumption and exports less one million bales or (2) ten million bales, for provisions prescribing for a national marketing quota not less than the smaller of ten million bales or one million bales less than estimated domestic consumption plus exports and providing for 1950 a national marketing quota based on a twenty-one million national acreage allotment.

Pub. L. 85–835, §103(2), provided for a national marketing quota for upland cotton for 1959 and subsequent years based on a sixteen million national acreage allotment.

1956—Act May 28, 1956, provided that national marketing quota for cotton for 1957 and 1958 shall not be less than the number of bales required to provide a national acreage allotment for 1957 and 1958 equal to national acreage allotment for 1956.

1949—Act Aug. 29, 1949, amended section generally to set up a national marketing quota and to provide for amount and proclamation of such quota.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Pub. L. 101–624, title V, §502, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1991 through 1995 crops of upland cotton.''

Pub. L. 99–198, title V, §502, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) [7 U.S.C. 1342, 1343, 1344, 1345, 1346, and 1377] shall not be applicable to any of the 1986 through 1990 crops of upland cotton.''

Pub. L. 98–88, §3, Aug. 26, 1983, 97 Stat. 494, provided that: ''Sections 342, 343, 344, 344a, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1344b, 1345, 1346, and 1377 of this title], shall not be applicable to the 1984 and subsequent crops of extra long staple cotton.''

Pub. L. 97–98, title V, §501, Dec. 22, 1981, 95 Stat. 1234, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title] shall not be applicable to upland cotton of the 1982 through 1985 crops.''

Pub. L. 95–113, title VI, §601, Sept. 29, 1977, 91 Stat. 933, provided that: ''Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title], shall not be applicable to upland cotton of the 1978 through 1981 crops.''

Pub. L. 91–524, title VI, §601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, §1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section shall not be applicable to upland cotton of 1971 through 1977 crops.

PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON

Pub. L. 101–624, title V, §505, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop.''

PRELIMINARY ALLOTMENTS FOR 1991 CROP OF UPLAND COTTON

Pub. L. 99–198, title V, §506, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1991 crop.''

PRELIMINARY ALLOTMENTS FOR 1986 CROP OF UPLAND COTTON

Pub. L. 97–98, title V, §506, Dec. 22, 1981, 95 Stat. 1241, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1986 crop.''

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

Pub. L. 95–113, title VI, §606, Sept. 29, 1977, 91 Stat. 940, provided that: ''Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1343, 1344 of this title.

§ 1342a. National cotton production goal

The Secretary shall, not later than November 15, of the calendar years 1970 through 1976 proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for

the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

(Feb. 16, 1938, ch. 30, title III, § 342a, as added Pub. L. 91–524, title VI, § 601(2), Nov. 30, 1970, 84 Stat. 1371; amended Pub. L. 93–86, § 1(19)(B), Aug. 10, 1973, 87 Stat. 233.)

AMENDMENTS

1973—Pub. L. 93–86 substituted ''1970 through 1976'' for ''1970, 1971, and 1972''.

EFFECTIVE DATE

Section 601 of Pub. L. 91–524 provided that this section is effective beginning with the 1971 crop of upland cotton.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§ 1343. Referendum

Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 1342 of this title, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(Feb. 16, 1938, ch. 30, title III, § 343, 52 Stat. 56; Apr. 7, 1938, ch. 107, § 8, 52 Stat. 203; July 26, 1939, ch. 376, 53 Stat. 1125; July 3, 1948, ch. 827, title II, § 207(c), 62 Stat. 1257; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058; Pub. L. 97–77, § 2(c), Nov. 13, 1981, 95 Stat. 1069; Pub. L. 99–157, § 4, Nov. 15, 1985, 99 Stat. 818.)

CODIFICATION

Provision that if marketing quotas were proclaimed for the 1950 crop, farmers eligible to vote in the referendum with respect to such crop were to be those farmers who had produced cotton in the 1948 calendar year was omitted from the Code.

AMENDMENTS

1985—Pub. L. 99–157 amended last sentence generally, substituting ''August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress'' for ''August 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) January 1, 1982''.

1981—Pub. L. 97–77 inserted provision that the referendum with respect to the national marketing quota for cotton for the marketing year beginning Aug. 1, 1982, be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) Jan. 1, 1982.

1949—Act Aug. 29, 1949, amended section generally by providing for a secret referendum. Former provisions of this section are now covered by section 1342 of this title.

Subsec. (a). Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

1948—Subsec. (a). Act July 3, 1948, required Secretary to take imports into consideration in determining acreage allotments for purposes of marketing quotas.

1939—Subsec. (b). Act July 26, 1939, inserted last sentence.

1938—Subsec. (c). Act Apr. 7, 1938, substituted ''for any year'' for ''for 1938 and 1939''.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

§ 1344. Apportionment of national acreage allotments

(a) Basis

Whenever a national marketing quota is proclaimed under section 1342 of this title, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be

produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.

(b) Apportionment among States for year 1953 and subsequent years; adjustment; national acreage reserve

The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions during such period: *Provided*, That there is established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last proviso in subsection (e) of this section shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1) of this section.

(c) Apportionment among States for years 1950 and 1951; computation and adjustment

The national acreage allotments for cotton for the years 1950 and 1951 shall be apportioned to the States on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres, computed and adjusted as follows:

(1) The average of the planted acreages (including acreage regarded as planted under the provisions of Public Law 12, Seventy-ninth Congress) in the States for the years 1945, 1946, 1947, and 1948 shall constitute the national base; except that in the case of any State having a 1948 planted cotton acreage of over one million acres and less than 50 per centum of the 1943 allotment, the average of the acreage planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) for the years 1944, 1945, 1946, 1947, and 1948 shall constitute the base for such State and shall be included in computing the national base; to this is to be added (A) the estimated additional acreage for each State required for small-farm allotments under subsection (f)(1) of this section; (B) the acreage required as a result of the State adjustment provisions of paragraph (2) of this subsection; (C) the additional acreage required to determine a total national allotment base of twenty-two million five hundred thousand acres, which additional acreage shall be distributed on a proportionate basis among States receiving no adjustment under paragraph (2) of this subsection.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the acreage allotment base for 1950 and 1951 for any State (on the basis of a national acreage allotment base of twenty-two million five hundred thousand acres) shall not be less than the larger of (1) 95 per centum of the average acreage actually planted to cotton in the State during the years 1947 and 1948, or (2) 85 per centum of the acreage planted to cotton in the State in 1948.

(3) If the national acreage allotment for 1950 or 1951 is more or less than twenty-two million five hundred thousand acres, horizontal adjustments shall be made percentagewise by States so as to reflect the ratio of the national acreage allotment for 1950 and 1951 to twenty-two million five hundred thousand acres.

(d) Apportionment for year 1952; adjustment

The national acreage allotment for cotton for 1952 shall be apportioned to States on the basis of the acreage planted to cotton (including the acreage regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the years 1946, 1947, 1948, and 1950, with adjustments for abnormal weather conditions during such period.

(e) Apportionment among counties; reservation of acreage; additional acreage for establishing minimum farm allotments

The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: *Provided*, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: *Provided further*, That if the additional acreage allocated to a State under the proviso in subsection (b) of this

section is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this section, the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).

(f) Apportionment among farms

The county acreage allotment, less not to exceed the percentage provided for in paragraph 3 of this subsection, shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:

(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.

(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative area) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugarcane for sugar; sugar beets for sugar; wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice for feeding to livestock for market; or lands determined to be devoted primarily to orchards or vineyards, and nonirrigated lands in irrigated areas: *Provided, however*, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) of this subsection in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment (15 per centum if the State's 1948 planted cotton acreage was in excess of one million acres and less than half its 1943 allotment) which, in addition to the acreage made available under the proviso in subsection (e) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: *Provided*, That not less than 20 per centum of the acreage reserved under this subsection shall, to the extent required, be allotted, upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under paragraph (1)(B) of this subsection), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) Any part of the acreage allotted for 1950 to individual farms in any county under the provisions of this section which will not be planted to cotton and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments to the extent necessary to provide such farms with the allotments authorized under paragraph (5) of this subsection. If any acreage remains after providing such allotments, it may be apportioned in amounts determined by the county committee to be fair and reasonable to other farms in the same county receiving allotments which the county committee determines are inadequate and not representative in view of their past production of cotton and to new farms in such county. No allotment shall be made, or increased, by reason of this paragraph to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. Any transfer of allotment under this paragraph shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except in accordance with paragraph (1)(B) and the proviso in paragraph (2) of this subsection: *Provided*, That any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm and may be reapportioned in the manner set forth above. In any subsequent year, unless hereafter otherwise provided by law, acreage surrendered under this paragraph and reallocated pursuant to applications filed in accordance with the provisions of paragraph (5) of this section shall be

credited to the State and county in determining acreage allotments.

(5) Notwithstanding any other provision of law and without reducing any farm acreage allotment determined pursuant to the foregoing provisions of this subsection, each farm acreage allotment for 1950 shall be increased by such amount as may be necessary to provide an allotment equal to the larger of 65 per centum of the average acreage planted to cotton (or regarded as planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) on the farm in 1946, 1947, and 1948, or 45 per centum of the highest acreage planted to cotton (or regarded as planted to cotton under Public Law 12, Seventy-ninth Congress) on the farm in any one of such three years; but no such allotment shall be increased by reason of this provision to an acreage in excess of 40 per centum of the acreage on the farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary. An increase in any 1950 farm acreage allotment shall be made pursuant to this paragraph only upon application in writing by the owner or operator of the farm within such reasonable period of time (in no event less than fifteen days) as may be prescribed by the Secretary. The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota. The additional acreage authorized by this paragraph shall not be taken into account in establishing future State, county, and farm acreage allotments.

(6) Notwithstanding the provisions of paragraph (2) of the subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three-year period: *Provided*, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: *Provided further*, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3) of this subsection.

(7)(A) In the event that any farm acreage allotment is less than that prescribed by paragraph (1) of this subsection, such acreage allotment shall be increased to the acreage prescribed by said paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.

(B) Notwithstanding any other provision of law—

(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) of this subsection exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) of this subsection shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8) of this subsection; and acreage shall be allotted under paragraph (2), (6), or (8) of this subsection to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8) of this subsection,

(ii) the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and

(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.

(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years imme-

diately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: *Provided*, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], and the release and reapportionment provisions of subsection (m) (2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

(g) Law and conditions governing establishment of acreage allotments and yields

Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with section 1344a of this title.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996

(i) Excess planting; old and new farm allotment

Notwithstanding any other provision of this chapter, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this chapter, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three-year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: *Provided*, *however*, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

(j) Availability of records for inspection

Notwithstanding any other provision of this chapter, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

(k) Minimum allotments to States

Notwithstanding any other provision of this section except subsection (g)(1) of this section, there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.

(*l*) Administration of law governing war crops

Notwithstanding any other provision of law, the Secretary, in administering the provisions of Public Law 12, Seventy-ninth Congress, as it relates to war crops, shall carry out the provisions of such Act in the following manner:

(i) A survey shall be conducted of every farm which had a 1942 cotton acreage allotment, and of such other farms as the Secretary considers necessary in the administration of Public Law 12. This survey shall obtain for each farm the most accurate information possible on (a) the total acreage in cultivation, and (b) the acreage of individual crops planted on each farm in the years 1941, 1945, 1946, and 1947.

(ii) An eligible farm for war-crop credit shall be a farm on which (a) the cotton acreage on the farm in 1945, 1946, or 1947, was reduced below the cotton acreage planted on the farm in 1941; (b) the war-crop acreage on the farm in 1945, 1946, or 1947, was increased above the war-crop acreage on the farm in 1941; and (c) the farm had a cotton acreage allotment in 1942.

(iii) A farm shall be regarded as having planted cotton (in addition to the actual acreage planted to cotton) to the extent of the lesser of (a) the reduction in cotton acreage for each of the years 1945, 1946, and 1947, below the acreage planted to cotton in 1941, or (b) the increase in war crops for each of the years 1945, 1946, and 1947, above that planted to such war crops in 1941. However, the county com-

mittee may be given the discretion to adjust such war-crop credit when the county committee determines that the reduction in cotton acreage was not related to an increase in war crops, but the adjustment shall be made only after consultation with the producer.

(iv) The Secretary, using the best information obtainable, and working with and through the State and county committees, shall use whatever means necessary to make an accurate determination of the credits due each individual farm, under Public Law 12.

(v) The total of the war-crop credits due the individual farms in each county shall be credited to the county and the total of the war-crop credits due all of the counties in a State shall be credited to the State.

(vi) The acreage credited to States, counties, and farms for the years 1945, 1946, or 1947, because of war crops, shall be taken into full account in the determination and distribution of cotton acreage allotments on a national, State, county, and farm basis.

(m) Acreage allotments, 1954; increases; apportionments; limitations; unallotted farm acreage; reapportionment of surrendered acreage; extra long staple cotton; reserve acreage

Notwithstanding any other provision of law—

(1) The national acreage allotment established under subsection (a) of this section for the 1954 crop of cotton shall be increased to twenty-one million acres and apportioned to the States in the same manner in which the national acreage allotment heretofore established for 1954 was apportioned to the States. In addition to such increased national acreage allotment, and in order to provide equitable adjustments in 1954 farm acreage allotments, (A) three hundred and fifteen thousand additional acres shall be prorated as follows: one-half to the States of Arizona, California, and New Mexico, and one-half to the other States (excluding those which receive a minimum allotment under subsection (k) of this section), the proration of each half being made to the States participating therein on the basis of their respective shares of the increased national acreage allotment, and (B) such additional acreage shall be added as may be required to provide each State a total allotment under subsection (b) of this section and the provisions of this paragraph of not less than 66 per centum of the acreage planted to cotton in the State in 1952. The additional acreage made available to States under clause (B) of the preceding sentence shall not be taken into account in establishing future State acreage allotments. The additional acreage made available to States under the provisions of this paragraph shall be apportioned to counties on the basis of their respective shares of the State acreage allotment heretofore apportioned pursuant to subsection (e) of this section, and the additional acreage shall be apportioned to farms pursuant to the provisions of subsection (f) of this section: *Provided*, That, if the county committee determines that such action will result in a more equitable distribution of the additional county allotment among farms in the county, the additional acreage shall be apportioned by the county committee to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary. If the additional acreage is insufficient to meet the total of the farm increases so computed, such farm increases shall be reduced pro rata to the additional acreage available to the county; if the additional acreage available to the county is in excess of the total of the farm increases so computed the acreage remaining after making such increases shall be allotted to farms pursuant to the provisions of subsection (f)(3) of this section. Notwithstanding the foregoing provisions of this paragraph, if the State committee determines that such action will result in a more equitable distribution of the additional acreage made available to the State under this paragraph it shall apportion such additional allotment directly to farms so as to provide each farm with an allotment equal to the larger of 65 per centum of the average acreage planted to cotton on the farm in 1951, 1952, and 1953 (as determined by the county committee in establishing allotments under subsection (f) of this section) or 40 per centum of the highest acreage planted to cotton on the farm in any one of such three years as so determined: *Provided*, That the State committee in each State shall limit such increase based on the system of farming, soil, crop-rotation practices, and other physical factors affecting production in such State, to an acreage not in excess of 50 per centum of the cropland on the farm, as determined under regulations heretofore prescribed by the Secretary: *Provided*, That if the State total of the farm increases so computed exceeds the additional acreage made available to the State under this paragraph, such farm increases shall be reduced pro rata to the additional acreage available to the State. Any acreage unallotted to farms because of the limitations contained in the preceding sentence shall be apportioned by the State committee to counties on the basis of past acreages planted to cotton and shall be used by county committees for adjustments in farm allotments on the basis of one or more of the following: The past acreage of cotton on the farm, the percentage of cropland heretofore determined under subsection (f)(2) of this section, and the factors enumerated in subsection (f)(3) of this section. Before apportioning such unallotted acreage to counties as provided in the foregoing sentence, the State committee may, if it determines that such action is required to provide equitable allot-

ments within the State, apportion such unallotted acreage directly to farms to the extent required to provide each farm with the minimum allotment described in subsection (f)(1) of this section. Any part of the county allotment heretofore established for the 1954 crop which was not apportioned to farms because of the limitation contained in the proviso in subsection (f)(2) of this section shall be available to the State committee and used as provided above for apportionment of unallotted acreage to farms. The provisions of this subsection, except paragraph (2) of this subsection, shall not apply to extra long staple cotton covered by section 1347 of this title.

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: *Provided*, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 1347 of this title.

(3) Notwithstanding any other provision of this section or other provision of law, the acreage allotted to any State for 1954 under the provisions of subsection (b) of this section and the provisions of paragraph (1) of this subsection which is less than one hundred thousand acres but more than thirty thousand acres shall be increased by an acreage equal to 15 per centum of the acreage allotted to it prior to January 30, 1954. Such acreage shall be used by the State committee as a reserve to make equitable adjustments in 1954 farm acreage allotments on the basis of land, labor, equipment available for the production of cotton, crop-rotation practices, past acreages of cotton, soil, and other physical factors affecting the production of cotton.

(n) Transfer of farm cotton acreage allotments in case of natural disasters; eligibility for allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title: *Provided*, That, notwithstanding the provisions of subsection (m)(2) of this section, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, § 344, 52 Stat. 57; Apr. 7, 1938, ch. 107, § 9, 52 Stat. 203; May 31, 1938, ch. 292, § 1, 52 Stat. 586; Mar. 13, 1939, ch. 9, 53 Stat. 512; June 22, 1939, ch. 238, §§ 1–3, 53 Stat. 853; Feb. 6, 1942, ch. 44, § 3, 56 Stat. 52; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670; Oct. 31, 1949, ch. 792, title IV, § 419, 63 Stat. 1062; Mar. 31, 1950, ch. 81, § 1, 64 Stat. 40; Jan. 30, 1954, ch. 2, §§ 1–3, 68 Stat. 4–6; Aug. 28, 1954, ch. 1041, title III, § 310, 68 Stat. 904; May 28, 1956, ch. 327, title III, § 303(a)–(d), 70 Stat. 203; Pub. L. 85–456, June 11, 1958, 72 Stat. 186; Pub. L. 85–835, title I, §§ 103(4), 104(a)–(d), 105–107, Aug. 28, 1958, 72 Stat. 990–992; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 86–172, § 2, Aug. 18, 1959, 73 Stat. 393; Pub. L. 87–37, May 20, 1961, 75 Stat. 84; Pub. L. 87–446, Apr. 27, 1962, 76 Stat. 64; Pub. L. 88–12, Apr. 26, 1963, 77 Stat. 13; Pub. L. 88–297, title I, § 106(3), (8), Apr. 11, 1964, 78 Stat. 177; Pub. L. 104–127, title III, § 336(b)(2)(A), Apr. 4, 1996, 110 Stat. 1006.)

REFERENCES IN TEXT

Public Law 12, Seventy-ninth Congress, referred to in subsecs. (b), (c), (d), (f), (*l*), is act Feb. 28, 1945, ch. 15, 59 Stat. 9, which related to Emergency Farm Acreage Allotments. See note below. For complete classification of this Act to the Code, see Tables.

The Soil Bank Act, referred to in subsec. (f)(8), is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§ 1801 et seq.) of this title and was repealed by Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in subsec. (f)(8), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

Section 1347 of this title, referred to in subsec. (m)(1), (2), was repealed by Pub. L. 98–88, §2, Aug. 26, 1983, 97 Stat. 494.

AMENDMENTS

1996—Subsec. (f)(8). Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Great Plains program''.

1964—Subsec. (f)(8). Pub. L. 88–297, §106(3), inserted ''or, in the case of a farm which qualified for price support on the crop produced in such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for such year, whichever is smaller'' after ''75 per centum of the farm allotment for such year'' to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

Subsec. (n). Pub. L. 88–297, §106(8), extended the transfer provisions to natural disasters occurring in any year instead of only during 1963.

1963—Subsec. (n). Pub. L. 88–12 substituted ''portion of the 1963'' for ''substantial portion of the 1962'', and inserted proviso ''that notwithstanding subsection (m)(2) of this section, transfers under this subsection for 1963 makes the farm from which the allotment was transferred eligible for an allotment as having cotton during the three-year period''.

1962—Subsec. (n). Pub. L. 87–466 substituted ''1962'' for ''1961''.

1961—Subsec. (n). Pub. L. 87–37 substituted ''1961'' for ''1958'', and ''Any farm allotment transferred under this paragraph shall be deemed to be released acreage for purposes of acreage history credits under subsections (f)(8) and (m)(2) of this section, and section 1377 of this title'' for ''Acreage history credits for transferred acreage shall be governed by the provisions of subsection (m)(2) of this section pertaining to the release and reapportionment of acreage allotments. No transfer hereunder shall be made to a farm covered by a 1958 acreage reserve contract for cotton.''

1959—Subsec. (f)(8). Pub. L. 86–172, §2(1), inserted proviso for determination of base beginning with allotments established for the 1961 crop of cotton, and inserted provisions prohibiting the adjustment of the base for a farm where the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond control of producers on the farm, and requiring the Secretary to establish limitations to prevent allocations of allotment to farms not affected by proviso.

Subsec. (g)(3). Pub. L. 86–172, §2(2), repealed par. (3) which provided that for any farm on which the acreage planted to cotton in any year was less than the farm acreage allotment for such year by not more than the larger of 10 per centum of the allotment or one acre, an acreage equal to the farm acreage allotment should be deemed to be the acreage planted to cotton on such farm, and the additional acreage added to the cotton acreage history for the farm should be added to the cotton acreage history for the county and State.

Subsec. (i). Pub. L. 86–172, §2(3), inserted provisions respecting eligibility for old and new farm allotment.

Subsec. (m)(2). Pub. L. 86–172, §2(4), struck out ''; but no such acreage shall be surrendered to the State committee so long as any farmer receiving a cotton acreage allotment in such county desires additional cotton acreage'' after ''subsection (e) of this section'' and substituted ''Any allotment released under this provision shall be regarded for the purpose of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred'' for ''Any allotment transferred under this provision shall be regarded for the purposes of subsection (f) of this section as having been planted on the farm from which transferred rather than on the farm to which transferred'' and ''Acreage released under this paragraph shall be credited to the State in determining future allotments'' for ''Acreage surrendered, reapportioned under this paragraph, and planted shall be credited to the State and county in determining future acreage allotments''.

1958—Subsec. (a). Pub. L. 85–835, §103(4), substituted ''four'' for ''five'' in second sentence.

Subsec. (b). Pub. L. 85–835, §104(a), established a national acreage reserve of 310,000 acres in addition to the national acreage allotment, provided that apportionments of additional acreage shall not be taken into account in establishing future State allotments, and inserted provisions for determination of needs for additional acreage.

Subsec. (e). Pub. L. 85–835, §104(b), inserted proviso relating to additional acreage allocated to a State.

Subsec. (f)(1). Pub. L. 85–835, §104(c), substituted ''(A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop'' for ''(A) four acres; or (B) the highest number of acres planted to cotton in any year of such three-year period''.

Subsec. (f)(6). Pub. L. 85–835, §104(d), substituted ''provisions of paragraph (2) of this subsection'' for ''foregoing provisions of this subsection except paragraph (3) of this subsection'', ''remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted'' for ''county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned'', and inserted provisions requiring the allotments to be a prescribed percentage of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined.

Subsec. (f)(7). Pub. L. 85–835, §105, added par. (7).

Subsec. (f)(8). Pub. L. 85–835, §106, added par. (8).

Subsec. (h). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85–835, §501, repealed subsec. (h) which related to apportionment by county committee and reallocation of flood lands.

Subsec. (m)(2). Pub. L. 85–835, §107, provided that any cotton acreage which is surrendered shall be retained in the county and not surrendered to the State committee so long as any farmer in the county desires additional cotton acreage.

Subsec. (n). Pub. L. 85–456 added subsec. (n).

1956—Subsec. (b). Act May 28, 1956, §303(a), temporarily inserted ''*Provided*, That there is hereby established a national acreage reserve consisting of one hundred thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, as determined by the Secretary without regard to State and county acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres), and the additional acreage so apportioned to the State shall be apportioned to the counties on the same basis and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing proviso and under the last proviso in subsection (e) of this section shall be determined as though allotments were first computed without regard to subsection (f)(1) of this section.'' See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (e). Act May 28, 1956, §303(b), temporarily inserted ''*Provided further*, That if the additional acreage allocated to a State under the proviso in subsection (b) of this section is less than the requirements as determined by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1) of this

section, the acreage reserved by the State committee under this subsection shall not be less than the smaller of (1) the remaining acreage so determined to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which the State committee is required to reserve under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1) of this section, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).'' See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(1). Act May 28, 1956, §303(c), temporarily inserted ''Insofar as such acreage is available,'', substituted ''four acres'' for ''five acres'', and struck out ''(or regarded as planted under Public Law 12, Seventy-ninth Congress)'' after ''planted''. See Effective and Termination Dates of 1956 Amendment note below.

Subsec. (f)(6). Act May 28, 1956, §303(d), temporarily substituted ''provisions of paragraph (2) of this subsection'' for ''foregoing provisions of this subsection except paragraph (3) of this subsection'' and ''the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined,'' for ''the county acreage allotment, less the acreage reserved under paragraph (3) of this subsection, shall be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the acreage planted to cotton on the farm during such three-year period,'' and struck out ''(A) apportion such county allotment by first establishing minimum allotments in accordance with paragraph (1) of this subsection and by allotting the remaining acreage to farms other than those receiving an allotment under paragraph (1)(B) in accordance with the foregoing provisions of this paragraph and (B)'' after ''committee may in its discretion''. See Effective and Termination Dates of 1956 Amendment note below.

1954—Subsec. (e). Act Jan. 30, 1954, §3(a), inserted at end ''or to correct inequities in farm allotments and to prevent hardship''.

Subsec. (f)(3). Act Jan. 30, 1954, §3(b), inserted '', or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship''.

Subsec. (f)(6). Act Aug. 28, 1954, §310(a), inserted proviso to first sentence.

Act Jan. 30, 1954, §3(c), added par. (6).

Subsec. (h). Act Jan. 30, 1954, §2, inserted sentence relating to reallocation of flood lands.

Subsec. (m). Act Jan. 30, 1954, §1, added subsec. (m).

Subsec. (m)(2). Act Aug. 28, 1954, §310(b), struck out ''1954 or 1955'' wherever appearing.

1950—Subsec. (f)(4), (5). Act Mar. 31, 1950, added pars. (4) and (5).

1949—Subsec. (f)(3). Act Oct. 31, 1949, increased reserve percentage of county allotment from 10 to 15 in first sentence and decreased percentage of acreage reserved from 30 to 20 in proviso.

Act Aug. 29, 1949, amended section generally to provide for a national acreage base to be used in apportioning to the States the actual national acreage allotment, and to make the national acreage allotment base and the outlined division among the States such as will complement the minimum national marketing quota provisions and thus permit a gradual reduction of any excessive carryover.

1942—Subsec. (j). Act Feb. 6, 1942, added subsec. (j).

1939—Subsec. (e)(1). Act June 22, 1939, §1, substituted ''For 1938, 1939, and any subsequent year'' for ''For 1938 and 1939''.

Subsec. (g). Act June 22, 1939, §2, substituted ''For 1938, 1939, and each subsequent year'' for ''For each of the years 1938 and 1939''.

Subsec. (h). Act June 22, 1939, §3, substituted ''for 1938, 1939, and each subsequent year'' for ''For each of the years 1938 and 1939''.

Act Mar. 13, 1939, substituted ''for any crop year'' for ''for the crop year 1938'' and struck out ''for 1938'' from first proviso.

1938—Subsec. (b). Act Apr. 7, 1938, §9(a), amended second sentence.

Subsec. (d)(3). Act Apr. 7, 1938, §9(b), inserted ''sugarcane for sugar,'' after ''excluding from such acreage the acres devoted to the production of'' in second sentence, and ''wheat or rice'' after ''rice for market or,''.

Subsec. (e). Act Apr. 7, 1938, §9(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Act Apr. 7, 1938, §9(d), added subsec. (g).

Subsec. (h). Act May 31, 1938, among other changes, inserted ''and for the crop year 1938 any part of the acreage allotted to individual farms in the State which it is determined, in accordance with regulations prescribed by the Secretary, will not be planted to cotton in the year for which the allotment is made, shall be deducted from the allotments to such farms and may be apportioned, in amounts determined by the Secretary to be fair and reasonable, preference being given to farms in the same county receiving allotments which the Secretary determines are inadequate and not representative in view of the past production of cotton and the acreage diverted from the production of cotton on such farms under the agricultural conservation program in the immediately preceding year: *Provided*, That any such transfer of allotment for 1938 shall not affect apportionment for any subsequent year'' after ''Secretary''.

Act Apr. 7, 1938, §9(d), added subsec. (h).

Subsec. (i). Act Apr. 7, 1938, §9(d), added subsec. (i).

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(e) of Pub. L. 85–835 provided that: ''The amendments made by this section [amending this section] shall be effective beginning with the 1959 crop.''

Section 105 of Pub. L. 85–835 provided that the amendment made by that section is effective beginning with 1959 crop.

EFFECTIVE AND TERMINATION DATES OF 1956 AMENDMENT

Section 303(e) of act May 28, 1956, provided that: ''The amendments made by this section [amending this section] shall be effective only with respect to 1957 and 1958 crops. For the 1956 crop, an acreage in each State equal to the acreage allotted in such State which the Secretary determines will not be planted, placed in the acreage reserve or conservation reserve, or considered as planted under section 377 of the Agricultural Adjustment Act of 1938, as amended [section 1377 of this title], may be apportioned by the Secretary among farms in such State having allotments of less than the smaller of the following: (1) four acres, or (2) the highest number of acres planted to cotton in any of the years 1953, 1954, and 1955.''

EFFECTIVE DATE OF 1954 AMENDMENT

Section 3 of act Jan. 30, 1954, provided that the amendments made by that section are effective beginning with 1955 crop. The amendments made by sections 1 and 2 of such act took effect on the date of approval of such act, Jan. 30, 1954.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for

additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941, and which emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451.

COUNTY COMMITTEE ALLOTMENT

Act Mar. 13, 1939, in addition to amending former subsec. (h), contained the following: ''*Provided*, That hereafter such allotment of acreage in counties shall be to such farms as the County Committee of such county may designate. In making such designation the County Committee shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm in such year.''

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349, 1350, 1377, 1428, 1444 of this title.

§ 1344a. Exclusion of 1949 acreage in computation of future allotments

Notwithstanding the provisions of subchapter III of this chapter, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

(Mar. 29, 1949, ch. 38, 63 Stat. 17.)

CODIFICATION

Section was not enacted as part of the Agriculture Adjustment Act of 1938 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1344 of this title.

§ 1344b. Sale, lease, or transfer of cotton acreage allotments

(a) Authority for calendar years 1966 through 1970; transfer periods

Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him; *Provided*, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.

(b) Requisite conditions for transfer of acreage allotments

Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) no cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee

only during the period beginning June 1 and ending December 31.

(c) Extent of estate transferred

The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) Period of ineligibility of land for new allotment

The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) Transfer of allotments established under minimum allotment provisions

The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.

(f) Rules and regulations

The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

(g) Adjustment upon transfer of land covered by conservation reserve contract

If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.

(h) Exchange of cotton acreage allotments for rice acreage allotments

The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

(i) Applicability to cotton restricted to upland cotton

The provisions of this section relating to cotton shall apply only to upland cotton.

(Feb. 16, 1938, ch. 30, title III, § 344a, as added Pub. L. 89–321, title IV, § 405, Nov. 3, 1965, 79 Stat. 1197; amended Pub. L. 90–559, § 1(2), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title VI, § 601(3)(1), Nov. 30, 1970, 84 Stat. 1372; Pub. L. 93–86, § 1(19)(C), (D), Aug. 10, 1973, 87 Stat. 233.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86 struck out ''for which a farm base acreage allotment is established (other than pursuant to section 1350(e)(1)(A) of this title)'' after ''to any other owner or operator of a farm'' and substituted ''1978'' for ''1974''.

1970—Subsec. (a). Pub. L. 91–524 temporarily directed Secretary to permit certain types of transfers of all or part of farm base acreage allotments between farms in same State. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (a). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(C) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 601(3) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section 601(3)(2) of Pub. L. 91–524, as amended by section 1(19)(A) of Pub. L. 93–86, provided that: ''Subdivisions (ii), (iv), (v), and (vi) of subsection (b) [of this section], the last sentence of subsection (b) [of this section] and subsections (e) and (h) [of this section] shall not be applicable to the 1971 through 1977 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended [16 U.S.C. 590h(b)], for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county.''

§ 1345. Farm marketing quotas; farm marketing excess

The farm marketing quota for any crop of cotton shall be the actual production of the acreage

planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: *Provided*, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.

(Feb. 16, 1938, ch. 30, title III, § 345, 52 Stat. 58; July 3, 1948, ch. 827, title II, § 205, 62 Stat. 1256; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 674; Oct. 31, 1949, ch. 792, title IV, § 415(e), 63 Stat. 1058.)

AMENDMENTS

1949—Act Oct. 31, 1949, repealed amendatory provisions of act July 3, 1948.

Act Aug. 29, 1949, stated what the farm marketing quota shall be and what the farm marketing excess shall be.

1948—Act July 3, 1948, changed conditions which must be determined by Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

PROCLAMATIONS AFFIRMED

Effect of act Apr. 7, 1938, ch. 107, 52 Stat. 202, see note set out under section 1312 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1346, 1349 of this title.

§ 1346. Penalties

(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton, the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 1345 of this title, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producer shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e) Notwithstanding any other provision of this chapter, for the 1966 through 1970 crops of upland cotton, if the farm operator elects to forgo price support for any such crop of cotton by applying to the county committee of the county in which the farm is located for additional acreage under this subsection, he may plant an acreage not in excess of the farm acreage allotment established under section 1344 of this title plus the acreage apportioned to the farm from the national export market acreage reserve, and all cotton of such crop produced on the farm may be marketed for export free of any penalty under this section: *Provided*, That the foregoing shall be applicable only to farms which had upland cotton allotments for 1965 and are operated by the same operator as in 1965 or by his heir.

For the 1966 crop the national export market acreage reserve shall be 250,000 acres. For each subsequent crop—

If the carryover at the end of the marketing year for the preceding crop is estimated to be less than the carryover at the beginning of such marketing year by—	The national export market acreage reserve shall be—
At least 1,000,000 bales	250,000 acres.
At least 750,000 bales, but not as much as 1,000,000 bales.	187,500 acres.
At least 500,000 bales, but not as much as 750,000 bales.	125,000 acres.
At least 250,000 bales, but not as much as 500,000 bales.	62,500 acres.
Less than 250,000 bales	None.

The national export market acreage reserve shall be apportioned to farms by the Secretary on the basis of the applications therefor. No application shall be accepted for a greater acreage than is available on the farm for the production of upland cotton. After apportionments are thus made to farms, the Secretary shall provide farm operators a reasonable time in which to cancel their applications (and agreements to forgo price support) and surrender to the Secretary through the county committee the export mar-

ket acreage assigned to the farm. Acreage so surrendered shall be available for reassignment by the Secretary to other eligible farms to which export market acreage has been apportioned on the basis of the applications remaining outstanding. The operator of any farm who elects to forgo price support for any such crop under this subsection shall not be eligible for price support on cotton of such crop produced on any other farm in which he has a controlling or substantial interest as determined by the Secretary. Acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall not be taken into account in establishing future State, county, and farm acreage allotments. The operator of any farm to which export market acreage is apportioned, or the purchasers of cotton produced on such farm, shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary, providing for the exportation, without benefit of any Government cotton export subsidy and within such time as the Secretary may specify, of all cotton produced on such farm for such year. The bond or other undertaking given pursuant to this subsection shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cotton under subsection (a) of this section. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the sum of the farm acreage allotment established under section 1344 of this title and the acreage apportioned to the farm from the national export market acreage reserve, the acreage planted to cotton in excess of the farm acreage allotment established under section 1344 of this title shall be regarded as excess acreage for purposes of this section and section 1345 of this title. Amounts collected by the Secretary under this subsection shall be remitted to the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 346, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 674; Pub. L. 89–321, title IV, § 401(2), Nov. 3, 1965, 79 Stat. 1192; Pub. L. 90–559, § 1(2), Oct. 11, 1968, 82 Stat. 996.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1965—Subsec. (e). Pub. L. 89–321 added subsec. (e).

1949—Act Aug. 29, 1949, amended section generally. Former provisions of section were covered by section 1345 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10, 1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

REMOVAL OF MARKETING PENALTIES ON CERTAIN LONG STAPLE COTTON

Act Jan. 9, 1951, ch. 1215, 64 Stat. 1237, provided that the marketing penalty provided in this section, shall not be applied to long staple cotton of the 1950 crop ginned on saw type gins where such action was necessary to conserve the cotton because of frost or weather damage.

CROSS REFERENCES

Agreement for adjustment of acreage or production of basic agricultural commodities, see section 608 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1347. Repealed. Pub. L. 98–88, § 2, Aug. 26, 1983, 97 Stat. 494

Section, acts Feb. 16, 1938, ch. 30, title III, § 347, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 675; July 17, 1952, ch. 933, § 4, 66 Stat. 759; Aug. 28, 1958, Pub. L. 85–835, title I, § 103(3), 72 Stat. 990; Sept. 21, 1959, Pub. L. 86–341, title II, § 203, 73 Stat. 611; June 30, 1960, Pub. L. 86–566, 74 Stat. 295; Aug. 11, 1968, Pub. L. 90–475, §§ 4, 6, 82 Stat. 701, 702, set out a program for long staple cotton. See section 1444(h) of this title.

EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 98–88 provided that the repeal of this section is effective beginning with 1984 crop of extra long staple cotton.

§ 1348. Payments in kind to equalize cost of cotton to domestic and foreign users; rules and regulations; termination date; persons eligible; amount; terms and conditions; raw cotton in inventory

In order to maintain and expand domestic consumption of upland cotton produced in the United States and to prevent discrimination against the domestic users of such cotton, notwithstanding any other provision of law, the Commodity Credit Corporation, under such rules and regulations as the Secretary may prescribe, is authorized and directed for the period beginning with April 11, 1964 and ending July 31, 1966, to make payments through the issuance of payment-in-kind certificates to persons other than producers in such amounts and subject to such terms and conditions as the Secretary determines will eliminate inequities due to differences in the cost of raw cotton between domestic and foreign users of such cotton, includ-

ing such payments as may be necessary to make raw cotton in inventory on April 11, 1964 available for consumption at prices consistent with the purposes of this section: *Provided*, That for the period beginning August 1 of the marketing year for the first crop for which price support is made available under section 1444(b) of this title, and ending July 31, 1966, such payments shall be made in an amount which will make upland cotton produced in the United States available for domestic use at a price which is not in excess of the price at which such cotton is made available for export. The Secretary may extend the period for performance of obligations incurred in connection with payments made for the period ending July 31, 1966, or may make payments on raw cotton in inventory on July 31, 1966, at the rate in effect on such date. No payments shall be made hereunder with respect to 1966 crop cotton.

(Feb. 16, 1938, ch. 30, title III, § 348, as added Pub. L. 88–297, title I, § 101, Apr. 11, 1964, 78 Stat. 173; amended Pub. L. 89–321, title IV, § 401(1), Nov. 3, 1965, 79 Stat. 1192.)

PRIOR PROVISIONS

A prior section 1348, acts Feb. 16, 1938, ch. 30, title III, § 348, 52 Stat. 59; Aug. 29, 1949, ch. 518, § 1, 63 Stat. 675; Aug. 28, 1954, ch. 1041, title III, § 311(a), 68 Stat. 904, prohibited agricultural conservation program payments to any farmer who knowingly harvested any basic commodity in excess of his acreage allotment and was repealed by act May 23, 1955, ch. 45, 69 Stat. 65, effective with respect to 1955 and subsequent crops.

AMENDMENTS

1965—Pub. L. 89–321 authorized Secretary to extend period for performance of obligations incurred in connection with payments made for period ending July 31, 1966, or to make payments in raw cotton in inventory on July 31, 1966.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1385, 1444 of this title.

§ 1349. Export market acreage

(a) Supplementary allotments for 1964 and 1965; acreage limitation; apportionment among States and farms; "export market acreage" on any farm; farm acreage allotment for farms with export acreage; additional allotment; establishment of future allotments without regard to export acreage; exclusion of extra-long-staple cotton and farms receiving additional price support for 1964 and 1965

The acreage allotment established under the provisions of section 1344 of this title for each farm for the 1964 crop may be supplemented by the Secretary by an acreage equal to such percentage, but not more than 10 per centum, of such acreage allotment as he determines will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. For the 1965 crop, the Secretary may, after such hearing and investigation as he finds necessary, announce an export market acreage which he finds will not increase the carryover of upland cotton at the beginning of the marketing year for the next succeeding crop above one million bales less than the carryover on the same date one year earlier, if the carryover on such earlier date exceeds eight million bales. Such export market acreage shall be apportioned to the States on the basis of the State acreage allotments established under section 1344 of this title and apportioned by the States to farms receiving allotments under section 1344 of this title, pursuant to regulations issued by the Secretary, after considering applications for such acreage filed with the county committee of the county in which the farm is located. The ''export market acreage'' on any farm shall be the number of acres, not exceeding the maximum export market acreage for the farm established pursuant to this subsection, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 1345 and 1374 of this title and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment established under section 1344 of this title and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and National acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. The provisions of this section shall not apply to extra-long-staple cotton or to any farm which receives price support under section 1444(b) of this title.

(b) Bond, other undertaking, and lieu payments for exportation without subsidy and within specified period; terms and conditions; liquidated damages; farm acreage allotment upon noncompliance with conditions; remissions to CCC for defraying costs of encouraging export sales of cotton

The producers on any farm on which there is export market acreage or the purchasers of cotton produced thereon shall, under regulations issued by the Secretary, furnish a bond or other undertaking prescribed by the Secretary providing for the exportation, without benefit of any Government cotton export subsidy and within such period of time as the Secretary may specify, of a quantity of cotton produced on the farm equal to the average yield for the farm multiplied by the export market acreage as determined pursuant to regulations issued by the Secretary. The bond or other undertaking given pursuant to this section shall provide that, upon failure to comply with the terms and conditions thereof, the person furnishing such bond or other undertaking shall be liable for liquidated damages in an amount which the Secretary determines and specifies in such undertaking will approximate the amount payable on excess cot-

ton under section 1346(a) of this title. The Secretary may, in lieu of the furnishing of a bond or other undertaking, provide for the payment of an amount equal to that which would be payable as liquidated damages under such bond or other undertaking. If such bond or other undertaking is not furnished, or if payment in lieu thereof is not made as provided herein, at such time and in the manner required by regulations of the Secretary, or if the acreage planted to cotton on the farm exceeds the farm acreage allotment established under the provisions of section 1344 of this title by more than the maximum export market acreage, the farm acreage allotment shall be the acreage so established under section 1344 of this title. Amounts collected by the Secretary under this section shall be remitted to the Commodity Credit Corporation and used by the Corporation to defray costs of encouraging export sales of cotton under section 1853[1] of this title.

(Feb. 16, 1938, ch. 30, title III, § 349, as added Pub. L. 88–297, title I, § 106(1), Apr. 11, 1964, 78 Stat. 175.)

REFERENCES IN TEXT

Section 1853 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–465, title IV, § 412(c), Dec. 8, 1994, 108 Stat. 4964.

PRIOR PROVISIONS

A prior section 1349, act Feb. 16, 1938, ch. 30, title III, § 349, 52 Stat. 59, was omitted by act Aug. 29, 1949, ch. 518, § 1, 63 Stat. 670 which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title).

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1376 of this title.

§ 1350. National base acreage allotment

(a) Establishment

The Secretary shall establish for each of the 1971 through 1977 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 through 1977 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies. The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

(b) Apportionment to States

The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

(c) Apportionment to counties

The State base acreage allotment for each crop of upland cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsection (b) of this section: *Provided*, That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

(d) Adjustment of apportionment bases for counties

The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

(e) Apportionment to farms

(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c) of this section, shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm allotments established under this para-

[1] See References in Text note below.

graph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970.

(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

(f) Surrender of farm base acreage allotments

Effective for the 1971 through 1977 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided*, That, notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

(g) Compliance with set-aside requirements

Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 1444(e)(4) of this title applicable to such acreage as determined by the Secretary.

(h) Transfer of farm base acreage allotments not planted because of natural disaster or conditions beyond control of producer

Notwithstanding any other provision of this chapter, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in any other nearby county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments.

(Feb. 16, 1938, ch. 30, title III, §350, as added Pub. L. 88–297, title I, §105, Apr. 11, 1964, 78 Stat. 175; amended Pub. L. 89–321, title IV, §401(3), Nov. 3, 1965, 79 Stat. 1193; Pub. L. 90–559, §1(2), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title VI, §601(4), Nov. 30, 1970, 84 Stat. 1372; Pub. L. 93–86, §1(19)(A), (D)–(G), Aug. 10, 1973, 87 Stat. 233.)

REFERENCES IN TEXT

The Agricultural Act of 1970, referred to in subsec. (a), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, as amended. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

PRIOR PROVISIONS

A prior section 1350, act Feb. 16, 1938, ch. 30, title III, §350, 52 Stat. 60, was omitted by act Aug. 29, 1949, ch. 518, §1, 63 Stat. 670, which amended sections 342 to 350 of act Feb. 16, 1938, ch. 30, title III, 52 Stat. 56 to 60 (sections 1342 to 1344, 1345 to 1347, and prior sections 1348 to 1350 of this title) to be sections 342 to 348 of act Feb. 16, 1938 (sections 1342 to 1344, 1345 to 1347, and a prior section 1348 of this title). See section 1347 of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, §1(19)(A), (D), (E), substituted ''1971 through 1977'' for ''1971, 1972, and

1973'' and ''1972 through 1977'' for ''1972 and 1973'' and inserted requirement that the national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.

Subsec. (e)(2). Pub. L. 93–86, § 1(19)(F), substituted ''soybeans, wheat, feed grains, guar, castor beans, triticale, oats, rye or such other crops as the Secretary may deem appropriate'' for ''soybeans, wheat or feed grains''.

Subsec. (f). Pub. L. 93–86, § 1(19)(A), substituted ''1971 through 1977'' for ''1971, 1972, and 1973''.

Subsec. (h). Pub. L. 93–86, § 1(19)(G), substituted ''to another farm in the county or in any other nearby county'' for ''to another farm in the county or in an adjoining county''.

1970—Pub. L. 91–524 designated existing provisions as subsec. (a), substituted provisions for the establishment of a national base acreage allotment covering each of the 1971, 1972, and 1973 crops of upland cotton for provisions authorizing the establishing of a national domestic allotment for the 1966 through 1970 crops of upland cotton, and added subsecs. (b) to (h).

1968—Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1965—Pub. L. 89–321 extended domestic acreage allotment program through the 1969 crop and otherwise amended section generally to authorize establishment of a national domestic allotment for each crop year equal to the estimated domestic consumption for the marketing year beginning in year in which crop is to be produced and to authorize determination of a farm domestic acreage allotment percentage for each year by dividing national domestic allotment by total for all States of product of State acreage allotment and the projected State yield.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(19)(E)–(G) of Pub. L. 93–86 provided that the amendments made by that section are effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 601 of Pub. L. 91–524 provided that the amendment made by that section is effective beginning with 1971 crop.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 401(3) of Pub. L. 89–321 provided that the amendment made by that section is effective with 1966 crop.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1377, 1444 of this title.

§ 1350a. Repealed. Pub. L. 96–470, title I, § 102(e), Oct. 19, 1980, 94 Stat. 2237

Section, Pub. L. 91–524, title VI, § 609, Nov. 30, 1970, 84 Stat. 1378, required Secretary to file annually with President for transmission to Congress a complete report of programs carried out under title VI of Pub. L. 91–524.

SUBPART V—MARKETING QUOTAS—RICE

§ 1351. Omitted

CODIFICATION

Section, act Feb. 16, 1938, ch. 30, title III, § 351, 52 Stat. 60, set forth the legislative findings relating to rice marketing quotas pursuant to this subpart and was omitted in view of the repeal of the remaining sections of the subpart.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(A) of this title.

§§ 1352 to 1356. Repealed. Pub. L. 97–98, title VI, § 601, Dec. 22, 1981, 95 Stat. 1242

Section 1352, acts Feb. 16, 1938, ch. 30, title III, § 352, 52 Stat. 60; Aug. 9, 1955, ch. 648, 69 Stat. 576; Feb. 16, 1976, Pub. L. 94–214, title I, § 101, 90 Stat. 181; Sept. 29, 1977, Pub. L. 95–113, title VII, § 701, 91 Stat. 940, provided for a national acreage allotment and allocation for 1976 through 1981 crops of rice.

Section 1353, acts Feb. 16, 1938, ch. 30, title III, § 353, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 16, 1950, ch. 268, §§ 1, 2, 64 Stat. 232; Apr. 30, 1955, ch. 29, 69 Stat. 45; Apr. 30, 1955, ch. 30, 69 Stat. 45; May 5, 1955, ch. 31, 69 Stat. 45; Aug. 9, 1955, ch. 652, 69 Stat. 578; May 28, 1956, ch. 327, title III, § 304, 70 Stat. 205; June 4, 1958, Pub. L. 85–443, §§ 1, 2(a), (b), 3, 72 Stat. 177; Aug. 28, 1958, Pub. L. 85–835, title III, § 301, 72 Stat. 994; Feb. 16, 1938, ch. 30, title III, § 378(d), as added Aug. 28, 1958, Pub. L. 85–835, title V, § 501, 72 Stat. 996; Mar. 6, 1962, Pub. L. 87–412, 76 Stat. 20; Jan. 28, 1964, Pub. L. 88–261, 78 Stat. 6; Nov. 3, 1965, Pub. L. 89–321, title VIII, § 801, 79 Stat. 1212; Oct. 11, 1968, Pub. L. 90–559, § 1(8), 82 Stat. 996; Apr. 27, 1973, Pub. L. 93–27, 87 Stat. 27, related to allocation of national acreage allotment.

Section 1354, acts Feb. 16, 1938, ch. 30, title III, § 354, 52 Stat. 61; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; Apr. 4, 1960, Pub. L. 86–408, 74 Stat. 15, related to proclamation of marketing quotas and referendum by farmers on such quotas.

Section 1355, acts Feb. 16, 1938, ch. 30, title III, § 355, 52 Stat. 62; July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256; Oct. 31, 1949, ch. 792, title IV, §§ 415(e), 418(a), 63 Stat. 1058, 1059, related to amount of farm marketing quota.

Section 1356, acts Feb. 16, 1938, ch. 30, title III, § 356, 52 Stat. 62; Oct. 31, 1949, ch. 792, title IV, § 418(a), 63 Stat. 1059; June 4, 1958, Pub. L. 85–443, § 4, 72 Stat. 178; Dec. 14, 1967, Pub. L. 90–191, 81 Stat. 578, related to penalties for farm marketing excess when farm marketing quotas are in effect and to avoidance or postponement of penalties by storage or other disposition.

EFFECTIVE DATE OF REPEAL

Section 601 of Pub. L. 97–98 provided that the repeal of sections 1352 to 1356 of this title is effective beginning with the 1982 crop of rice.

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1357. Legislative findings

The production, marketing, and processing of peanuts and peanut products employs a large number of persons and is of national interest. The movement of peanuts from producer to consumer is preponderantly in interstate and foreign commerce, and, owing to causes beyond their control, the farmers producing such commodity and the persons engaged in the marketing and processing thereof are unable to regulate effectively the orderly marketing of the commodity. As the quantity of peanuts marketed in the channels of interstate and foreign commerce increases above the quantity of peanuts needed for cleaning and shelling, the prices at which all peanuts are marketed are depressed to low levels. These low prices tend to cause the quantity of peanuts available for marketing in

later years to be less than normal, which in turn tends to cause relatively high prices. This fluctuation of prices and marketings of peanuts creates an unstable and chaotic condition in the marketing of peanuts for cleaning and shelling and for crushing for oil in the channels of interstate and foreign commerce. Since these unstable and chaotic conditions have existed for a period of years and are likely, without proper regulation, to continue to exist, it is imperative that the marketing of peanuts for cleaning and shelling and for crushing for oil in interstate and foreign commerce be regulated in order to protect producers, handlers, processors, and consumers.

(Feb. 16, 1938, ch. 30, title III, § 357, as added Apr. 3, 1941, ch. 39, § 1, 55 Stat. 88.)

MARKETING QUOTAS AND ACREAGE ALLOTMENTS FOR 1947

Joint Res. July 24, 1946, ch. 617, 60 Stat. 663, suspended marketing quotas and acreage allotments for 1947 in view of the critical shortage of high protein foods and feeds, and fats and oil.

§ 1358. National marketing quota

(a) Proclamation; amount

Between July 1 and December 1 of each calendar year the Secretary shall proclaim the amount of the national marketing quota for peanuts for the crop produced in the next succeeding calendar year in terms of the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the five years immediately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions, and the quota so proclaimed shall be in effect with respect to such crop. The national marketing quota for peanuts for any year shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the acreage yield per acre of peanuts in the five years preceding the year in which the quota is proclaimed, with such adjustments as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields in such five years: *Provided*, That the national marketing quota established for the crop produced in the calendar year 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than one million six hundred and ten thousand acres, and that the national marketing quota established for any subsequent year shall be quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941.

(b) Referendum

Not later than December 15 of each calendar year the Secretary shall conduct a referendum of farmers engaged in the production of peanuts in the calendar year in which the referendum is held to determine whether such farmers are in favor of or opposed to marketing quotas with respect to the crops of peanuts produced in the three calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the farmers voting in any referendum vote in favor of marketing quotas, no referendum shall be held with respect to quotas for the second and third years of the period. The Secretary shall proclaim the results of the referendum within thirty days after the date on which it is held, and, if more than one-third of the farmers voting in the referendum vote against marketing quotas, the Secretary also shall proclaim that marketing quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held. Notwithstanding any other provisions of this section, the Secretary shall proclaim a national marketing quota with respect to the crop of peanuts produced in the calendar year 1941 equal to the minimum quota provided for said year in subsection (a) of this section and shall provide for the holding of a referendum on such quota within thirty days after April 3, 1941, and the State and farm acreage allotments established under the 1941 agricultural conservation program shall be the State and farm acreage allotments for the 1941 crop of peanuts. Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945–1949: *Provided*, That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to February 16, 1938, shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

(2) Notwithstanding any other provision of law, if the Secretary of Agriculture determines, on the basis of the average yield per acre of peanuts by types during the preceding five years, adjusted for trends in yields and abnormal conditions of production affecting yields in such five years, that the supply of any type or types of peanuts for any marketing year, beginning with the 1951–1952 marketing year, will be insuf-

ficient to meet the estimated demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it, the State allotments for those States producing such type or types of peanuts shall be increased to the extent determined by the Secretary to be required to meet such demand but the allotment for any State may not be increased under this provision above the 1947 harvested acreage of peanuts for such State. The total increase so determined shall be apportioned among such States for distribution among farms producing peanuts of such type or types on the basis of the average acreage of peanuts of such type or types in the three years immediately preceding the year for which the allotments are being determined. The additional acreage so required shall be in addition to the national acreage allotment, the production from such acreage shall be in addition to the national marketing quota, and the increase in acreage allotted under this provision shall not be considered in establishing future State, county, or farm acreage allotments.

(d) Farm acreage allotments

The Secretary shall provide for the apportionment of the State acreage allotment for any State, less the acreage to be allotted to new farms under subsection (f) of this section, through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. The State acreage allotment for 1952 and any subsequent year shall be apportioned among farms on which peanuts were produced in any one of the three calendar years immediately preceding the year for which such apportionment is made, on the basis of the following: Past acreage of peanuts, taking into consideration the acreage allotments previously established for the farm; abnormal conditions affecting acreage; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm in succeeding years. The amount of the marketing quota for each farm shall be the actual production of the farm-acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm.

(e) County acreage allotments

Notwithstanding the foregoing provisions of this section, the Secretary may, if the State committee recommends such action and the Secretary determines that such action will facilitate the effective administration of the provisions of this chapter, provide for the apportionment of the State acreage allotment for 1952 and any subsequent year among the counties in the State on the basis of the past acreage of peanuts harvested for nuts (excluding acreage in excess of farm allotments) in the county during the five years immediately preceding the year in which such apportionment is made, with such adjustments as are deemed necessary for abnormal conditions affecting acreage, for trends in acreage, and for additional allotments for types of peanuts in short supply under the provisions of subsection (c) of this section. The county acreage allotment shall be apportioned among farms on the basis of the factors set forth in subsection (d) of this section.

(f) New farm allotments

Not more than 1 per centum of the State acreage allotment shall be apportioned among farms in the State on which peanuts are to be produced during the calendar year for which the allotment is made but on which peanuts were not produced during any one of the past three years, on the basis of the following: Past peanut-producing experience by the producers; land, labor, and equipment available for the production of peanuts; crop-rotation practices; and soil and other physical factors affecting the production of peanuts.

(g) Release and reapportionment of farm-acreage allotments

Any part of the acreage allotted to individual farms under the provisions of this section on which peanuts will not be produced and which is voluntarily surrendered to the county committee shall be deducted from the allotments to such farms and may be reapportioned by the county committee to other farms in the same county receiving allotments, in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for the production of peanuts, crop-rotation practices, and soil and other physical factors affecting the production of peanuts. Any transfer of allotments under this provision shall not operate to reduce the allotment for any subsequent year for the farm from which acreage is transferred, except as the farm becomes ineligible for an allotment by failure to produce peanuts during a three-year period, and any such transfer shall not operate to increase the allotment for any subsequent year for the farm to which the acreage is transferred: *Provided*, That, notwithstanding any other provisions of this chapter, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein.

(h) Repealed. Feb. 16, 1938, ch. 30, title III, § 378(d), as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 996

(i) Production on farms with no allotments

The production of peanuts on a farm in 1959 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsection (d) of this section: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsection (f) of this section, but such production shall not be deemed past experience in the production of peanuts for any producer on the farm.

(j) Transfer of acreage allotment

Notwithstanding any other provision of this chapter, if the Secretary determines for 1976 or

a subsequent year that because of a natural disaster a portion of the farm peanut acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the peanut acreage allotments for any farm in the county so affected to another farm in the county or in an adjoining county in the same or an adjoining State on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of peanuts and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (g) of this section and section 1377 of this title: *Provided*, That notwithstanding the provisions of subsection (g) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having peanuts planted thereon during the three-year base period.

(Feb. 16, 1938, ch. 30, title III, §358, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 88; amended July 9, 1942, ch. 497, §1(1), 56 Stat. 653; July 26, 1946, ch. 677, 60 Stat. 705; Aug. 1, 1947, ch. 445, §1, 61 Stat. 721; Aug. 29, 1949, ch. 518, §4, 63 Stat. 676; Mar. 31, 1950, ch. 81, §6(b), 64 Stat. 43; Apr. 12, 1951, ch. 28, §1, 65 Stat. 29; Pub. L. 85–717, §1, Aug. 21, 1958, 72 Stat. 709; Feb. 16, 1938, ch. 30, title III, §378(d), as added Pub. L. 85–835, title V, §501, Aug. 28, 1958, 72 Stat. 996; Pub. L. 92–62, §§1–3, Aug. 3, 1971, 85 Stat. 163, 164; Pub. L. 94–247, Mar. 25, 1976, 90 Stat. 285; Pub. L. 95–113, title VIII, §§801(b), 802, Sept. 29, 1977, 91 Stat. 944; Pub. L. 97–98, title VII, §702, Dec. 22, 1981, 95 Stat. 1248; Pub. L. 99–157, §5, Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–198, title VII, §702, Dec. 23, 1985, 99 Stat. 1430; Pub. L. 102–237, title I, §117(b)(2)(A), Dec. 13, 1991, 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (v)(3). Pub. L. 102–237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

1985—Subsec. (b). Pub. L. 99–157 inserted at end ''Notwithstanding any other provision hereof, the referendum with respect to marketing quotas for the crops of peanuts produced in the 1986, 1987, and 1988 calendar years may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.''

Subsecs. (q) to (v). Pub. L. 99–198 temporarily added subsecs. (q) to (v). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (k) to (p). Pub. L. 97–98 temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (c)(1). Pub. L. 95–113, §801(b), temporarily inserted proviso that the peanut acreage allotment for the State of New Mexico not be reduced below the 1977 acreage allotment as increased pursuant to subsec. (c)(2) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (k) to (p). Pub. L. 95–113, §802, temporarily added subsecs. (k) to (p). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (j). Pub. L. 94–247 added subsec. (j).

1971—Subsec. (c)(1). Pub. L. 92–62, §1, struck out '', less the acreage to be allotted to new farms under subsection (f) of this section,'' after ''For any year subsequent to 1951, the national acreage allotment for that year''.

Subsec. (d). Pub. L. 92–62, §2, inserted in first sentence ''the'' before ''apportionment'' and '', less the acreage to be allotted to new farms under subsection (f) of this section,''.

Subsec. (f). Pub. L. 92–62, §3, substituted ''1 per centum of the State acreage allotment shall be apportioned among farms in the State'' for ''one per centum of the national acreage allotment shall be apportioned among farms''.

1958—Subsec. (h). Act Feb. 16, 1938, §378(d), as added by Pub. L. 85–835, repealed subsec. (h) which related to allotments for displaced farm owners, and is covered by section 1378(a), (b) of this title.

Subsec. (i). Pub. L. 85–717 added subsec. (i).

1951—Subsec. (c). Act Apr. 12, 1951, provided for allocation of 1951 national acreage allotment among the States.

Subsec. (d). Act Apr. 12, 1951, provided that the State acreage allotment for 1952 and subsequent years shall be apportioned among old peanut farms on basis of past acreage of peanuts.

Subsecs. (e) to (h). Act Apr. 12, 1951, added subsecs. (e) to (h).

1950—Subsec. (d). Act Mar. 31, 1950, provided that any acreage of peanuts harvested in excess of allotted acreage for any farm for any year shall not be considered in establishment of allotment for the farm in succeeding years.

1949—Subsec. (c). Act Aug. 29, 1949, provided that acreage allotment for any State after 1949 shall not be less than 60 percent of acreage of peanuts harvested for nuts in the State in 1948.

1947—Subsec. (d). Act Aug. 1, 1947, substituted last sentence for former last sentence which, as substituted by act July 9, 1942, provided that the amount of marketing quota for each farm should be a number of pounds of peanuts equal to the normal or actual production, which ever was greater, of the farm peanut acreage allotment.

1946—Subsec. (a). Act July 26, 1946, struck out of proviso ''95 per centum of'' in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941.

Subsec. (c). Act July 26, 1946, struck out of first proviso ''95 per centum of'' and inserted immediately preceding colon ''and any additional acreage so required shall be in addition to the national allotment and the production from such acreage shall be in addition to the national marketing quota'' in order to give States an allotment at least equal to 100 percent of the acreage in said State during 1941, and to protect other States against any loss of acreage by reason of this change.

1942—Subsec. (d). Act July 9, 1942, substituted last sentence for former last sentence.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 702 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 702 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 801(b) of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

Section 802 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

SAVINGS PROVISION

Transfer or reassignment of allotment as remaining in effect and ineligibility of displaced farm owner for additional allotment notwithstanding repeal of subsec. (h), see note set out under section 1378 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(B) of this title.

Pub. L. 101–624, title VIII, §801(1), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a) through (j) of this section are inapplicable to 1991 through 1995 peanut crops.

Section 701(1) of Pub. L. 99–198 provided that subsecs. (a) through (j) of this section are inapplicable to 1986 through 1990 peanut crops.

Section 701(1) of Pub. L. 97–98 provided that subsecs. (a) through (j) of this section are inapplicable to 1982 through 1985 peanut crops.

Section 801(a) of Pub. L. 95–113 provided that: ''Subsections (a) and (e) [of this section] shall not be applicable to the 1978 through 1981 crops of peanuts.''

PEANUT ACREAGE ALLOTMENT FOR 1950

Section 7 of act Mar. 31, 1950, prohibited reduction of the peanut acreage allotment for any State by a percentage larger than the percentage by which the 1950 national acreage allotment is below the 1949 national acreage allotment and directed that the allotment for any State shall be increased to the extent required to provide such minimum State allotment and such acreage required shall be in addition to the national acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Act Feb. 28, 1945, ch. 15, 59 Stat. 9, provided for farm acreage allotment during national emergency proclaimed by the President on Sept. 8, 1939, and May 27, 1941. Such emergencies terminated on July 25, 1947, by the provisions of Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1358–1. National poundage quotas and acreage allotments for peanuts

(a) National poundage quotas

(1) Establishment

The national poundage quota for peanuts for each marketing year shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible use (except seed) and related uses.

(2) Announcement

The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding the marketing year.

(3) Apportionment among States

The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years.

(b) Farm poundage quotas

(1) In general

(A) Establishment

A farm poundage quota for each marketing year shall be established—

(i) for each farm that had a farm poundage quota for peanuts for the 1990 marketing year, in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years;

(ii) if the poundage quota apportioned to a State under subsection (a)(3) of this section for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary; and

(iii) as approved and determined by the Secretary under section 1358c of this title, for each farm on which peanuts are produced in connection with experimental and research programs.

(B) Quantity

The farm poundage quota for each marketing year for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7). The farm poundage quota, if any, for each marketing year for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

(C) Transfers

For purposes of this subsection, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 1358a or 1358b of this title, the receiving farm shall be considered as possessing the farm poundage quota (or portion thereof) of the transferring farm for all subsequent marketing years.

(D) Certain farms ineligible for quota

Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by—

(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

(ii) a person who is not a producer and resides in another State.

(2) Adjustments

(A) Allocation of increased quota generally

Except as provided in subparagraph (D), if the poundage quota apportioned to a State under subsection (a)(3) of this section for any marketing year is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated proportionately, based on farm production history for peanuts for the 3 immediately preceding years, among—

(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

(B) Temporary quota allocation

(i) Allocation related to seed peanuts

Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

(ii) Quantity

The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

(iii) Additional quota

The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

(iv) Effect of other requirements

Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 1359a(b) of this title.

(C) Decrease

If the poundage quota apportioned to a State under subsection (a)(3) of this section for any marketing year is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) of this section for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

(D) Special rule on tenant's share of increased quota

Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in that percentage of the quota referred to in subparagraph (A) and otherwise allocated to the farm as the result of the tenant's production on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable, the tenant's share of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to that farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

(E) Transfer of quota from ineligible farms

Any farm poundage quota held at the end of the 1996 marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe.

(3) Quota not produced

(A) In general

Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any marketing year shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

(B) Exclusions

For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

(4) Quota considered produced

For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

(C) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years imme-

diately preceding the marketing year for which the determination is being made.

(5) Quota permanently released

Notwithstanding any other provision of law—

(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is so released.

(6) Allocation of quotas reduced or released

(A) In general

Except as provided in subparagraphs (B) and (C), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

(B) Set-aside for farms with no quota

Not more than 25 percent of the total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm.

(C) Allocation of quotas reduced or released in Texas

(i) In general

In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, the total quantity of the farm poundage quota, except the percentage allocated to new farms under subparagraph (B), shall be allocated to other farms having poundage quotas for the 1990 marketing year in all counties in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

(ii) Basis for allocation to counties

The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective county for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (2)(B) shall not be increased by more than 100 percent of the basic quota allocated to the county for the 1989 marketing year, if that county had more than 10,000 tons of quota for the 1989 marketing year.

(iii) Allocation to other counties

If the total quota for any such county is so increased by 100 percent, all of the remaining quota set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

(iv) Allocation to eligible farms

The percentage of farm poundage quota available for allocation under this subparagraph shall be allocated only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

(I) Factor

A factor shall be established for each such eligible farm by dividing the amount of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

(II) Allocation

Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

(7) Quota temporarily released

(A) In general

The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

(B) Effective period

Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

(8) Disaster transfers

(A) In general

Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

(B) Limitation

The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

(C) Support rate

Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.

(c) Farm yields

(1) In general

For each farm for which a farm poundage quota is established under subsection (b) of this section, and when necessary for purposes of this chapter, a farm yield of peanuts shall be determined for each such farm.

(2) Quantity

The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

(3) Appraised yields

If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

(d) Referendum respecting poundage quotas

(1) In general

Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

(2) Proclamation

The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

(3) Vote against quotas

If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

(e) Definitions

For the purposes of this subpart and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

(1) Additional peanuts

The term ''additional peanuts'' means, for any marketing year—

(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b) of this section.

(2) Crushing

The term ''crushing'' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

(3) Domestic edible use

The term ''domestic edible use'' means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(4) Quota peanuts

The term ''quota peanuts'' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (b) of this section, that—

(A) are eligible for domestic edible use as determined by the Secretary;

(B) are marketed or considered marketed from a farm; and

(C) do not exceed the farm poundage quota of the farm for the year.

(f) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358–1, as added Pub. L. 101–624, title VIII, § 802, Nov. 28, 1990, 104 Stat. 3459; amended Pub. L. 102–237, title I, § 117(b)(2)(B), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103–66, title I, § 1109(c)(1), Aug. 10, 1993, 107 Stat. 326; Pub. L. 104–127, title I, § 155(i)(1)(A), (2)–(4)(A), (5), Apr. 4, 1996, 110 Stat. 927–929.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051,

as amended. Title I of the Act is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(A)(i), struck out ''1991 through 1997 crops of'' before ''peanuts'' in section catchline.

Subsec. (a)(1). Pub. L. 104–127, § 155(i)(3)(A), substituted ''domestic edible use (except seed)'' for ''domestic edible, seed,''.

Pub. L. 104–127, § 155(i)(2), struck out at end ''Notwithstanding any other provision of this paragraph, the national poundage quota for a marketing year shall not be less than 1,350,000 tons.''

Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year shall'' for ''of the 1991 through 1997 marketing years shall''.

Subsec. (a)(3). Pub. L. 104–127, § 155(i)(1)(A)(iii), substituted ''1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years'' for ''1990''.

Subsec. (b)(1)(A). Pub. L. 104–127, § 155(i)(1)(A)(iv)(I), substituted ''each marketing year'' for ''each of the 1991 through 1997 marketing years'' in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 104–127, § 155(i)(1)(A)(iv)(II), inserted before semicolon '', in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years''.

Subsec. (b)(1)(B). Pub. L. 104–127, § 155(i)(4)(A)(i), substituted ''including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).'' for ''including—

''(i) any increases for undermarketings from previous years; or

''(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''

Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year for'' for ''of the 1991 through 1997 marketing years for'' in two places.

Subsec. (b)(1)(D). Pub. L. 104–127, § 155(i)(1)(A)(v), added subpar. (D).

Subsec. (b)(2)(A). Pub. L. 104–127, § 155(i)(1)(A)(ii), (3)(B)(i), in introductory provisions, struck out ''subparagraph (B) and subject to'' after ''Except as provided in'' and substituted ''marketing year is increased'' for ''of the 1991 through 1997 marketing years is increased''.

Subsec. (b)(2)(B). Pub. L. 104–127, § 155(i)(3)(B)(ii), substituted subpar. (B) relating to temporary quota allocation for former subpar. (B) relating to allocation of increased quota in Texas.

Subsec. (b)(2)(C). Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year is'' for ''of the 1991 through 1997 marketing years is''.

Subsec. (b)(2)(E). Pub. L. 104–127, § 155(i)(1)(A)(vi), added subpar. (E).

Subsec. (b)(3)(A). Pub. L. 104–127, § 155(i)(1)(A)(ii), substituted ''marketing year shall'' for ''of the 1991 through 1997 marketing years shall''.

Subsec. (b)(3)(B). Pub. L. 104–127, § 155(i)(4)(A)(ii), substituted ''include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).'' for ''include—

''(i) any increases for undermarketing of quota peanuts from previous years; or

''(ii) any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).''

Subsec. (b)(8). Pub. L. 104–127, § 155(i)(5), added par. (8).

Pub. L. 104–127, § 155(i)(4)(A)(iii), struck out par. (8) which provided for increase in quota for undermarketings in previous marketing years.

Subsec. (b)(9). Pub. L. 104–127, § 155(i)(4)(A)(iii), struck out heading and text of par. (9). Prior to amendment, text read as follows: ''Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which the increases shall be applicable, the Secretary shall adjust the increases so that the total of all the increases does not exceed 10 percent of the national poundage quota.''

Subsec. (f). Pub. L. 104–127, § 155(i)(1)(A)(vii), substituted ''2002'' for ''1997''.

1993—Pub. L. 103–66 substituted ''1997'' for ''1995'' in section catchline and wherever appearing in subsecs. (a)(1), (b)(1)(A), (B), (2)(A), (C), (3)(A), and (f).

1991—Subsec. (e)(3). Pub. L. 102–237 made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

REGULATIONS

Section 809 of title VIII of Pub. L. 101–624 provided that: ''The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title [enacting this section and sections 1358b, 1358c, 1359a, and 1445c–3 of this title, amending sections 1373 and 1445c–2 of this title, repealing sections 1445c and 1445c–1 of this title, and enacting provisions set out as notes under sections 1358, 1358a, 1359, prec. 1361, 1371, 1373, and 1441 of this title] and the amendments made by this title. In issuing the regulations, the Secretary—

''(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

''(2) shall provide public notice through the Federal Register of any such proposed regulations; and

''(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7271 of this title.

§ 1358a. Transfer of peanut acreage allotments

(a) Authority to permit transfers

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary, if he determines that it will not impair the effective operation of the peanut marketing quota or price-support program, (1) may permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

(b) Conditions upon transfer; adjustment of allotment

Transfers under this section shall be subject to the following conditions: (1) no allotment shall be transferred to a farm in another county; (2) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment from a farm shall be permitted if any sale of allotment to the same farm has been made within the

three immediately preceding crop years; (4) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer is made and such committee determines that the transfer complies with the provisions of this section; and (5) if the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease or sale and transfer shall be approved acre for acre, but if the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred: *Provided*, That in the event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within five years subsequent to such transfer is placed under irrigation, the Secretary shall also make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred: *Provided further*, That, notwithstanding any other provision of this chapter, the adjustment made in any peanut allotment because of the transfer to a higher producing farm shall not reduce or increase the size of any future National or State allotment and an acreage equal to the total of all such adjustments shall not be allotted to any other farms.

(c) Transfer of acreage history and marketing quota; transfer by lease

The transfer of an allotment shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment shall be considered, for the purpose of determining allotments after the expiration of the lease, to have been planted on the farm from which such allotment is transferred.

(d) Eligibility of transferred land for new allotment

The land in the farm from which the entire peanut allotment has been transferred shall not be eligible for a new farm peanut allotment during the five years following the year in which such transfer is made.

(e) Duration of lease; terms and conditions

Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(f) Lease of part of acreage allotment; determination of future allotments; eligibility for referendum

The lease of any part of a peanut acreage allotment determined for a farm shall not affect the allotment for the farm from which such allotment is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment which is leased from a farm shall be considered for purposes of determining future allotments to have been planted to peanuts on the farm from which such allotment is leased and the production pursuant to the lease shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of peanuts for purposes of eligibility to vote in the referendum.

(g) Regulations; limitations on transfers

The Secretary shall prescribe regulations for the administration of this section which may include reasonable limitation on the size of the resulting allotments on farms to which transfers are made and such other terms and conditions as he deems necessary, but the total peanut allotment transferred to any farm by sale or lease shall not exceed fifty acres.

(h) Adjustment of rates for land utilization agreements

If the sale or transfer occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(Feb. 16, 1938, ch. 30, title III, § 358a, as added Pub. L. 90–211, Dec. 18, 1967, 81 Stat. 658; amended Pub. L. 91–122, Nov. 21, 1969, 83 Stat. 213; Pub. L. 91–568, Dec. 22, 1970, 84 Stat. 1499; Pub. L. 95–113, title VIII, § 803, Sept. 29, 1977, 91 Stat. 946; Pub. L. 97–98, title VII, § 703, Dec. 22, 1981, 95 Stat. 1251; Pub. L. 99–198, title VII, § 703, Dec. 23, 1985, 99 Stat. 1434; Pub. L. 100–387, title III, § 304(a)(2), Aug. 11, 1988, 102 Stat. 948.)

AMENDMENTS

1988—Subsec. (k)(1). Pub. L. 100–387 temporarily inserted at end ''In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.'' See Effective and Termination Dates of 1988 Amendment note below.

1985—Subsecs. (k), (*l*). Pub. L. 99–198 temporarily added subsecs. (k) and (*l*). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (i), (j). Pub. L. 97–98 temporarily added subsecs. (i) and (j). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113, § 803(1), temporarily struck out '', if he determines that it will not impair the effective operation of the peanut marketing quota or price support program,'' after ''the Secretary'' and substituted ''shall'' for ''may'' wherever appearing. See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (i). Pub. L. 95–113, § 803(2), temporarily added subsec. (i). See Effective and Termination Dates of 1977 Amendment note below.

1970—Subsec. (a). Pub. L. 91–568 substituted ''1968 and succeeding crop years'' for ''1968, 1969, and 1970 crop years''.

1969—Subsec. (a). Pub. L. 91–122 inserted provisions relating to the 1970 crop year.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 304(a)(2) of Pub. L. 100–387 provided that the amendment made by that section is effective for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 703 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 703 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 803 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(C) of this title.

Pub. L. 101–624, title VIII, § 801(2), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a) through (h) of this section are inapplicable to 1991 through 1995 crops of peanuts.

Section 701(2) of Pub. L. 99–198 provided that subsecs. (a) through (h) of this section are inapplicable to 1986 through 1990 crops of peanuts.

Section 701(2) of Pub. L. 97–98 provided that subsecs. (a) through (h) of this section are inapplicable to 1982 through 1985 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 7301 of this title.

§ 1358b. Sale, lease, or transfer of farm poundage quota for peanuts

(a) In general

(1) Sale and lease authority

(A) Sale or lease within same State

Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

(ii) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

(B) Percentage limitations on spring transfers

Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

(i) For the 1996 crop, 15 percent.

(ii) For the 1997 crop, 25 percent.

(iii) For the 1998 crop, 30 percent.

(iv) For the 1999 crop, 35 percent.

(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

(C) Clarification regarding fall transfers

The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

(D) Effect of transfer

Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

(2) Transfers to other self-owned farms

The owner or operator of a farm may transfer all or any part of the farm poundage quota to any other farm owned or controlled by the owner or operator that is in the same county or in a county contiguous to the county in the same State and that had a farm poundage

quota for the preceding year's crop. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

(3) Transfers in States with small quotas

Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

(4) Transfers in counties with small quotas

Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.

(b) Conditions

Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

(1) Lienholders

No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

(2) Tillable cropland

No transfer of the farm poundage quota shall be permitted if the county committee established under section 590h(b) of title 16 determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

(3) Record

No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which the transfer is made and the committee determines that the transfer complies with this section.

(4) Other terms

Such other terms and conditions that the Secretary may by regulation prescribe.

(c) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358b, as added Pub. L. 101–624, title VIII, § 803, Nov. 28, 1990, 104 Stat. 3466; amended Pub. L. 102–237, title I, § 122, Dec. 13, 1991, 105 Stat. 1844; Pub. L. 104–127, title I, § 155(i)(1)(B), (4)(B), (6), Apr. 4, 1996, 110 Stat. 928, 929.)

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(B)(i), struck out ''1991 through 1995 crops of'' before ''peanuts'' in section catchline.

Subsec. (a)(1). Pub. L. 104–127, § 155(i)(6)(A), added par. (1) and struck out heading and text of former par. (1). Prior to amendment, text read as follows: ''Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this chapter may sell or lease all or any part of the poundage quota (including any applicable under marketings) to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota (including any applicable under marketings) may be entered into in the fall or after the normal planting season—

''(A) if not less than 90 percent of the basic quota (the farm quota exclusive of undermarketings and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

''(B) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.''

Subsec. (a)(2). Pub. L. 104–127, § 155(i)(4)(B)(i), struck out ''(including any applicable under marketings)'' before ''to any other farm owned''.

Subsec. (a)(3). Pub. L. 104–127, § 155(i)(4)(B)(ii), struck out ''(including any applicable undermarketings)'' after ''farm poundage quota''.

Subsec. (a)(4). Pub. L. 104–127, § 155(i)(6)(B), added par. (4).

Subsec. (c). Pub. L. 104–127, § 155(i)(1)(B)(ii), substituted ''2002'' for ''1995''.

1991—Subsec. (a)(1). Pub. L. 102–237, § 122(1), inserted ''(including any applicable under marketings)'' after ''poundage quota'' in two places in introductory provisions.

Subsec. (a)(2). Pub. L. 102–237, § 122(2), substituted ''(including any applicable under marketings)'' for ''for the farm''.

Subsec. (a)(3). Pub. L. 102–237, § 122(3), inserted ''(including any applicable undermarketings)'' after ''farm poundage quota''.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358–1 of this title.

§ 1358c. Experimental and research programs for peanuts

(a) In general

Notwithstanding any other provision of this chapter, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be allocated from the State's quota reserve to land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), and colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee Institute and, as appropriate, the Agricultural Research Service of the Department of Agriculture to be used for experimental and research purposes.

(b) Quantity

The quantity of the quota allocated to an institution under this section shall not exceed the

quantity of the quota held by each such institution during the 1985 crop year, except that the total quantity allocated to all institutions in a State shall not exceed 1/10 of 1 percent of the State's basic quota.

(c) Limitation

The director of the agricultural experiment station for a State shall be required to ensure, to the extent practicable, that farm operators in the State do not produce quota peanuts under subsection (a) of this section in excess of the quantity needed for experimental and research purposes.

(d) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358c, as added Pub. L. 101–624, title VIII, § 805, Nov. 28, 1990, 104 Stat. 3474; amended Pub. L. 104–127, title I, § 155(i)(1)(C), Apr. 4, 1996, 110 Stat. 928.)

REFERENCES IN TEXT

Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), referred to in subsec. (a), is known as the ''Smith-Lever Act'', and also known as the ''Agricultural Work Extension Act'', which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), referred to in subsec. (a), is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–127 substituted ''2002'' for ''1995''.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1358–1 of this title.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 75 per centum of the support price for peanuts for the marketing year (August 1 to July 31). Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

(b) The provisions of this subpart shall not apply, beginning with the 1959 crop, to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less provided the producers who share in the peanuts produced on such farm do not share in the peanuts produced on any other farm. If the producers who share in the peanuts produced on a farm on which the acreage harvested for nuts is one acre or less also share in the peanuts produced on other farm(s) the peanuts produced on such farm on

acreage in excess of the allotment, if any, determined for the farm shall be considered as excess acreage and the marketing penalties provided by subsection (a) of this section shall apply.

(c) The word ''peanuts'' for the purposes of this chapter shall mean all peanuts produced, excluding any peanuts which it is established by the producer or otherwise, in accordance with regulations of the Secretary, were not picked or threshed either before or after marketing from the farm, or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts.

(d) The person liable for payment or collection of the penalty provided by this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(e) Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crop of peanuts subject to marketing quotas in which the person liable for payment or the penalty has an interest shall be in effect in favor of the United States.

(Feb. 16, 1938, ch. 30, title III, §358d, formerly §359, as added Apr. 3, 1941, ch. 39, §1, 55 Stat. 90; amended July 9, 1942, ch. 497, §1(2), (3), 56 Stat. 653; Aug. 1, 1947, ch. 445, §2, 61 Stat. 721; July 3, 1948, ch. 827, title II, §207(d), 62 Stat. 1257; Mar. 31, 1950, ch. 81, §6(a), 64 Stat. 42; Apr. 12, 1951, ch. 28, §2, 65 Stat. 31; Mar. 28, 1952, ch. 110, 66 Stat. 27; May 28, 1956, ch. 327, title III, §§305, 306, 70 Stat. 205; Pub. L. 85–127, Aug. 13, 1957, 71 Stat. 344; Pub. L. 85–717, §2, Aug. 21, 1958, 72 Stat. 709; Pub. L. 95–113, title VIII, §804, Sept. 29, 1977, 91 Stat. 946; Pub. L. 96–31, July 7, 1979, 93 Stat. 81; Pub. L. 97–98, title VII, §704, Dec. 22, 1981, 95 Stat. 1251; Pub. L. 99–198, title VII, §704, Dec. 23, 1985, 99 Stat. 1435; Pub. L. 101–82, title VI, §601, Aug. 14, 1989, 103 Stat. 586; renumbered §358d and amended Pub. L. 102–237, title I, §117(a), (b)(2)(C), Dec. 13, 1991, 105 Stat. 1841.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237, §117(b)(2)(C)(i), made a technical amendment to the reference to subsection (a) of this section to reflect a change in the reference to the corresponding provision of the original act.

Subsecs. (m)(1)(C), (i), (ii), (p)(1), (r)(2)(A). Pub. L. 102–237, §117(b)(2)(C)(ii), made a technical amendment to the reference to section 1445c–2 of this title to reflect the renumbering of the corresponding section of the original act.

1989—Subsec. (p)(2)(B)(i). Pub. L. 101–82, §601(1), which temporarily directed that ''(less such reasonable allowances for shrinkage as the Secretary may prescribe)'' be struck out was executed by striking out ''(less such reasonable allowance for shrinkage as the Secretary may prescribe)'' after ''in all of the following quantities'' to reflect the probable intent of Congress. See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (p)(2)(B)(iv). Pub. L. 101–82, §601(2), added cl. (iv).

1985—Subsecs. (m) to (s). Pub. L. 99–198 temporarily added subsecs. (m) to (s). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsecs. (f) to (*l*). Pub. L. 97–98 temporarily added subsecs. (f) to (*l*). See Effective and Termination Dates of 1981 Amendment note below.

1979—Subsec. (k). Pub. L. 96–31 temporarily added subsec. (k). See Effective and Termination Dates of 1979 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113, §804(1)–(3), temporarily substituted ''penalty at a rate equal to 120 per centum of the support price for quota peanuts'' for ''penalty at a rate equal to 75 per centum of the support price for peanuts'' and ''farm yield'' for ''normal yield'' and inserted provision that the marketing of any additional peanuts from a farm be subject to the 120 per centum penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section. See Effective and Termination Dates of 1977 Amendment note below.

Subsecs. (f) to (j). Pub. L. 95–113, §804(4), temporarily added subsecs. (f) to (j). See Effective and Termination Dates of 1977 Amendment note below.

1958—Subsec. (b). Pub. L. 85–717 provided that after 1959 the one acre exemption applies only if producers do not share in peanuts produced on any other farm.

1957—Subsec. (c). Pub. L. 85–127 inserted '', or were marketed by the producer before drying or removal of moisture from such peanuts either by natural or artificial means for consumption exclusively as boiled peanuts''.

1956—Subsec. (a). Act May 28, 1956, §305, substituted ''75 per centum of the support price for peanuts for the marketing year (August 1–July 31)'' for ''50 per centum of the basic rate of the loan (calculated to the nearest tenth of a cent) for farm marketing quota peanuts for the marketing year August 1–July 31''.

Subsecs. (d), (e). Act May 28, 1956, §306, added subsecs. (d) and (e). Former subsecs. (d) and (e) were repealed by act July 3, 1948.

1952—Subsecs. (f) to (i). Act Mar. 28, 1952, repealed subsecs. (f) to (i), which permitted farmers to grow peanuts for oil in excess of marketing quotas.

1951—Subsec. (a). Act Apr. 12, 1951, inserted sentence beginning ''Notwithstanding any other''.

Subsec. (g). Act Apr. 12, 1951, established 1948 as the year to be referred to in cases where no peanuts were harvested in 1947, and provided that the Secretary may authorize peanut buyers to purchase excess peanuts from producers at specified price levels.

1950—Subsecs. (g) to (i). Act Mar. 31, 1950, added subsecs. (g) to (i).

1948—Subsecs. (d), (e). Act July 3, 1948, repealed subsecs. (d) and (e) which related to referendums and appropriations.

1947—Act Aug. 1, 1947, amended section generally, changing the penalty for excess marketing of peanuts from a flat penalty of 3 cents per pound to 50 per cent of the basic loan rate and substituted last two sentences for former last sentence which provided a $25 penalty per acre for falsely indemnifying or failing to account for peanuts produced in subsec. (a), striking out subsec. (b) exempting peanuts to be sold and crushed for oil or used for seed from excess marketing penalty, and redesignating subsecs. (c) to (g) as (b) to (f), respectively.

1942—Subsecs. (b), (d). Act July 9, 1942, amended subsecs. (b) and (d).

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 601 of Pub. L. 101–82 provided that the amendment made by that section is effective only for 1988 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 704 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 704 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Pub. L. 96–31 provided that the amendment made by Pub. L. 96–31 is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 804 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

EFFECTIVE DATE OF 1957 AMENDMENT

Pub. L. 85–127, as amended by Pub. L. 86–358, Sept. 22, 1959, 73 Stat. 642; Pub. L. 87–239, Sept. 14, 1961, 75 Stat. 512; Pub. L. 88–76 July 25, 1963, 77 Stat. 92; Pub. L. 89–321, title VII, § 704, Nov. 3, 1965, 79 Stat. 1210; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title VIII, § 802, Nov. 30, 1970, 84 Stat. 1381, provided that the amendment made by Pub. L. 85–127 is effective for 1957 and subsequent crops of peanuts.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of act May 28, 1956, provided that the amendment made by that section is effective beginning with 1956 crop.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

SAVINGS PROVISION

Act Mar. 28, 1952, which repealed subsecs. (f) to (i), also provided that the repeal should not affect rights or obligations arising under marketing-quota or price support operations with respect to 1951 or prior crops of peanuts.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of such Department, with certain exceptions, transferred to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Treasurer of the United States, referred to in this section, is an officer of Department of the Treasury.

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Subsections (a), (b), (d), and (e) of this section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(D) of this title.

Pub. L. 101–624, title VIII, § 801(3), Nov. 28, 1990, 104 Stat. 3459, provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1991 through 1995 crops of peanuts.

Section 701(3) of Pub. L. 99–198 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1986 through 1990 crops of peanuts.

Section 701(3) of Pub. L. 97–98 provided that subsecs. (a), (b), (d), and (e) of this section are inapplicable to 1982 through 1985 peanut crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 1359a, 7301 of this title.

§ 1359a. Marketing penalties and disposition of additional peanuts

(a) Marketing penalties

(1) In general

(A) Marketing peanuts in excess of quota

The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs. The penalty shall not apply to the marketing of breeder or Foundation seed peanuts grown and marketed by a publicly owned agricultural experiment station (including a State operated seed organization) under such regulations as the Secretary may prescribe.

(B) Marketing year

For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

(C) Marketing additional peanuts

The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are—

(i) placed under loan at the additional loan rate in effect for the peanuts under section 1445c–3[1] of this title and not redeemed by the producers;

(ii) marketed through an area marketing association designated pursuant to section 1445c–3(c)(1)[1] of this title; or

(iii) marketed under contracts between handlers and producers pursuant to subsection (f) of this section.

(2) Payer

The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

[1] See References in Text note below.

(3) Failure to collect

If the person required to collect the penalty fails to collect the penalty, the person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable with such persons who failed to collect the penalty for the amount of the penalty.

(4) Application of quota

Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

(5) False information

If any producer falsely identifies, fails to accurately certify planted acres, or fails to account for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the farm's average or actual yield, as determined by the Secretary, times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

(6) Unintentional violations

The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 590h(b) of title 16 to waive or reduce marketing penalties provided for under this subsection in cases which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

(7) De minimis violations

Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

(b) Use of quota and additional peanuts

(1) Quota peanuts

Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, such retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 1359(c) of this title, are unique strains, and are not commercially available.

(2) Additional peanuts

Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g) of this section.

(3) Seed

Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

(c) Marketing peanuts with excess quantity, grade, or quality

On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

(d) Handling and disposal of additional peanuts

(1) In general

Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c–3(c)(1)[1] of this title.

(2) Supervision by nonhandlers

(A) In general

Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

(B) Regulations

The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

(i) Types of exported or crushed peanuts

Handlers of shelled or milled peanuts may export or crush peanuts classified by type in all of the following quantities:

(I) Sound split kernel peanuts

Sound split kernel peanuts purchased by the handler as additional peanuts to which, under price support loan schedules, a mandated deduction with respect to the price paid to the producer of the peanuts would be applied due to the percentage of the sound splits.

(II) Sound mature kernel peanuts

Sound mature kernel peanuts (which term includes sound split kernel peanuts and sound whole kernel peanuts) in an amount equal to the poundage of the peanuts purchased by the handler as additional peanuts, less the total poundage of sound split kernel peanuts described in subclause (I).

(III) Remainder

The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

(ii) Documentation

Handlers shall ensure that any additional peanuts exported or crushed are evi-

denced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

(iii) Loss of peanuts

If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

(iv) Shrinkage allowance

(I) In general

The obligation of a handler to export or crush peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

(II) Common industry practices

The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

(3) Adequate finances and facilities

A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with the facilities under the control and operation of the handler, to ensure the handler's compliance with the obligation to export peanuts.

(4) Commingling of like peanuts

Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(5) Penalty

(A) In general

Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

(B) Nondelivery

A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

(6) Reentry of exported peanuts

(A) Penalty

If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer of the peanuts shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

(B) Records

Each person, firm, or handler who imports peanuts into the United States shall maintain such records and documents as are required by the Secretary to ensure compliance with this subsection.

(e) Special export credits

(1) In general

The Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which the export credits the handler may thereafter apply, up to the amount thereof, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

(2) Certification

Under such regulations, the Secretary shall require all handlers who are peanut product manufacturers to submit annual certifications of peanut product content on a product-by-product basis. Any changes in peanut product formulas as affecting peanut content shall be recorded within 90 days of the changes. The Secretary shall conduct an annual review of the certifications. The Secretary shall pursue all available remedies with respect to persons who fail to comply with this paragraph.

(3) Records

The Secretary shall require handlers who are peanut product manufacturers to maintain and provide such documents as are necessary to ensure compliance with this subsection and to maintain the integrity of the peanut program.

(f) Contracts for purchase of additional peanuts

(1) In general

Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing or export, or both.

(2) Submission to Secretary

(A) Contract deadline

Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval not later than September 15 of the year in which the crop is produced.

(B) Extension of deadline

The Secretary may extend the deadline under subparagraph (A) by up to 15 days in

response to damaging weather or related condition (as defined in section 112 of the Disaster Assistance Act of 1989[2] (7 U.S.C. 1421 et seq.)). The Secretary shall announce the extension no later than September 5 of the year in which the crop is produced.

(3) Form

The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, the poundage, and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

(4) Information for handling and processing additional peanuts

Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) of this section by such date as prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

(5) Terms

Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

(6) Suspension of restrictions on imported peanuts

Notwithstanding any other provision of this chapter, if the President issues a proclamation under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 624 of this title temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

(g) Marketing of peanuts owned or controlled by Commodity Credit Corporation

(1) In general

Subject to section 1427 of this title, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

(2) Acceptance of bids by area marketing associations

(A) In general

Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 1445c–3(c)(1)[2] of this title shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

(B) Modification

The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

(3) Producer marketing and expenses

Notwithstanding any other provision of this chapter, the Secretary shall, in any determination required under subsections (a)(2) and (b)(1) of section 1445c–3[2] of this title, include any additional marketing expenses required by law, excluding the amount of any assessment required under the Omnibus Budget Reconciliation Act of 1990.

(h) Administration

(1) Interest

The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

(2) De minimis quantity

This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

(3) Liens

Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is in-

[2] See References in Text note below.

curred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

(4) Penalties

(A) Procedures

Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(B) Judicial review

Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with the applicable law and regulations.

(C) Civil penalties

All penalties imposed under this section shall for all purposes be considered civil penalties.

(5) Reduction of penalties

(A) In general

Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

(B) Failure to export contracted additional peanuts

The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

(i) Crops

Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 2002 crops of peanuts.

(Feb. 16, 1938, ch. 30, title III, § 358e, formerly § 359a, as added Pub. L. 101–624, title VIII, § 804, Nov. 28, 1990, 104 Stat. 3467; renumbered § 358e and amended Pub. L. 102–237, title I, § 117(a), (b)(2)(D), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 103–66, title I, § 1109(c)(2), Aug. 10, 1993, 107 Stat. 326; Pub. L. 103–182, title III, § 321(d)(1)(B), Dec. 8, 1993, 107 Stat. 2110; Pub. L. 103–465, title IV, § 404(e)(6), Dec. 8, 1994, 108 Stat. 4961; Pub. L. 104–127, title I, § 155(i)(1)(D), Apr. 4, 1996, 110 Stat. 928.)

REFERENCES IN TEXT

Section 1445c–3 of this title, referred to in subsecs. (a)(1)(C)(i), (ii), (d)(1), and (g)(2)(A), (3), was repealed by Pub. L. 104–127, title I, § 171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938.

Section 112 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.), referred to in subsec. (f)(2)(B), is section 112 of Pub. L. 101–82, which is set out in a note under section 1421 of this title.

The Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (g)(3), is Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Pub. L. 104–127, § 155(i)(1)(D)(i), struck out ''for 1991 through 1997 crops of peanuts'' after ''peanuts'' in section catchline.

Subsec. (i). Pub. L. 104–127, § 155(i)(1)(D)(ii), substituted ''2002'' for ''1997''.

1994—Subsec. (f)(6). Pub. L. 103–465 inserted ''under section 3601(b) of title 19 expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or'' after ''issues a proclamation''.

1993—Pub. L. 103–66, § 1109(c)(2)(A), substituted ''1997'' for ''1995'' in section catchline.

Subsec. (d). Pub. L. 103–182 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.''

Subsec. (i). Pub. L. 103–66, § 1109(c)(2)(B), substituted ''1997'' for ''1995''.

1991—Subsec. (b)(1). Pub. L. 102–237, § 117(b)(2)(D), made a technical amendment to the reference to section 1359(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1358–1, 7271 of this title; title 19 section 3391.

SUBPART VII—MARKETING QUOTAS—SUGAR AND CRYSTALLINE FRUCTOSE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1359aa. Information reporting

(a) Duty of processors, refiners and manufacturers to report

(1) Processors and refiners

All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and

sugar, and production, importation, distribution, and stock levels of sugar.

(2) Manufacturers of crystalline fructose

All manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as ''crystalline fructose'') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.

(b) Duty of producers to report

The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

(c) Penalty

Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(d) Monthly reports

Taking into consideration the information received under subsection (a) of this section, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar and composite data on distributions of crystalline fructose.

(Feb. 16, 1938, ch. 30, title III, § 359a, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3479; amended Pub. L. 102–237, title I, § 111(c), Dec. 13, 1991, 105 Stat. 1830.)

CODIFICATION

Another section 359a of act Feb. 16, 1938, was renumbered section 359e and is classified to section 1359a of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237, § 111(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''All cane sugar refiners and sugar beet processors and all manufacturers of crystalline fructose from corn (hereafter in this subpart referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the person's importation, distribution, and stock levels of sugar or crystalline fructose, respectively.''

Subsecs. (b), (c). Pub. L. 102–237, § 111(c)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d). Pub. L. 102–237, § 111(c)(2), (4), redesignated subsec. (c) as (d), substituted ''data on production, imports,'' for ''data on imports,'' and inserted ''composite data on distributions of'' after ''sugar and''.

EFFECTIVE DATE

Subpart effective beginning with the 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359bb. Marketing allotments for sugar and crystalline fructose

(a) Sugar estimates

(1) In general

Before the beginning of each of the fiscal years 1992 through 1998, the Secretary shall estimate—

(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

(2) Quarterly reestimates

The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

(b) Sugar allotments

(1) In general

For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C) of this section, that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

(2) Products

The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.

(c) Crystalline fructose allotments

For any fiscal year in which the Secretary establishes allotments for the marketing of sugar

under section 1359cc of this title, the Secretary shall establish for that year appropriate allotments for the marketing by manufacturers of crystalline fructose manufactured from corn, at a total level not to exceed the equivalent of 200,000 tons of sugar, raw value, during the fiscal year, in a manner that is fair, efficient, and equitable to manufacturers.

(d) Prohibitions

(1) In general

During any fiscal year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

(2) Crystalline fructose

At any time crystalline fructose allotments are in effect for manufacturers under subsection (c) of this section, no manufacturer may market crystalline fructose in excess of the manufacturer's allotment. No restrictions or allotments shall be established on the marketings of any liquid fructose produced from corn.

(3) Civil penalty

Any processor who knowingly violates paragraph (1) or manufacturer who knowingly violates paragraph (2) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar or crystalline fructose involved in the violation.

(4) "Market" defined

For purposes of this subpart, the term ''market'' shall mean to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

(Feb. 16, 1938, ch. 30, title III, § 359b, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3480; amended Pub. L. 102–237, title I, § 111(d), Dec. 13, 1991, 105 Stat. 1831; Pub. L. 103–66, title I, § 1107(b), Aug. 10, 1993, 107 Stat. 324.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–66, § 1107(b)(1), substituted ''1998'' for ''1996''.

Subsec. (d)(1). Pub. L. 103–66, § 1107(b)(2)(A), added par. (1) and struck out former par. (1) which read as follows: ''SUGAR.—

''(A) EXCEEDING ALLOCATION.—At any time allotments are in effect and allocated to processors under section 1359dd of this title, the total of—

''(i) the quantity of sugar marketed by a processor, plus

''(ii) the quantity of sugar pledged as collateral by the processor for a price support loan under section 1446g of this title,

shall not exceed the quantity of the allocation of the allotment made to the processor.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) to the marketing during a fiscal year of sugar pledged in that fiscal year as collateral for a price support loan under section 1446g of this title after the sugar has been subsequently redeemed; or

''(ii) to any sale of sugar by a processor to another processor made to enable the other processor to fulfill the quantity of the allocation of the allotment made to the other processor.''

Subsec. (d)(3). Pub. L. 103–66, § 1107(b)(2)(B), inserted ''knowingly'' after ''who'' in two places.

1991—Subsec. (a). Pub. L. 102–237, § 111(d)(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

''(A) the quantity of sugar that will be consumed in the customs territory of the United States during the fiscal year (other than sugar imported for purposes other than human consumption);

''(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

''(C) the quantity of sugar that will be imported for consumption during the year (other than sugar imported for purposes other than human consumption), based on the difference between—

''(i) the quantity of estimated consumption; and

''(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

''(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, availability, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.''

Subsec. (b). Pub. L. 102–237, § 111(d)(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

''(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a) of this section, that imports of sugar for consumption in the United States will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 1359cc of this title for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets in a manner that is fair, efficient, and equitable to producers, processors, and refiners, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

''(2) PRODUCTS.—The Secretary may include products of sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this subpart.''

Subsec. (d)(4). Pub. L. 102–237, § 111(d)(3), inserted ''(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)'' after ''United States''.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359jj of this title.

§ 1359cc. Establishment of marketing allotments

(a) In general

The Secretary shall establish marketing allotments for sugar for any fiscal year in which the allotments are required under section 1359bb(b) of this title in accordance with this section.

(b) Overall allotment quantity

(1) In general

The Secretary shall establish the overall quantity of sugar to be allotted for the fiscal year (hereafter in this subpart referred to as the ''overall allotment quantity'') by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year) for the fiscal year, as determined under section 1359bb(a) of this title—

(A) 1,250,000 short tons, raw value; and

(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

(2) Adjustment

The Secretary shall adjust the overall allotment quantity to the maximum extent practicable to avoid the forfeiture of sugar to the Commodity Credit Corporation.

(c) Allotment

The overall allotment quantity for the fiscal year shall be allotted among—

(1) sugar derived from sugar beets; and

(2) sugar derived from sugarcane.

(d) Percentage factors

(1) In general

The Secretary shall establish percentage factors for the overall beet sugar and cane sugar allotments applicable for a fiscal year. The Secretary shall establish the percentage factors in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the marketings of sugar processed from sugarcane and sugar beets of any or all of the 1985 through 1989 crops), processing and refining capacity, and the ability of processors to market the sugar covered under the allotments.

(2) Publication

The Secretary shall publish these percentage factors in the Federal Register, along with a description of the Secretary's reasons for establishing the factors, as provided in section 1359hh(c) of this title.

(e) Marketing allotment

The marketing allotment for sugar derived from sugarcane and the marketing allotment for sugar derived from sugar beets for a fiscal year, in each case, shall be a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage factor established by the Secretary under subsection (d)(1) of this section for the allotment.

(f) State cane sugar allotments

The allotment for sugar derived from sugarcane shall be further allotted, among the 5 States in the United States in which sugarcane is produced, in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the average of marketings of sugar processed from sugarcane in the 2 highest years of production from each State from the 1985 through 1989 crops), processing capacity, and the ability of processors to market the sugar covered under the allotments.

(g) Adjustment of marketing allotments

(1) In general

The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title—

(A) adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner;

(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(2) Allocation to processors

In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 1359dd of this title, and each proportionate share established with respect to the allotment under section 1359ff(b) of this title, shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) Reductions

Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g[1] of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(h) Filling cane sugar and beet sugar allotments

Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.

(Feb. 16, 1938, ch. 30, title III, §359c, as added Pub. L. 101–624, title IX, §902, Nov. 28, 1990, 104 Stat. 3481; amended Pub. L. 102–237, title I, §111(e), Dec. 13, 1991, 105 Stat. 1832.)

REFERENCES IN TEXT

Section 1446g of this title, referred to in subsec. (g)(3), was repealed by Pub. L. 104–127, title I, §171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938.

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102–237, §111(e)(1), in introductory provisions, substituted ''from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)'' for ''from the estimated sugar consumption'' and in subpar. (A) struck out ''(representing minimum imports of sugar for consumption in the United States during the fiscal year)'' after ''raw value''.

Subsec. (b)(2). Pub. L. 102–237, §111(e)(2), substituted ''avoid the forfeiture of sugar to'' for ''prevent the accumulation of sugar acquired by''.

[1] See References in Text note below.

Subsec. (f). Pub. L. 102–237, §111(e)(3), in heading substituted ''cane sugar allotments'' for ''sugarcane allotment'' and in text substituted ''allotted, among'' for ''allotted among'' and ''produced,'' for ''produced''.

Subsec. (g)(1). Pub. L. 102–237, §111(e)(4)(A), added par. (1) and struck out former par. (1) which read as follows: ''The Secretary shall, based on reestimates under section 1359bb(a)(2) of this title, adjust upward or downward marketing allotments established under subsections (a) through (f) of this section in a fair and equitable manner, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, availability, or imports.''

Subsec. (g)(3). Pub. L. 102–237, §111(e)(4)(B), added par. (3) and struck out former par. (3) which read as follows: ''Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this paragraph—

''(A) if the quantity of the sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal year at the time of the reduction under the allotment by all processors covered by the allotment exceeds the reduced allotment, the quantity of the excess sugar marketed shall be deducted—

''(i) if beet sugar is involved, from the marketing allotment, if any, next established for beet sugar; or

''(ii) if cane sugar is involved, from the marketing allotment next established for the State; and

''(B) if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 1446g of this title, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the quantity of the excess sugar marketed shall be deducted from the allocation of an allotment, if any, next established for the processor.''

Subsec. (h). Pub. L. 102–237, §111(e)(5), added subsec. (h) and struck out former subsec. (h) ''Filling sugarcane and sugar beet allotments'' which read as follows: ''Except as otherwise provided in section 1359ee of this title, each marketing allotment of sugarcane established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment of sugar beets established under this section may only be filled with sugar processed from domestically grown sugar beets.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359bb, 1359dd, 1359ff, 1359jj of this title.

§ 1359dd. Allocation of marketing allotments

(a) In general

(1) Allocation to processors

Whenever marketing allotments are established for a fiscal year under section 1359cc of this title, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(2) Hearing and notice

(A) Cane sugar

The Secretary shall make allocations for cane sugar after a hearing, if requested by interested parties, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(B) Beet sugar

The Secretary shall make allocations for beet sugar after a hearing, if requested by interested parties, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar (considering for the purposes the marketings of sugar processed from sugar beets of any or all of the 1985 through 1989 crops), and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 1359cc(g) of this title.

(b) Filling cane sugar allotments

Except as otherwise provided in section 1359ee of this title, a State cane sugar allotment established under section 1359cc(f) of this title for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

(Feb. 16, 1938, ch. 30, title III, §359d, as added Pub. L. 101–624, title IX, §902, Nov. 28, 1990, 104 Stat. 3483; amended Pub. L. 102–237, title I, §111(f), Dec. 13, 1991, 105 Stat. 1833.)

AMENDMENTS

1991—Subsec. (a)(2)(A), (B). Pub. L. 102–237, §111(f)(1), substituted ''after a hearing, if requested by interested parties,'' for ''after such hearing''.

Subsec. (b). Pub. L. 102–237, §111(f)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Except as otherwise provided in section 1359ee of this title, the marketing allotment established for cane sugar under this subpart for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359gg, 1359ii, 1359jj of this title.

§ 1359ee. Reassignment of deficits

(a) Estimates of deficits

At any time allotments are in effect under this subpart, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by

the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

(b) Reassignment of deficits

(1) Cane sugar

If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(2) Beet sugar

If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(3) Corresponding increase

The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.

(Feb. 16, 1938, ch. 30, title III, §359e, as added Pub. L. 101–624, title IX, §902, Nov. 28, 1990, 104 Stat. 3484; amended Pub. L. 102–237, title I, §111(g), Dec. 13, 1991, 105 Stat. 1833.)

AMENDMENTS

1991—Pub. L. 102–237 amended section generally, substituting present provisions for provisions relating to assignment of deficits, estimates of production and marketing of sugar, and reassignment of deficits in case of undermarketing of cane and beet sugar.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359dd, 1359jj of this title.

§ 1359ff. Provisions applicable to producers

(a) Processor assurances

Whenever allotments for a fiscal year are allocated to processors under section 1359dd of this title, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories. Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation shall be resolved through arbitration by the Secretary on the request of either party.

(b) Proportionate shares of certain allotments

(1) In general

(A) States affected

In any case in which a State allotment is established under section 1359cc(f) of this title and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

(B) Determination

The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

(2) Establishment of proportionate shares

If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by producers in the area covered by a State allotment for a fiscal year will be in excess of the quantity needed to enable processors to fill the allotment for the fiscal year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 1359cc(g) of this title.

(3) Method of determining

For purposes of determining proportionate shares for any crop of sugarcane:

(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Sec-

retary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

(4) Acreage base

For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(5) Violation

(A) In general

Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

(B) Determination of violation

No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

(C) Civil penalty

Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(6) Waiver

Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(7) Adjustments

Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

(Feb. 16, 1938, ch. 30, title III, § 359f, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3484; amended Pub. L. 102–237, title I, § 111(h), Dec. 13, 1991, 105 Stat. 1834; Pub. L. 102–535, Oct. 27, 1992, 106 Stat. 3526.)

AMENDMENTS

1992—Subsec. (b)(1)(B). Pub. L. 102–535, § 3(a), substituted ''production of sugarcane'' for ''production of sugar'' and inserted ''of sugar'' before period at end.

Subsec. (b)(2). Pub. L. 102–535, § 3(b), (c), substituted ''sugarcane produced by producers in the area'' for ''sugar processed from all crops by all processors'' and inserted ''of sugar'' after ''provide a normal carryover inventory'' and ''paragraph (7) and'' after ''adjustment under''.

Subsec. (b)(5)(B), (C). Pub. L. 102–535, § 1, added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: ''(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).''

Subsec. (b)(7). Pub. L. 102–535, § 2, added par. (7).

1991—Subsec. (b)(1)(A). Pub. L. 102–237, § 111(h)(1), substituted ''250 sugarcane producers in the State (other than Puerto Rico)'' for ''250 producers in such State''.

Subsec. (b)(2)(A). Pub. L. 102–237, § 111(h)(2), substituted ''establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during'' for ''establish proportionate shares for the crop of sugarcane that is harvested during''.

Subsec. (b)(3). Pub. L. 102–237, § 111(h)(3), added par. (3) and struck out former par. (3) which read as follows: ''For purposes of determining proportionate shares for any crop of sugarcane:

''(A) The Secretary shall establish the State's per-acre yield goal for a crop at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary deems relevant.

''(B) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A).

''(C) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (B), by the sum of all acreage bases in the State, as determined by the Secretary, that the Secretary estimates would otherwise be harvested for the production of the crop of sugarcane.

''(D) The uniform reduction percentage for the crop, as determined under subparagraph (C), shall be applied to the acreage base for each farm covered by the State allotment to determine the farm's proportionate share for the crop.''

Subsec. (b)(4). Pub. L. 102–237, § 111(h)(3), added par. (4) and struck out former par. (4) which read as follows: ''For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

''(A) The acreage base for any crop shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the crop year.

''(B) Acreage that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers shall be considered as harvested to sugarcane for sugar or seed for purposes of this paragraph.''

Subsec. (b)(5). Pub. L. 102–237, § 111(h)(3), added par. (5) and struck out former par. (5) which read as follows:

''(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, no producer in the State knowingly may harvest for sugar or seed an acreage of sugarcane of the crop in excess of the farm's proportionate share for the crop or otherwise violate proportionate share regulations issued by the Secretary under section 1359hh(a) of this title.

''(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation. The quantity of sugar involved shall be determined based on the per-acre yield goal established under paragraph (3).''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359gg, 1359ii, 1359jj of this title.

§ 1359gg. Special rules

(a) Transfer of acreage base history

For the purpose of establishing proportionate shares for sugarcane farms under section 1359ff of this title, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(b) Preservation of acreage base history

If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) Revisions of allocations and proportionate shares

The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 1359dd of this title, or any proportionate share established for a farm under section 1359ff of this title, on the same basis as the initial allocation or proportionate share was required to be established.

(Feb. 16, 1938, ch. 30, title III, § 359g, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102–237, title I, § 111(i), Dec. 13, 1991, 105 Stat. 1835.)

AMENDMENTS

1991—Subsecs. (a) and (b). Pub. L. 102–237, § 111(i)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

''(a) TRANSFER OF PRODUCTION HISTORY.—For the purpose of establishing proportionate shares for producers under section 1359ff of this title, the Secretary, on application of any producer, may transfer the production history of land owned, operated, or controlled by the producers to any other parcels of land of the applicant.

''(b) RESERVATION OF PRODUCTION HISTORY.—If for reasons beyond the control of an owner of a farm, the owner is unable to use all or a portion of the proportionate share established for the farm under section 1359ff of this title, the Secretary may reserve for a period of not more than 3 consecutive years the production history of the farm to the extent of the proportionate share involved. The proportionate share may be redistributed to other farm owners or operators, but no production history shall accrue to the other farm owners or operators, by virtue of the redistribution of the proportionate share so redistributed.''

Subsec. (c). Pub. L. 102–237, § 111(i)(2), struck out ''hearing and'' before ''notice'' and inserted ''required to be'' after ''proportionate share was''.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to

milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359hh. Regulations; violations; publication of Secretary's determinations; jurisdiction of courts; United States attorneys

(a) Regulations

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this subpart.

(b) Violation

Any person knowingly violating any regulation of the Secretary issued under subsection (a) of this section shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Publication in Federal Register

Each determination issued by the Secretary to establish, adjust, or suspend allotments under this subpart shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) Jurisdiction of courts; United States attorneys

(1) Jurisdiction of courts

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this subpart or any regulation issued thereunder.

(2) United States attorneys

Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this subpart. The Secretary may elect not to refer to a United States attorney any violation of this subpart or regulation when the Secretary determines that the administration and enforcement of this subpart would be adequately served by written notice or warning to any person committing the violation.

(e) Nonexclusivity of remedies

The remedies and penalties provided for in this subpart shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

(Feb. 16, 1938, ch. 30, title III, § 359h, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3486; amended Pub. L. 102–237, title I, § 111(j), Dec. 13, 1991, 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) IN GENERAL.—The Secretary shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering the marketing allotment program under this subpart.

''(2) PRIOR CONSULTATIONS REQUIRED.—In addition to taking such other action as may be required under section 551 through 559 of title 5 prior to proposing any regulations under paragraph (1), the Secretary shall consult with representatives of domestic sugar processors and producers with regard to ensuring that the regulations achieve the objectives of this subpart. The results of the consultations shall be published in the Federal Register, along with the proposed regulations.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359cc, 1359ff, 1359jj of this title.

§ 1359ii. Appeals

(a) In general

An appeal may be taken to the Secretary from any decision under section 1359dd of this title establishing allocations of marketing allotments, or under section 1359ff of this title, by any person adversely affected by reason of any such decision.

(b) Procedure

(1) Notice of appeal

Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) Hearing

The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

(Feb. 16, 1938, ch. 30, title III, § 359i, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3487; amended Pub. L. 102–237, title I, § 111(k), Dec. 13, 1991, 105 Stat. 1836.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall provide each appellant an opportunity for a hearing. The Secretary shall appoint an administrative law judge to conduct a hearing on the record on each appeal under this section. In all other respects, each appeal under this section shall be subject to sections 551 through 559, and 701 through 706, of title 5.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to

milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359jj of this title.

§ 1359jj. Administration

(a) Use of certain agencies

In carrying out this subpart, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 590h(b) of title 16, and the departments and agencies of the United States Government.

(b) Use of Commodity Credit Corporation

The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out sections 1359aa through 1359ii of this title.

(c) "United States" and "State" defined

Notwithstanding section 1301 of this title, for purposes of this subpart, the terms ''United States'' and ''State'' means[1] the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Feb. 16, 1938, ch. 30, title III, § 359j, as added Pub. L. 101–624, title IX, § 902, Nov. 28, 1990, 104 Stat. 3488.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(E) of this title.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART I—PUBLICATION AND REVIEW OF QUOTAS

INAPPLICABILITY OF SUBPART

Subpart inapplicable to 1996 through 2002 crops of peanuts, see section 7301(a)(1)(F) of this title.

Pub. L. 101–624, title VIII, § 801(4), Nov. 28, 1990, 104 Stat. 3459, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1991 through 1995 crops of peanuts.

Pub. L. 99–198, title VII, § 701(4), Dec. 23, 1985, 99 Stat. 1430, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1986 through 1990 crops of peanuts.

Pub. L. 97–98, title VII, § 701(4), Dec. 22, 1981, 95 Stat. 1248, provided that subpart I of part C of this subchapter (§ 1361 et seq.) is inapplicable to 1982 through 1985 crops of peanuts.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 7301 of this title.

§ 1361. Application of subpart

This subpart shall apply to the publication and review of farm marketing quotas established for tobacco, corn, wheat, cotton, peanuts, and rice, established under part B of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 361, 52 Stat. 62; Apr. 3, 1941, ch. 39, § 4, 55 Stat. 92.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in text, commences with section 1311 of this title.

[1] So in original. Probably should be ''mean''.

AMENDMENTS

1941—Act Apr. 3, 1941, inserted ''peanuts,'' after ''cotton,''.

§ 1362. Publication of marketing quota; mailing of allotment notice

All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

(Feb. 16, 1938, ch. 30, title III, § 362, 52 Stat. 62; Aug. 29, 1949, ch. 518, § 2(c), 63 Stat. 676.)

AMENDMENTS

1949—Act Aug. 29, 1949, inserted paragraph providing for mailing of notice of allotment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1363 of this title.

§ 1363. Review of quota; review committee

Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 1362 of this title, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

(Feb. 16, 1938, ch. 30, title III, § 363, 52 Stat. 63; Apr. 12, 1951, ch. 28, § 3, 65 Stat. 31.)

AMENDMENTS

1951—Act Apr. 12, 1951, provided that the Secretary appoint a local review committee composed of 3 farmers from the same or nearby counties.

REVIEW OF 1950 COTTON FARM ACREAGE ALLOTMENT

Section 2 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, provided that any farmer dissatisfied with his farm acreage allotment for the 1950 cotton crop could have such allotment reviewed in accordance with the provisions of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314b, 1314b–1, 1314b–2, 1314c, 2279a of this title.

§ 1364. Compensation of review committee

The members of the review committee shall receive as compensation for their services the

same per diem as that received by the members of the committee utilized for the purposes of chapter 3B of title 16. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

(Feb. 16, 1938, ch. 30, title III, § 364, 52 Stat. 63.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

§ 1365. Institution of proceeding for court review of committee findings

If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of record of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

(Feb. 16, 1938, ch. 30, title III, § 365, 52 Stat. 63; Pub. L. 86–507, § 1(5), June 11, 1960, 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1366. Court review

The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearing before the review committee, and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

(Feb. 16, 1938, ch. 30, title III, § 366, 52 Stat. 63; Pub. L. 98–620, title IV, § 402(6), Nov. 8, 1984, 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98–620 substituted ''The court'' for ''At the earliest convenient time, the court, in term time or vacation,''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1367. Stay of proceedings and exclusive jurisdiction

The commencement of judicial proceedings under this subpart shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this subpart to review the legal validity of a determination made by a review committee pursuant to this subpart shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this subpart.

(Feb. 16, 1938, ch. 30, title III, § 367, 52 Stat. 64.)

§ 1368. Effect of increase on other quotas

Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this subpart, the marketing quotas for other farms shall not be affected.

(Feb. 16, 1938, ch. 30, title III, § 368, 52 Stat. 64.)

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1371. General adjustment of quotas

(a) Investigation and adjustment to maintain normal supply

If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing

shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal the normal supply.

(b) Adjustment because of emergency or export demand

If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) Increase of farm quota on increase of national quota

In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota for the commodity shall be increased in the same ratio.

(Feb. 16, 1938, ch. 30, title III, § 371, 52 Stat. 64; Apr. 3, 1941, ch. 39, § 5, 55 Stat. 92; Aug. 28, 1954, ch. 1041, title III, § 312, 68 Stat. 904; Pub. L. 87–703, title III, § 321, Sept. 27, 1962, 76 Stat. 626.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–703, § 321(1), struck out ''corn, wheat,'' before ''cotton''.

Subsec. (b). Pub. L. 87–703, § 321(2), struck out ''any national acreage allotment for corn, or'' after ''export demand,'', ''wheat,'' before ''cotton'' and ''in order to effect the declared policy of this chapter or'' before ''to meet such emergency''.

1954—Subsec. (b). Act Aug. 28, 1954, § 312(a), inserted proviso relating to national acreage allotment for corn, and struck out corn from national marketing quota provision.

Subsec. (c). Act Aug. 28, 1954, § 312(b), inserted ''or acreage allotment'' after ''marketing quota'' wherever appearing.

Subsec. (d). Act Aug. 28, 1954, § 312(c), repealed subsec. (d) which related to the adjustment of corn storage regulations on change in marketing quotas.

1941—Subsecs. (a), (b). Act Apr. 3, 1941, inserted ''peanuts,'' after ''rice,''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to the crops planted for harvest in the calendar year 1964 or any subsequent year and the marketing years beginning in the calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

INAPPLICABILITY TO 1991 THROUGH 1995 CROPS OF PEANUTS

Pub. L. 101–624, title VIII, § 801(5), Nov. 28, 1990, 104 Stat. 3459, provided that this section is inapplicable to 1991 through 1995 crops of peanuts.

INAPPLICABILITY TO 1986 THROUGH 1990 CROPS OF PEANUTS

Pub. L. 99–198, title VII, § 701(5), Dec. 23, 1985, 99 Stat. 1430, provided that this section is inapplicable to 1986 through 1990 crops of peanuts.

INAPPLICABILITY TO 1982 THROUGH 1985 CROPS OF PEANUTS

Pub. L. 97–98, title VII, § 701(5), Dec. 22, 1981, 95 Stat. 1248, provided that this section is inapplicable to 1982 through 1985 crops of peanuts.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1372. Payment, collection, and refund of penalties

(a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in part B of this subchapter shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 1314h of this title, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this chapter, the Secretary finds that such penalty was erroneously illegally, or wrongfully collected and the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) of this section by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this chapter with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

(Feb. 16, 1938, ch. 30, title III, § 372, 52 Stat. 65; Apr. 7, 1938, ch. 107, § 11, 52 Stat. 204; July 2, 1940,

ch. 521, § 6, 54 Stat. 728; Pub. L. 96–113, Nov. 16, 1979, 93 Stat. 850; Pub. L. 99–272, title I, § 1106(b), Apr. 7, 1986, 100 Stat. 91.)

REFERENCES IN TEXT

Part B of this subchapter, referred to in subsec. (b), commences with section 1311 of this title.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–272 substituted ''Except as provided in section 1314h of this title, the'' for ''The''.

1979—Subsec. (d). Pub. L. 96–113 inserted provisions respecting exemption from marketing quota penalties for State prison farms.

1940—Subsec. (c). Act July 2, 1940, substituted ''within two years'' for ''within one year'' and inserted ''and the claimant bore the burden of the payment of such penalty'' after ''wrongfully collected'' in first par. and inserted second par. authorizing regulations for farm identification, etc.

1938—Subsecs. (c), (d). Act Apr. 7, 1938, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1106(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

CROSS REFERENCES

Agricultural experiment stations, see section 361a et seq. of this title.

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all producers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

(b) Proof of acreage yield

Farmers engaged in the production of corn, wheat, cotton, rice, peanuts, or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this subchapter.

(c) Data as confidential

All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this subchapter. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

(Feb. 16, 1938, ch. 30, title III, § 373, 52 Stat. 65; June 13, 1940, ch. 360, § 6, 54 Stat. 394; Apr. 3, 1941, ch. 39, §§ 6, 7, 55 Stat. 92; Pub. L. 86–507, § 1(6), June 11, 1960, 74 Stat. 200; Pub. L. 95–113, title VIII, § 805, Sept. 29, 1977, 91 Stat. 947; Pub. L. 97–98, title VII, § 706, Dec. 22, 1981, 95 Stat. 1256; Pub. L. 97–218, title III, § 304, July 20, 1982, 96 Stat. 214; Pub. L. 99–198, title VII, § 706, Dec. 23, 1985, 99 Stat. 1441; Pub. L. 101–624, title VIII, § 807, Nov. 28, 1990, 104 Stat. 3478; Pub. L. 104–127, title I, § 171(a)(2), Apr. 4, 1996, 110 Stat. 937.)

AMENDMENT OF SECTION

For termination of amendment by section 171(a)(2) of Pub. L. 104–127, see Effective and Termination Dates of 1996 Amendment note below.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1996 Amendment note below.

1990—Subsec. (a). Pub. L. 101–624 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1990 Amendment note below.

1985—Subsec. (a). Pub. L. 99–198 temporarily inserted ''all producers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1985 Amendment note below.

1982—Subsec. (c). Pub. L. 97–218 inserted provision that nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

1981—Subsec. (a). Pub. L. 97–98 temporarily inserted ''all farmers engaged in the production of peanuts,'' before ''all brokers and dealers in peanuts''. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95–113 temporarily inserted ''all farmers engaged in the production of peanuts,'' before ''and brokers and dealers in peanuts''. See Effective and Termination Dates of 1977 Amendment note below.

1960—Subsec. (a). Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

1941—Subsec. (a). Act Apr. 3, 1941, §6, among other changes, inserted ''peanuts'' after ''rice'' wherever appearing and inserted ''all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines''.

Subsec. (b). Act Apr. 3, 1941, §7, inserted ''peanuts,'' after ''rice,''.

1940—Subsec. (a). Act June 13, 1940, inserted all after ''$500;'' in last sentence.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Section 171(a)(2) of Pub. L. 104–127 provided that the amendment made by that section is effective only for 1996 through 2002 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT

Section 807 of Pub. L. 101–624 provided that the amendment made by that section is effective only for 1991 through 1995 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 706 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 706 of Pub. L. 97–98 provided that the amendment made by that section is effective for 1982 through 1985 crop of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 805 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

(Feb. 16, 1938, ch. 30, title III, §374, 52 Stat. 65; Apr. 3, 1941, ch. 39, §8, 55 Stat. 92; Aug. 29, 1949, ch. 518, §2(b), 63 Stat. 676; Aug. 28, 1954, ch. 1041, title III, §311(b), 68 Stat. 904; Pub. L. 86–553, §§1, 2, June 30, 1960, 74 Stat. 258; Pub. L. 89–321, title VII, §§701, 702, Nov. 3, 1965, 79 Stat. 1210; Pub. L.

91–524, title VI, § 612, Nov. 30, 1970, as added Pub. L. 93–86, § 1(25), Aug. 10, 1973, 87 Stat. 236; Pub. L. 95–113, title VI, § 605, Sept. 29, 1977, 91 Stat. 940; Pub. L. 97–98, title V, § 505, Dec. 22, 1981, 95 Stat. 1241; Pub. L. 99–198, title V, § 505, Dec. 23, 1985, 99 Stat. 1418; Pub. L. 101–624, title V, § 504, Nov. 28, 1990, 104 Stat. 3440; Pub. L. 102–237, title I, § 116(2), Dec. 13, 1991, 105 Stat. 1840.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 inserted ''(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)'' after ''30 inch rows'' and inserted at end ''For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.''

1990—Subsec. (a). Pub. L. 101–624 substituted ''1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped'' for ''1990 crops''.

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990 crops'' for ''1985 crops''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''1985 crops'' for ''1981 crops''.

1977—Subsec. (a). Pub. L. 95–113 substituted ''1981'' for ''1977'' in provisions setting the last year for application of the 1971 through 1973 skiprow patterns in classifying the acreage planted to cotton.

1973—Subsec. (a). Pub. L. 91–524, § 612, as added by Pub. L. 93–86, inserted provisions relating to cotton planted in skiprow patterns.

1965—Subsec. (a). Pub. L. 89–321, § 701, removed references to county and local committees as the agent for measuring commodity or land use acreage, substituted a general reference to any agricultural commodity or land use on farms requiring ascertainment of acreage for specific reference to corn, wheat, cotton, peanuts, or rice, and substituted provisions requiring ascertainment of commodity and land use prior to harvesting and allowing a reasonable time for adjustment of acreage requirements for provisions requiring the filing of a written report by the local committee with the state committee in the event of planting in excess of farm acreage allotment.

Subsec. (c). Pub. L. 89–321, § 702, struck out sentence directing the Secretary to provide by regulation for the adjustment of planted acreage to the farm acreage allotment if the acreage determined to be planted to any basic agricultural commodity on the farm is in excess of the farm acreage allotment.

1960—Subsec. (b). Pub. L. 86–553, § 1, struck out second sentence which read as follows: ''The Secretary shall similarly provide for the remeasurement upon request by the farm operator of the acreage planted to cotton on the farm, but the operator shall be required to reimburse the local committee for the expense of such remeasurement if the planted acreage is found to be in excess of the allotted acreage'' which is now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86–553, § 2, authorized Secretary to provide by regulations for remeasurement of acreage planted to a basic agricultural commodity and for measurement of acreage planted to such commodity remaining after adjustment of excess of measurement and remeasurement and to provide for refunds, and prescribed method of computing acreage in determining whether the applicable farm allotment has been exceeded.

1954—Subsec. (b). Act Aug. 28, 1954, struck out last sentence relating to overplanting of cotton acreage.

Subsec. (c). Act Aug. 28, 1954, added subsec. (c).

1949—Act Aug. 29, 1949, redesignated existing provisions as subsec. (a) and added subsec. (b).

1941—Act Apr. 3, 1941, inserted ''peanuts,'' after ''cotton,''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1349 of this title.

§ 1375. Regulations

(a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this subchapter.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this subchapter.

(Feb. 16, 1938, ch. 30, title III, § 375, 52 Stat. 66; Apr. 3, 1941, ch. 39, § 9, 55 Stat. 92.)

AMENDMENTS

1941—Subsec. (a). Act Apr. 3, 1941, inserted ''peanuts,'' after ''rice,''.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1376. Court jurisdiction; duties of United States attorneys; remedies and penalties as additional

The several district courts of the United States are vested with jurisdiction specifically to enforce the provisions of this subchapter. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this subchapter. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 1349 of this title.

(Feb. 16, 1938, ch. 30, title III, § 376, 52 Stat. 66; June 25, 1948, ch. 646, § 1, 62 Stat. 869; Pub. L. 88–297, title I, § 106(2), Apr. 11, 1964, 78 Stat. 176.)

AMENDMENTS

1964—Pub. L. 88–297 provided for application of this section to liquidated damages under section 1349 of this title.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys''. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

CROSS REFERENCES

Jurisdiction of district courts of actions for recovery of penalties, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314–1 of this title.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.]): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(Feb. 16, 1938, ch. 30, title III, § 377, as added May 28, 1956, ch. 327, title III, § 307, 70 Stat. 206; amended Pub. L. 85–266, Sept. 2, 1957, 71 Stat. 592; Pub. L. 86–172, § 1, Aug. 18, 1959, 73 Stat. 393; Pub. L. 88–297, title I, § 106(4), Apr. 11, 1964, 78 Stat. 177; Pub. L. 95–113, title VIII, § 806, Sept. 29, 1977, 91 Stat. 947; Pub. L. 104–127, title III, § 336(b)(2)(A), Apr. 4, 1996, 110 Stat. 1006.)

REFERENCES IN TEXT

The Soil Bank Act, referred to in text, is act May 28, 1956, ch. 327, 70 Stat. 188, as amended, which was classified to subchapters I to III of chapter 45 (§ 1801 et seq.) of this title and was repealed by Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of this Act to the Code prior to its repeal, see Tables.

The Food Security Act of 1985, referred to in text, is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Great Plains program''.

1977—Pub. L. 95–113 temporarily inserted ''or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota'' after ''of the farm acreage allotment for such year''. See Effective and Termination Dates of 1977 Amendment note below.

1964—Pub. L. 88–297 inserted ''or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller'' in first proviso after ''75 per centum or more of the farm acreage allotment for such year'' to protect the farm base of any farm participating in the domestic allotment choice program if the acreage planted on the farm was at least 75 per centum of the farm domestic allotment.

1959—Pub. L. 86–172 excluded any allotment provided for a farm under section 1344(f)(7)(A) of this title from the entire acreage allotment for the farm which is considered as planted in the year for the purpose of establishing future acreage allotments and provided for the preservation of the current farm acreage allotment as history acreage under prescribed conditions.

1957—Pub. L. 85–266 struck out, for 1957, 1958, and 1959, requirement of filing notice of intention not to plant full acreage allotment and provided that acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 806 of Pub. L. 95–113 provided that the amendment made by that section is effective for 1978 through 1981 crops of peanuts.

INAPPLICABILITY OF SECTION

Section inapplicable to 1984 and subsequent crops of extra long staple cotton, see section 3 of Pub. L. 98–88, set out as a note under section 1342 of this title.

Section inapplicable to 1996 through 2002 crops of upland cotton, see section 7301(a)(1)(G) of this title.

Section inapplicable to 1991 through 1995 crops of upland cotton, see section 502 of Pub. L. 101–624, set out as a note under section 1342 of this title.

Section inapplicable to 1986 through 1990 crops of upland cotton, see section 502 of Pub. L. 99–198, set out as a note under section 1342 of this title.

Section inapplicable to 1982 through 1985 crops of upland cotton, see section 501 of Pub. L. 97–98, set out as a note under section 1342 of this title.

Section inapplicable to 1978 through 1981 crops of rice, see section 703 of Pub. L. 95–113.

Section inapplicable to 1978 through 1981 crops of upland cotton, see section 601 of Pub. L. 95–113, set out as a note under section 1342 of this title.

Pub. L. 94–214, title III, § 301, Feb. 16, 1976, 90 Stat. 187, provided that: ''Section 377 of the Agricultural Adjustment Act of 1938 [this section] shall not be applicable to the 1976 and 1977 crops of rice.''

Pub. L. 91–524, title VI, § 601(1), Nov. 30, 1970, 84 Stat. 1371, as amended by Pub. L. 93–86, § 1(19)(A), Aug. 10,

1973, 87 Stat. 233, provided that this section is inapplicable to 1971 through 1977 crops of upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1358, 7301 of this title.

§ 1378. Transfer of acreage allotments ensuing from agency acquisition of farmlands

(a) Allotment pool

Notwithstanding any other provision of this chapter, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owner so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotments shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where subsection (c) of this section requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to April 9, 1960, and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from April 9, 1960, such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3–year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) Circumstances precluding application of provisions

The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) Time of displacement determining application of provisions

This section shall not be applicable, in the case of cotton, tobacco, and peanuts, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(d), (e) Omitted

(f) Burley tobacco marketing allotment and acreage as meaning marketing quota and poundage

In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 1314e of this title, the words ''allotment'' and ''acreage'', wherever they appear, shall be construed to mean ''marketing quota'' and ''poundage'', respectively, as required.

(Feb. 16, 1938, ch. 30, title III, § 378, as added Pub. L. 85–835, title V, § 501, Aug. 28, 1958, 72 Stat. 995; amended Pub. L. 86–423, § 1, Apr. 9, 1960, 74 Stat. 41; Pub. L. 87–33, May 16, 1961, 75 Stat. 78; Pub. L. 91–524, title IV, § 404(3), title VI, § 605(1), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 92–10, § 2, Apr. 14, 1971, 85 Stat. 27; Pub. L. 92–354, July 26, 1972, 86 Stat. 499.)

CODIFICATION

Part of subsec. (d) of section 378 of act Feb. 16, 1938, as originally enacted, is set out as a Savings Clause note below. The remainder of such subsec. (d) repealed sections 1313(h), 1334(d), 1344(h), a prior section 1353(f), and section 1358(h) of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–354 struck out the alternative time limitation for filing applications to the county committee and substituted provisions describing allotments for provisions requiring the allotments to be comparable with allotments determined for other farms in the same area which are similar except for the past acreage of the commodity.

1971—Subsec. (f). Pub. L. 92–10 added subsec. (f).

1970—Subsec. (d). Pub. L. 91–524, § 605(1), temporarily added subsec. (d). See Effective and Termination Dates of 1970 Amendment note below.

Subsec. (e). Pub. L. 91–524, § 404(3), temporarily added subsec. (e). See Effective and Termination Dates of 1970 Amendment note below.

1961—Pub. L. 87–33 substituted provisions permitting displaced owners to release part or all of any allotment remaining in the allotment pool for reapportionment to other farms in the county having allotments for such commodity, for provisions making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments held under the lease by a displaced owner.

1960—Subsec. (a). Pub. L. 86–423 inserted sentences providing that the former owner of land shall not be considered to have been displaced during any period for which such land is leased to him if his occupancy under the lease immediately follows after his occupancy as owner, authorizing retransfer of allotments in cases where a former owner leases land formerly owned by him prior to two years from April 9, 1960, and making sections 1344(m)(2), 1353(e), and 1358(g) of this title inapplicable to allotments on lands held under the lease by a displaced owner which are subject to the provisions of this amendment.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SAVINGS PROVISION

Section 378(d) of act Feb. 16, 1938, as added by Pub. L. 85–835, § 501, provided in part that: ''but any transfer or reassignment of allotment heretofore made under the provisions of these sections [former sections 1313(h), 1334(d), 1344(h), 1353(f), and 1358(h) of this title] shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections [such sections] shall not be eligible for additional allotment under subsection (a) of this section [subsec. (a) of this section] because of such displacement.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314c of this title.

§ 1379. Reconstitution of farms

(a) Transfers from parent farm

In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco.

(b) Combination of tracts in contiguous counties

In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if (1) a Burley or flue-cured tobacco poundage quota is established for one or more of such tracts, and (2) the relevant county committees determine that such tracts will be operated as a single farming unit.

(c) Burley tobacco poundage quotas

When a farm is divided through reconstitution, the burley tobacco poundage quota which transfers with the divided land shall not be less than 1,000 pounds (except when the reconstitution of the farm is among immediate family members or pursuant to probate proceedings).

(Feb. 16, 1938, ch. 30, title III, § 379, as added Pub. L. 89–321, title VII, § 707, Nov. 3, 1965, 79 Stat. 1211; amended Pub. L. 91–524, title IV, § 404(4), title VI, § 605(2), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 98–180, title II, § 212(b), Nov. 29, 1983, 97 Stat. 1149; Pub. L. 101–577, § 2(c), Nov. 15, 1990, 104 Stat. 2856; Pub. L. 102–237, title I, § 116(3), Dec. 13, 1991, 105 Stat. 1841; Pub. L. 106–78, title VIII, § 803(c)(6)(C), Oct. 22, 1999, 113 Stat. 1178.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–78 inserted ''or flue-cured'' after ''Burley''.

1991—Subsecs. (a)(4) to (7), (c). Pub. L. 102–237 struck out ''or'' at end of par. (4), substituted ''; or'' for period at end of par. (5), substituted a period for ''; or'' at end of par. (6), and redesignated par. (7) as subsec. (c) and moved subsec. (c) to follow subsec. (b).

1990—Subsec. (a)(7). Pub. L. 101–577 added par. (7).

1983—Pub. L. 98–180 designated existing provisions as subsec. (a) and added subsec. (b).

1970—Pub. L. 91–524 temporarily inserted provision that term ''acreage allotments'' include the farm base acreage allotments for upland cotton and the domestic allotment for wheat. See Effective and Termination Dates of 1970 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1314d of this title.

PART D—WHEAT MARKETING ALLOCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 7301 of this title.

§ 1379a. Legislative findings

Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for non-agriculture products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this part.

(Feb. 16, 1938, ch. 30, title III, § 379a, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

§ 1379b. Wheat marketing allocation; amount; national allocation percentage; commercial and noncommercial wheat-producing areas

During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this part. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this part, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a noncommercial wheat-producing area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

(Feb. 16, 1938, ch. 30, title III, § 379b, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 626; amended Pub. L. 88–297, title II, § 202(10), (11), Apr. 11, 1964, 78 Stat. 179, 180; Pub. L. 89–321, title V, §§ 502, 503, Nov. 3, 1965, 79 Stat. 1202; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title IV, § 402(a), (b)(B), (C), Nov. 30, 1970, 84 Stat. 1362, as renumbered and amended Pub. L. 93–86, § 1(9), Aug. 10, 1973, 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 91–524, § 402(b)(B)(i)–(vi), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''certificates on wheat'', ''wheat allotment'' for ''domestic wheat allotment'', ''thirteen and three-tenths million'' for ''13.3 million'', ''1971 crop; plus, if required by the Secretary, (ii) the acreage'' for ''1971 crop or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage'', ''The Secretary is authorized for the 1974 through 1977 crops to limit'' for ''The Secretary is authorized for the 1971, 1972, and 1973 crops to limit'', ''such percentage of the acreage allotment'' for ''such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section'', ''The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and'' for ''Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16 and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to'', and ''flaxseed, triticale, oats, rye, or other

commodity'' for ''flaxseed, or other commodity''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(2). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''certificates authorized in subsection (b) of this section''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(3). Pub. L. 91–524, § 402(b)(B)(vii), as added by Pub. L. 93–86, temporarily inserted provisions authorizing the Secretary, in the case of programs for the 1974 through 1977 crops, to pay an appropriate share of the cost of practices designated to protect set-aside acreage against erosion, insects, weeds, and rodents and to devote such acreage to wildlife food plots or wildlife habitat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (c)(4). Pub. L. 91–524, § 402(b)(B)(i), as added by Pub. L. 93–86, temporarily substituted ''payments authorized by section 1445a(c) of this title'' for ''marketing certificates''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (d). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily struck out ''certificates issued and of'' before ''payments made''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (e). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily struck out references to the issuance of certificates. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (g). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily reenacted subsec. (g) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (i). Pub. L. 91–524, § 402(b)(C), as added by Pub. L. 93–86, temporarily reenacted subsec. (i) without change. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91–524, § 402(a), formerly § 402, temporarily substituted provisions covering the issuance of domestic certificates to producers and a voluntary set-aside program for wheat for provisions for a wheat marketing allocation program for the 1964 to 1970 crops. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 temporarily provided for a one year extension through 1970.

1965—Pub. L. 89–321, § 502, temporarily amended section generally and, among other changes, extended the wheat marketing allocation program from 1964 and 1965 to 1966 through 1969, put a minimum limitation of five hundred million bushels on the amount of wheat included in the marketing allocation for food products for consumption in the United States, and required the cost of any domestic marketing certificates issued to producers in excess of the number of certificates acquired by processors as a result of the application of the five hundred million bushel minimum or an overestimate of the amount of wheat used during such year for food products for consumption in the United States to be borne by the Commodity Credit Corporation. See Effective and Termination Dates of 1965 Amendment note below.

Pub. L. 89–321, § 503, substituted ''projected farm yield'' for ''normal wheat for the farm as projected by the Secretary''.

1964—Pub. L. 88–297, § 202(10), temporarily struck out introductory phrase ''During any marketing year for which a marketing quota is in effect for wheat'', reduced the national allocation percentage by the expected production on the acreage allotments for farms which will not be in compliance with the requirements of the program, and struck out provisions for wheat marketing allocations to non-commercial wheat-producing areas reasonably related to such allocations to producers in commercial wheat-producing areas. See Effective and Termination Dates of 1964 Amendment note below.

Pub. L. 88–297, § 202(11), substituted ''food products for consumption in the United States'' for ''human consumption in the United States, as food, food products, and beverages, composed wholly or partly of wheat'' in second sentence.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(B) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective with respect to 1974 through 1977 crops of wheat.

Section 402(b)(C) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective for 1974 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 502 of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to crops of wheat planted for harvest in calendar years 1966 through 1970, and marketing years for such crops.

Section 503 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with 1970 crop.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(10) of Pub. L. 88–297 provided that the amendment made by that section is effective only with respect to crops planted for harvest in 1964 and 1965.

Section 202(11) of Pub. L. 88–297 provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar year 1966 and any subsequent year.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

Section 402(b)(A) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that: ''Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) [this section] shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection [amending this section and section 1379c of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1334 of this title.

§ 1379c. Marketing certificates

(a) Issuance; amount; reduction; sharing among producers; domestic and export certificates

The Secretary shall provide for the issuance of wheat marketing certificates for each market-

ing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under subsection (b) of this section or to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom; except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable. The Secretary shall, in accordance with such regulation as he may prescribe, provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States. The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster shall be deemed by the Secretary to be an actual acreage of wheat planted for harvest for purposes of this subsection, provided such acreage is not subsequently planted to any other price supported crop for 1965. An acreage on the farm not planted to wheat because of drought, flood, or other natural disaster shall be deemed to be an actual acreage of wheat planted for harvest for purposes of this subsection provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 per centum of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.

(b) Producers eligible for certificates; storage conditions

No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 1339 of this title to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of this chapter, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

(c) Face value

The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

(d) Statement or form of certificates and transfers

Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(e) Failure of producer to comply with programs; issuance of certificates

In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this chapter preclude the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

(Feb. 16, 1938, ch. 30, title III, § 379c, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 627; amended Pub. L. 88–297, title II, § 202(12)–(14), Apr. 11, 1964, 78 Stat. 180, 181; Pub. L. 89–112, § 3, Aug. 6, 1965, 79 Stat. 447; Pub. L. 89–321, title V, §§ 508, 510(a), 513(b), (c), 515, 517, Nov. 3, 1965, 79 Stat. 1204–1206; Pub. L. 89–451, § 3, June 17, 1966, 80 Stat. 202; Pub. L. 91–524, title IV, § 402(a), (b)(D), Nov. 30, 1970, 84 Stat. 1364, as renumbered and amended Pub. L. 93–86, § 1(9), Aug. 10, 1973, 87 Stat. 225.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily substituted references to a farm acreage allotment for references to the farm domestic allotment wherever appearing, struck out provisions limiting the impact of the section to the 1972 and 1973 crops of wheat, substituted ''estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks'' for ''estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels)'' in the provisions covering the determination of the estimated national yield, and inserted ''(1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment)'' before ''adjusted to the extent deemed necessary''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(2). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''acreage allotment'' and ''wheat allotment''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(3). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' and ''wheat allotment'' wherever appearing and struck out provisions establishing special requirements to be met in determining the allotment for the 1971 crop of wheat. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(4), (5). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (a)(6). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily reenacted par. (6) without change. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(1). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing and inserted '', guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate'' after ''feed grains for which there is a set-aside program in effect''. See Effective and Termination Dates of 1973 Amendment note below.

Subsec. (b)(2). Pub. L. 91–524, § 402(b)(D), as added by Pub. L. 93–86, temporarily struck out ''domestic'' before ''allotment'' wherever appearing and substituted ''payments'' for ''certificates'' and ''section 1445a(c) of this title'' for ''this chapter''. See Effective and Termination Dates of 1973 Amendment note below.

1970—Pub. L. 91–524, § 402(a), formerly § 402, temporarily substituted provisions for the apportionment of the farm domestic allotment for each crop of wheat among the States for provisions covering the marketing certificates program. See Effective and Termination Dates of 1970 Amendment note below.

1966—Subsec. (a). Pub. L. 89–451 substituted ''any crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''any other income-producing crops during such year'' in penultimate sentence.

1965—Subsec. (a). Pub. L. 89–321, §§ 508, 513(b), authorized the Secretary to provide for the sharing of wheat marketing certificates among producers on a fair and equitable basis even though such basis might be other than the basis of their respective shares in the wheat crop produced on the farm, provided that acreage not planted to wheat because of drought, flood, or other natural disaster be deemed, with certain conditions, be planted for harvest for purposes of this subsection, and expanded the reference to the issuance of export marketing certificates by requiring their issuance on a pro rata basis and providing for the determination of such certificate's value per bushel.

Pub. L. 89–112 provided that the Secretary shall deem acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster, to be an actual acreage of wheat planted for harvest when that acreage was not subsequently planted to any other price supported crop for 1965.

Subsec. (b). Pub. L. 89–321, §§ 510(a), 517 substituted ''projected farm yield'' for ''normal yield of wheat per acre established for the farm'', permitted delivery to the Secretary of the wheat produced on excess acreage as an additional means of disposing of excess wheat so as to allow a producer to be deemed not to have exceeded the farm acreage allotment for wheat for purposes of this section, and provided for the disposition of wheat delivered to the Secretary and the adjustment of certificates to a producer who has produced an undesirable variety of wheat following public announcement by the Secretary of its undesirable characteristics.

Subsec. (c). Pub. L. 89–321, § 513(c), struck out provisions that the face value per bushel of export certificates shall be the amount by which the level of price support for wheat accompanied by export certificates exceeds the level of price support for noncertificate wheat.

Subsec. (e). Pub. L. 89–321, § 515, added subsec. (e).

1964—Subsec. (a). Pub. L. 88–297, § 202(12), inserted ''under subsection (b) of this section or'' after ''stored'' in second sentence, added to such sentence provision for reduction of wheat marketing certificates from amount of export certificates, and inserted provision for issuance of domestic marketing certificates for wheat used for domestic consumption and export marketing certificates for wheat used for export.

Subsec. (b). Pub. L. 88–297, § 202(13), temporarily authorized producers who exceeded their wheat allotments to store their excess wheat in accordance with regulations issued by the Secretary and be eligible for wheat marketing certificates, prohibited wheat stored under this provision from being removed from storage until a subsequent year when acreage allotment was underplanted or the production on the acreage allotment was less than normal, required the producer (for removal of the wheat contrary to these conditions) to pay an amount one and one-half times the value of the wheat marketing certificates issued with respect to the farm for the year in which the wheat on the acreage in excess of the allotment was produced, and made producers who exceeded their allotment and stored their excess wheat ineligible for diversion payments. See Effective and Termination Dates of 1964 Amendment note below.

Subsec. (c). Pub. L. 88–297, § 202(14), struck out introductory phrase ''Whenever a wheat marketing allocation program is in effect for any marketing year'' from first sentence, substituted in such sentence ''each marketing year'' for ''such marketing year'', inserted in such sentence ''wheat'' before ''marketing certificates'', substituted in second sentence ''domestic cer-

tificates shall be the amount'' for ''marketing certificates shall be equal to the amount'' and ''domestic certificates'' for ''certificates'' before ''exceeds'', and inserted to such sentence provision for face value per bushel of export certificates.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 402(b)(D) of Pub. L. 91–524, as added by section 1(9) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 402(a), formerly section 402, of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of wheat.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 508 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1966.

Section 510(a) of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with 1966 crop.

Section 515 of Pub. L. 89–321 provided that the amendment made by that section is effective beginning with crop planted for harvest in calendar year 1964.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 202(13) of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 505(2), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective with respect to crops planted for harvest in calendar years 1965 through 1970.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to 1991 through 1995 crops of wheat, see section 303 of Pub. L. 101–624, set out as a note under section 1331 of this title.

Section inapplicable to 1986 through 1990 crops of wheat, see section 310(b) of Pub. L. 99–198, set out as a note under section 1331 of this title.

Section inapplicable to 1982 through 1985 crops of wheat, see section 303 of Pub. L. 97–98, set out as a note under section 1331 of this title.

Section inapplicable to 1978 through 1981 crops of wheat, see section 404 of Pub. L. 95–113, set out as a note under section 1331 of this title.

REDUCTION OF WHEAT STORED BY PRODUCERS PRIOR TO 1971 CROP

Section 407 of Pub. L. 91–524, as amended by section 1(14) of Pub. L. 93–86, provided that: ''The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsection (b) of this section], prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith. Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended [subsec. (b) of this section], prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445a of this title.

§ 1379d. Marketing restrictions

(a) Transfers of certificates; purchases by Commodity Credit Corporation

Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

(b) Processor and exporter acquisition of domestic and export certificates; international trade, expansion; refunds or credits for certificates; exemptions from requirements

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, shall be deemed to have been exported for purposes of this subsection

when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof, the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals, or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

(c) Undertaking to secure marketing of commodity without certificate

Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

(d) "Food products" defined; exemption of flour second clears

As used in this part, the term ''food products'' means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

(Feb. 16, 1938, ch. 30, title III, § 379d, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 88–297, title II, § 202(15)–(17), Apr. 11, 1964, 78 Stat. 181, 182; Pub. L. 89–321, title V, §§ 504(a)–(c), 513(a), Nov. 3, 1965, 79 Stat. 1202, 1203, 1205; Pub. L. 91–524, title IV, § 403(a)(1), (2), formerly § 403(1), (2), Nov. 30, 1970, 84 Stat. 1366, as renumbered Pub. L. 93–86, § 1(10), Aug. 10, 1973, 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsec. (d), commences with section 1379a of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–524, temporarily struck out provision limiting the section to only those marketing years for which a wheat marketing allocation program is in effect and inserted provisions authorizing the Secretary to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974. See Effective and Termination Dates of 1970 Amendment note below.

1965—Subsec. (b). Pub. L. 89–321, §§ 504(a), (c), 513(a), among other changes, amended second sentence, and also authorized the Secretary to exempt from the requirements of this subsection wheat produced by a State or agency thereof and processed for use by the State or agency thereof, wheat processed for donations, and wheat processed for uses determined by the Secretary to be noncommercial, permitted exemptions to be made applicable with respect to any wheat processed or exported beginning July 1, 1964, exempted from requirements of this subsection beverage distilled from wheat prior to July 1, 1964, required beverage distilled from wheat after July 1, 1964, to be deemed as being removed for sale or consumption at the time it is placed in barrels for aging, permitted upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required to be deferred until such beverage is bottled for sale, required wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation, to be deemed as having been exported for purposes of this subsection when it is exported from the Canadian port, and, whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, empowered the Secretary to require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Subsec. (d). Pub. L. 89–321, § 504(b), excluded four second clears not used for human consumption from term ''food products'', authorized the Secretary at his election to administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears, and permitted, for the purpose of such refunds, the wheat equivalent of flour second clears to be determined on the basis of conversion factors authorized by section 1379f of this title, even though certificates had been surrendered on the basis of the weight of the wheat.

1964—Subsec. (a). Pub. L. 88–297, § 202(15), struck out provisions prohibiting persons from acquiring marketing certificates from the producer to whom such certificates were issued, unless such certificates were acquired in connection with acquisition from such producer of a number of bushels of wheat equivalent to the marketing certificates and authorizing the CCC to purchase from producers certificates not accompanied by wheat in cases where the Secretary determined that it would constitute an undue hardship to require the producer to transfer his certificates only in connection with the disposition of wheat and substituted ''by any person'' for ''by persons other than the producer to whom such certificates are issued''.

Subsec. (b). Pub. L. 88–297, § 202(16), in cl. (i) substituted ''marketing any such food product or removing such food product for sale or consumption'' for ''marketing any such product for human food in the United

States'' and inserted ''domestic'' before ''marketing certificates''; in cl. (ii) struck out ''or food products'' after ''wheat'' and inserted ''export'' before ''marketing certificates''; inserted references to removals for sale or consumption in two other places and to removals in two places to make it clear that certificates were required on all wheat processed into food products whether sold, removed for sale, or removed for consumption; required the CCC to refund to the exporter such part of the cost of the certificate as the Secretary determined would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States; and authorized the Secretary to exempt from the requirement to have marketing certificates, wheat which was donated abroad and wheat processed for use on the farm where grown.

Subsec. (d). Pub. L. 88–297, § 202(17), redefined ''food products'' to mean flour, semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product instead of any product composed wholly or partly of wheat to be used for human consumption, including beverage.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 504(a) of Pub. L. 89–321 provided that the amendment made by that section is effective November 3, 1965.

Section 504(b) of Pub. L. 89–321 provided in part that: ''This subsection [amending this section] shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act [Nov. 3, 1965], unless the Secretary shall by regulation designate an earlier effective date within such sixty-day period.''

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Pub. L. 101–624, title III, § 302, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.''

Pub. L. 99–198, title III, § 309, Dec. 23, 1985, 99 Stat. 1394, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 1991.''

Pub. L. 97–98, title III, § 302, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1982, through May 31, 1986.''

Pub. L. 95–113, title IV, § 403, Sept. 29, 1977, 91 Stat. 926, provided that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982.''

Section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 228, provided in part that: ''Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379g, 1379i of this title.

§ 1379e. Assistance in purchase and sale of marketing certificates; regulations; administrative expenses; interest

For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(Feb. 16, 1938, ch. 30, title III, § 379e, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 628; amended Pub. L. 89–321, title V, § 516, Nov. 3, 1965, 79 Stat. 1206; Pub. L. 90–559, § 1(6), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title IV, § 403(a)(3), Nov. 30, 1970, 84 Stat. 1366.)

CODIFICATION

The sentence added by Pub. L. 89–321, as amended by Pub. L. 90–559, which directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through 1970 wheat crops to persons processing food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeded $2 per bushel, was omitted as executed.

AMENDMENTS

1970—Pub. L. 91–524, temporarily directed the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but directed that, in determining the cost to processors of food products, the face value be 75 cents per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 provided for a one year extension of period for sale of marketing certificates, substituting ''1966 through the 1970'' for ''1966 through the 1969'' wheat crops.

1965—Pub. L. 89–321 required the Commodity Credit Corporation to sell marketing certificates for the marketing years for the 1966 through the 1969 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount by which price support for wheat accompanied by domestic certificates exceeds $2 per bushel.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 403(a) of Pub. L. 91–524 provided that the amendment made by that section is effective only with

respect to marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

§ 1379f. Conversion factors

The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(Feb. 16, 1938, ch. 30, title III, § 379f, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 629.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379d of this title.

§ 1379g. Authority to facilitate transition

(a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this part. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this part from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this part, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 1379d of this title to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 1379d of this title, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

(Feb. 16, 1938, ch. 30, title III, § 379g, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 629; amended Pub. L. 89–321, title V, § 504(d), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 91–524, title IV, § 403(b), Nov. 30, 1970, as added Pub. L. 93–86, § 1(10), Aug. 10, 1973, 87 Stat. 228.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), commences with section 1379a of this title.

AMENDMENTS

1973—Subsec. (c). Pub. L. 91–524, § 403(b), as added by Pub. L. 93–86, added subsec. (c).

1965—Pub. L. 89–321 designated existing provisions as subsec. (a) and added subsec. (b).

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to

milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379a, 1379b, 1379d, 1379h, 1379i, 1379j of this title.

§ 1379h. Applicability of provisions to designated persons; reports and records; examinations by the Secretary

This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this part. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.

(Feb. 16, 1938, ch. 30, title III, § 379h, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 629.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379i of this title.

§ 1379i. Penalties

(a) Forfeitures; amount; civil action

Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 1379d of this title shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) Misdemeanors; punishment

Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 1379h of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) Forfeiture of right to receive certificates; payment of face value

Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this part, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 1379h of this title shall, (i) forfeit any right to received marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

(d) Felonies; punishment

Any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and

upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

(Feb. 16, 1938, ch. 30, title III, § 379i, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 629; amended Pub. L. 89–321, title V, § 510(b), Nov. 3, 1965, 79 Stat. 1205.)

REFERENCES IN TEXT

This part, referred to in subsecs. (b) and (c), commences with section 1379a of this title.

AMENDMENTS

1965—Subsecs. (a), (b). Pub. L. 89–321 inserted ''knowingly'' after ''who'' wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 510(b) of Pub. L. 89–321 provided that the amendments made by that section are effective as of the effective date of the original enactment of this section [section 1379i of this title].

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

CROSS REFERENCES

Fines, penalties and forfeitures—
Generally, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.
Jurisdiction of district courts of actions for recovery of, see section 1355 of Title 28.
United States as party generally, see section 2401 et seq. of Title 28.
United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

§ 1379j. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.

(Feb. 16, 1938, ch. 30, title III, § 379j, as added Pub. L. 87–703, title III, § 324(2), Sept. 27, 1962, 76 Stat. 630.)

REFERENCES IN TEXT

This part, referred to in text, commences with section 1379a of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(H) of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1991, through May 31, 1996, see section 302 of Pub. L. 101–624, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1986, through May 31, 1991, see section 309 of Pub. L. 99–198, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period June 1, 1982, through May 31, 1986, see section 302 of Pub. L. 97–98, set out as a note under section 1379d of this title.

Section inapplicable to wheat processors or exporters during period July 1, 1973, through May 31, 1982, see section 403 of Pub. L. 95–113, set out as a note under section 1379d of this title.

Section inapplicable to wheat processed or exported during period July 1, 1973, through June 30, 1978, see section 403(b) of Pub. L. 91–524, as added by section 1(10) of Pub. L. 93–86, set out as a note under section 1379d of this title.

PART E—RICE CERTIFICATES

AMENDMENTS

1962—Pub. L. 87–703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated D as E.

§§ 1380a to 1380p. Omitted

CODIFICATION

Sections 1380a to 1380p of this title were effective only with respect to 1957 and 1958 rice crops.

Section 1380a, act Feb. 16, 1938, ch. 30, title III, § 380a, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, provided legislative findings for this part.

Section 1380b, act Feb. 16, 1938, ch. 30, title III, § 380b, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, related to effective date and termination of program.

Section 1380c, act Feb. 16, 1938, ch. 30, title III, § 380c, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 208, related to determination of primary market quota for rice.

Section 1380d, act Feb. 16, 1938, ch. 30, title III, § 380d, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to apportionment of the primary market quota by the Secretary among the States and among farms.

Section 1380e, act Feb. 16, 1938, ch. 30, title III, § 380e, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, provided that a farm operator to which a primary market quota applied could have such quota reviewed.

Section 1380f, act Feb. 16, 1938, ch. 30, title III, § 380f, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to price supports made available to cooperators on crops of rice.

Section 1380g, act Feb. 16, 1938, ch. 30, title III, § 380g, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 209, related to certificates issued to cooperators.

Section 1380h, act Feb. 16, 1938, ch. 30, title III, § 380h, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to inventory adjustment payments to persons owning rough rice located in continental United States, for purpose of facilitating transition from price support program formerly in effect.

Section 1380i, act Feb. 16, 1938, ch. 30, title III, § 380i, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to set-aside of certain rough and processed rice.

Section 1380j, act Feb. 16, 1938, ch. 30, title III, § 380j, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to exemptions from provisions of this part.

Section 1380k, act Feb. 16, 1938, ch. 30, title III, § 380k, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 210, related to rice processing restrictions.

Section 1380*l*, act Feb. 16, 1938, ch. 30, title III, § 380*l*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, related to rice import restrictions.

Section 1380m, act Feb. 16, 1938, ch. 30, title III, § 380m, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, directed the Secretary to prescribe regulations governing the issuance, redemption, acquisition, use, transfer, and disposition of certificates.

Section 1380n, act Feb. 16, 1938, ch. 30, title III, § 380n, as added May 28, 1956, ch 327, title V, § 501(3), 70 Stat. 211, related to penalties for violations of import and processing restrictions of this part or regulations prescribed by the Secretary for enforcing such provisions.

Section 1380*o*, act Feb. 16, 1938, ch. 30, title III, § 380*o*, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, related to reports and records.

Section 1380p, act Feb. 16, 1938, ch. 30, title III, § 380p, as added May 28, 1956, ch. 327, title V, § 501(3), 70 Stat. 211, defined ''cooperator'', ''processing of rough rice'', ''processed rice'', ''United States'', ''exporter'', ''rough rice equivalent'', and ''import'', for purposes of this part.

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

AMENDMENTS

1962—Pub. L. 87–703, title III, § 324(1), Sept. 27, 1962, 76 Stat. 626, redesignated part E as F.

1956—Act May 28, 1956, ch. 327, title V, § 501(2), 70 Stat. 208, redesignated as part E.

SUBPART I—MISCELLANEOUS

§§ 1381 to 1382. Omitted

CODIFICATION

Section 1381, acts Feb. 16, 1938, ch. 30, title III, § 381, 52 Stat. 66; Apr. 7, 1938, ch. 107, § 12, 52 Stat. 204, related to cotton price adjustment payments with respect to 1937 cotton crop, and to transfer of pledged cotton of 1937 crop to Commodity Credit Corporation. Subsec. (c) of section 1381, which authorized sale of pledged cotton by Commodity Credit Corporation, was repealed by act July 3, 1948, ch. 827, title II, § 202(b), 62 Stat. 1255.

Section 1381a, act June 16, 1938, ch. 464, title I, 52 Stat. 745, which was not a part of the Agricultural Adjustment Act of 1938, related only to payments for 1937 crops.

Section 1382, act Feb. 16, 1938, ch. 30, title III, § 382, 52 Stat. 67, required the Commodity Credit Corporation to provide for the extension, from July 31, 1938, to July 31, 1939, of 1937 cotton loan.

§ 1383. Insurance of cotton; reconcentration

(a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bonafide residents of and doing business in the State where the cotton is warehoused: *Provided*, That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

(Feb. 16, 1938, ch. 30, title III, § 383, 52 Stat. 67.)

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1383a, 1386 of this title.

§ 1383a. Written consent for reconcentration of cotton

In the administration of section 1383(b) of this title the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this section. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however*, That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this section need not be obtained; and consent to movement under any of the conditions of this proviso may be required in future loan agreements.

(June 16, 1938, ch. 480, 52 Stat. 762.)

CODIFICATION

Section was not enacted as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary

of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 1384. Repealed. Aug. 7, 1946, ch. 770, § 1(3), 60 Stat. 866

Section, act Feb. 16, 1938, ch. 30, title III, §384, 52 Stat. 68, related to reports to Congress by the Secretary of Agriculture.

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any chapter 3B of title 16 payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by chapter 35A of this title and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(Feb. 16, 1938, ch. 30, title III, §385, 52 Stat. 68; July 2, 1940, ch. 521, §7, 54 Stat. 728; July 3, 1948, ch. 827, title II, §207(e), 62 Stat. 1257; Pub. L. 87–703, title III, §322, Sept. 27, 1962, 76 Stat. 626; Pub. L. 88–297, title I, §102, Apr. 11, 1964, 78 Stat. 174; Pub. L. 91–524, title IV, §404(5), title VI, §605(3), Nov. 30, 1970, 84 Stat. 1366, 1378; Pub. L. 94–214, title III, §302, Feb. 16, 1976, 90 Stat. 187; Pub. L. 95–113, title IV, §405, Sept. 29, 1977, 91 Stat. 927; Pub. L. 97–98, title XI, §1102, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 99–198, title X, §1017(a), Dec. 23, 1985, 99 Stat. 1459.)

References in Text

Chapter 3B [§590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation Act, probably meaning the Soil Conservation and Domestic Allotment Act.

Chapter 35A [§1421 et seq.] of this title, referred to in text, was in the original a reference to the Agricultural Act of 1949.

Amendments

1985—Pub. L. 99–198 inserted ''extra long staple cotton,'' after ''upland cotton,'' in first sentence.

1981—Pub. L. 97–98 amended first sentence generally.

1977—Pub. L. 95–113 temporarily amended first sentence generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Pub. L. 94–214 temporarily inserted reference to payments under the rice program authorized by section 1441(g) of this title. See Effective and Termination Dates of 1976 Amendment note below.

1970—Pub. L. 91–524 temporarily inserted references to payments under the cotton set-aside program and to payments (including certificates) under the wheat and feed grain set-aside programs. See Effective and Termination Dates of 1970 Amendment note below.

1964—Pub. L. 88–297 provided for application of this section to payments in kind to equalize cost of cotton to domestic and foreign users.

1962—Pub. L. 87–703 inserted ''payment under section 1339 of this title,'' after ''parity payment,''.

1948—Act July 3, 1948, substituted ''loan, or price support operation'' for ''or loan''.

1940—Act July 2, 1940, inserted last sentence.

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

Effective and Termination Dates of 1977 Amendment

Section 405 of Pub. L. 95–113 provided that the amendment made by that section is effective only for 1978 through 1981 crops.

Effective and Termination Dates of 1976 Amendment

Section 302 of Pub. L. 94–214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

Effective and Termination Dates of 1970 Amendment

Sections 404 and 605 of Pub. L. 91–524, as amended by Pub. L. 93–86, §1(11), (22), Aug. 10, 1973, 87 Stat. 229, 235, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

Effective Date of 1962 Amendment

Amendment by Pub. L. 87–703 effective only with respect to programs applicable to crops planted for harvest in calendar year 1964 or any subsequent year and marketing years beginning in calendar year 1964, or any subsequent year, see section 323 of Pub. L. 87–703, set out as a note under section 1301 of this title.

Effective Date of 1948 Amendment

Amendment by act July 3, 1948, effective Jan. 1, 1950, see section 303 of act July 3, 1948, set out as a note under section 1301 of this title.

Transfer of Functions

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

Exceptions From Transfer of Functions

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Determination of Rate of Loans, Payments, and Purchases Under Price Support Program for 1986 Through 1990 Crops; Notice and Public Participation in Rulemaking Not Required

Section 1017(b) of Pub. L. 99–198, as amended by Pub. L. 101–624, title XI, §1144, Nov. 28, 1990, 104 Stat. 3516, provided that: ''The Secretary of Agriculture shall determine the rate of loans, payments, and purchases under a program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for any of the 1991 through 1995 crops of a commodity without regard to the requirements for notice and public participation in

rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.''

§ 1386. Exemption from laws prohibiting interest of Members of Congress in contracts

The provisions of section 22 of title 41 and sections 431 and 432 of title 18 shall not be applicable to loans or payments made under this chapter (except under section 1383(a) of this title).

(Feb. 16, 1938, ch. 30, title III, § 386, 52 Stat. 68.)

CODIFICATION

''Sections 431 and 432 of title 18'' substituted in text for ''sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)'' on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a–8 of Title 15, Commerce and Trade.

§ 1387. Photographic reproductions and maps

The Secretary may furnish reproductions of information such as geo-referenced data from all sources, aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices as the Secretary may determine (but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information), the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

(Feb. 16, 1938, ch. 30, title III, § 387, 52 Stat. 68; Pub. L. 106–113, div. B, § 1000(a)(3) [title IV, § 407], Nov. 29, 1999, 113 Stat. 1535, 1501A–214.)

AMENDMENTS

1999—Pub. L. 106–113 substituted ''information such as geo-referenced data from all sources, aerial'' for ''such aerial'', struck out ''(not less than estimated cost of furnishing such reproductions)'' after ''such prices'', and inserted ''(but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information)'' after ''determine''.

WOOL SUPPORT PROGRAM

Wool support program, application of this section to, see note set out under section 713a–8 of Title 15, Commerce and Trade.

§ 1388. Utilization of local agencies

(a) Designation of local agencies and local administrative areas

The provisions of sections 590h(b) and 590k of title 16, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this chapter; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 590g, 590h, 590i, and 590j to 590q of title 16. The local administrative areas designated under section 590h(b) of title 16, for the administration of programs under chapter 3B of title 16, and the local administrative areas designated for the administration of this chapter shall be the same.

(b) Payments to county committees for administrative expenses

(1) The Secretary is authorized and directed, from any funds made available for the purposes of this chapter and chapter 3B of title 16 in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of this chapter and chapter 3B of title 16. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from chapter 3B of title 16 payments, parity payments, or loans, or other payments under this chapter and chapter 3B of title 16, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on December 23, 1985, shall be increased at the discretion of the Secretary.

(c) Travel expenses

(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperating in carrying out this chapter and chapter 3B of title 16 in connection with which such Committees[1] are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5 for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(Feb. 16, 1938, ch. 30, title III, § 388, 52 Stat. 68; Pub. L. 99–198, title XVII, § 1713(a), (b), Dec. 23, 1985, 99 Stat. 1636, 1637.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

[1] So in original. Probably should not be capitalized.

AMENDMENTS

1985—Subsecs. (b), (c). Pub. L. 99–198 designated existing provisions of subsec. (b) as par. (1), added par. (2), and added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1713(c) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section] shall become effective on January 1, 1986.''

§ 1389. Personnel

The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this chapter as he deems may be appropriately exercised by such Administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

(Feb. 16, 1938, ch. 30, title III, § 389, 52 Stat. 69.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Agricultural Adjustment Administration transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

Agricultural Adjustment Administration consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

§ 1390. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances, and the provisions of chapter 3B of title 16, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this chapter should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this chapter for marketing quotas with respect to any commodity should be held invalid, no provision of this chapter for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

(Feb. 16, 1938, ch. 30, title III, § 390, 52 Stat. 69.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

SUBPART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

§ 1391. Authorization of appropriations; loans from Commodity Credit Corporation

(a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this chapter and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 590*o* of title 16.

(b) For the administration of this chapter (and the provisions of chapter 36 of this title) during the fiscal year ending June 30, 1938, there is hereby authorized to be made available from the funds appropriated for such fiscal year for carrying out the purposes of section 590g, 590h, 590i, and 590j to 590q of title 16, a sum not to exceed $5,000,000.

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed $50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 590h and 590*l* of title 16, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 590g, 590h, 590i, and 590j to 590q of title 16 and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

(Feb. 16, 1938, ch. 30, title III, § 391, 52 Stat. 69; July 2, 1940, ch. 521, § 8, 54 Stat. 728.)

AMENDMENTS

1940—Subsec. (c). Act July 2, 1940, added subsec. (c).

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title.

§ 1392. Administrative expenses; posting names and compensation of local employees

(a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this chapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of this chapter and chapter 3B of title 16, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of this chapter and chapter 3B of title 16.

(b) In the administration of this subchapter and sections 590g, 590h, 590i, and 590j to 590q of title 16, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this subchapter and chapter 3B of title 16, unless otherwise provided by appropriation or other law. In the administration of section 612c of this title, and sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, 624, and 671 to 673 of this title, the aggregate amount expended in any fiscal year beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said sections, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from chapter 3B of title 16 payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

(Feb. 16, 1938, ch. 30, title III, § 392, 52 Stat. 69; Jan. 31, 1942, ch. 32, 56 Stat. 41; Aug. 3, 1956, ch. 950, § 7, 70 Stat. 1034.)

REFERENCES IN TEXT

Chapter 3B [§ 590a et seq.] of title 16, referred to in text, was in the original a reference to the Soil Conservation and Domestic Allotment Act, as amended.

AMENDMENTS

1956—Subsec. (b). Act Aug. 3, 1956, changed the period to a comma at end of first and second sentences and inserted ''unless otherwise provided by appropriation or other law''.

1942—Subsecs. (a), (b). Act Jan. 31, 1942, among other changes, inserted reference to sections of title 16, after ''this chapter'' and ''this subchapter''.

EFFECTIVE DATE OF 1942 AMENDMENT

Act Jan. 31, 1942, provided that the amendments made by that act are effective for the fiscal year 1942 and subsequent fiscal years.

TRANSFER OF FUNCTIONS

Agricultural Adjustment Administration consolidated into Production and Marketing Administration by 1946 Reorg. Plan No. 3, eff. July 4, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See note set out under section 610 of this title.

EXPENSES OF AN ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Act Aug. 3, 1956, ch. 934, 70 Stat. 989, provided: ''That the Secretary of Agriculture is authorized to pay expenses of an Advisory Committee on Soil and Water Conservation and related matters, but such Committee members (other than ex officio members) shall not be deemed to be employees of the United States and shall not receive compensation.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1393. Allotment of appropriations

All funds for carrying out the provisions of this chapter shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(Feb. 16, 1939, ch. 30, title III, § 393, 52 Stat. 70.)

SUBCHAPTER III—COTTON POOL PARTICIPATION TRUST CERTIFICATES

§§ 1401 to 1407. Omitted

CODIFICATION

Section 1401, act Feb. 16, 1938, ch. 30, title IV, § 401, 52 Stat. 70, authorized an appropriation of $1,800,000 to accomplish the purposes declared in former provisions of this subchapter and provided for payments by Secretary of Treasury upon order of Secretary of Agriculture.

Section 1402, act Feb. 16, 1938, ch. 30, title IV, § 402, 52 Stat. 70, provided for deposit of appropriation to credit of the Secretary of Agriculture for disbursement for purposes stated in former provisions of this subchapter.

Section 1403, acts Feb. 16, 1938, ch. 30, title IV, § 403, 52 Stat. 70; Apr. 7, 1938, ch. 107, § 13, 52 Stat. 204, provided allotment of funds to manager of cotton pool for purchase of pool participation trust certificates, to be tendered by lawful holder and owner thereof on or before May 1, 1938, at rate of $1 per five-hundred-pound bale, payment of costs and expenses incident to such purchases and covering into the Treasury as miscellaneous receipts balance remaining at expiration of purchase period.

Section 1404, acts Feb. 16, 1938, ch. 30, title IV, § 404, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 14, 52 Stat. 204, extended the time limit for purchase of outstanding pool participation certificates to and including July 31, 1938, authorized issuance of rules and regulations and prohibited purchases from other than record holders on or before May 1, 1938.

Section 1404a, acts June 16, 1938, ch. 464, title I, 52 Stat. 747; Apr. 5, 1939, ch. 44, 53 Stat. 572, extended the time limit for purchase of certificates to and including Sept. 30, 1939 and made the date of May 1, 1938 inapplicable.

Section 1404b, act June 16, 1938, ch. 464, title I, 52 Stat. 747, provided for issuance of regulations for payments on participation trust certificates in case of death, incompetence or disappearance of payee.

Section 1405, act Feb. 16, 1938, ch. 30, title IV, § 405, 52 Stat. 71, authorized continuance of 1933 cotton producers pool as long as necessary to effectuate purposes of former provisions of this subchapter and use of funds for payment of expenses.

Section 1406, act Feb. 16, 1938, ch. 30, title IV, § 406, 52 Stat. 71, prohibited purchase of certificates after expiration of time limit.

Section 1407, acts Feb. 16, 1938, ch. 30, title IV, § 407, 52 Stat. 71; Apr. 7, 1938, ch. 107, § 15, 52 Stat. 204, provided for payment by assignee of certificate transferred subsequent to May 1, 1937, limited to the purchase price paid by the assignee, with interest at rate of four per centum from date of purchase, not exceeding an amount of $1 per bale, payment to be based upon affidavit of assignee.

INAPPLICABILITY OF SUBCHAPTER

Subchapter, with the exception of former sections 1404a and 1404b, inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(a)(1)(I) of this title.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made under former provisions of this subchapter upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that, in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

1421. Price support.
- (a) Source.
- (b) Authority of Secretary; factors considered.
- (c) Compliance by producer; program for diverted acres.
- (d) Time of determining levels.
- (e) Processors' assurances; payment if assurances inadequate.

1421a. Financial impact study.
- (a) Study.
- (b) Report.
- (c) Informational purposes.

1421b. Costs of production.

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1421d. Commodity reports.
- (a) Crop reports.
- (b) Special reports.
- (c) Tree inventories.
- (d) Omitted.
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1422. Increase of price support levels.

1423. Adjustments of support prices.
- (a) In general.
- (b) Adjustment in support prices for cotton.
- (c) Limitation on adjustments for wheat and feed grains.

1424. Utilization of services and facilities of Commodity Credit Corporation.

1425. Producer rights and liabilities.
- (a) Liability for deficiencies.
- (b) Sugarcane and sugar beets.

1425a. Producers of honey; loan obligations and liabilities.
- (a) Loan forfeiture limitation.
- (b) Liability for nonforfeitable part of obligation.
- (c) Extent of personal liability.
- (d) Promulgation of regulations.

1426. Repealed.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 511r, 1301, 1308–3, 1309, 1310, 1314, 1314f, 1334b, 1385, 1421a, 1433c–1, 1435, 1446c, 1745, 2279, 4608, 5671, 5822, 7202, 7301, 7502 of this title; title 15 section 3391a; title 16 sections 3832, 3834, 3837d, 3839c; title 21 section 889; title 26 section 451; title 31 section 3902; title 42 section 1766; title 43 section 620c.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7301 of this title.

§ 1421. Price support

(a) Source

The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Authority of Secretary; factors considered

Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, (8) the ability and willingness of producers to keep supplies in line with demand and (9), in the case of upland cotton, changes in the cost of producing such cotton.

(c) Compliance by producer; program for diverted acres

Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical basis. Such regulations shall be administered (1) in semiarid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the production of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be disaster areas by the President under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], in such manner as will most quickly restore the normal pattern of their agriculture.

(d) Time of determining levels

The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity.

(e) Processors' assurances; payment if assurances inadequate

(1) Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation.

(2)(A) If the assurances under paragraph (1) are not adequate to cause the producers of sugar beets and sugarcane, because of the bankruptcy or other insolvency of the processor, to receive maximum benefits from the price support program within 30 days after the final settlement date provided for in the contract between such producers and processor, the Secretary, on demand made by such producers and on such assurances as to nonpayment as the Secretary shall require, shall pay such producers such

maximum benefits less benefits previously received by such producers.

(B) On such payment, the Secretary shall—

(i) be subrogated to all claims of such producers against the processor and other persons responsible for nonpayment; and

(ii) have authority to pursue such claims as necessary to recover the benefits not paid to the producers.

(C) The Secretary shall carry out this paragraph through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title IV, § 401, 63 Stat. 1054; Aug. 28, 1954, ch. 1041, title II, §§ 206, 207, 68 Stat. 901; Pub. L. 88–297, title I, § 103(c), Apr. 11, 1964, 78 Stat. 175; Pub. L. 99–198, title IX, § 903(a), Dec. 23, 1985, 99 Stat. 1444; Pub. L. 100–707, title I, 109(a)(1), Nov. 23, 1988, 102 Stat. 4708.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note below and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (c), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–707, substituted ''the Disaster Relief and Emergency Assistance Act'' for ''Public Law 875, Eighty-first Congress''.

1985—Subsec. (e). Pub. L. 99–198 designated existing provisions as par. (1) and added par. (2).

1964—Subsec. (b)(9). Pub. L. 88–297 added cl. (9).

1954—Subsec. (c). Act Aug. 28, 1954, § 206, provided a program for diverted acres.

Subsec. (e). Act Aug. 28, 1954, § 207, added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–127, title II, § 263(c), Apr. 4, 1996, 110 Stat. 974, provided that: ''The amendments made by this section [repealing provisions set out as notes under this section and section 1446 of this title] shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.''

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–237, title XI, § 1101, Dec. 13, 1991, 105 Stat. 1906, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

''(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) to which the amendment relates:

''(1) Section 201 [amending sections 5403, 5503, 5505, 5506, and 5822 of this title and provisions set out as a note under section 4201 of this title] (other than section 201(h) [enacting section 3125c of this title]).

''(2) Section 307 [amending section 1736bb–6 of this title].

''(3) Subsections (a) through (c), (e), (h), and (i) of section 501 [amending sections 1924, 1942, 1981, 1983, 2001, and 2006e of this title].

''(4) Subsections (a), (b), (f) through (i), and (*l*) of section 502 [amending sections 2019, 2071, 2129, 2214, 2252, 2271, and 2278a–2 of Title 12, Banks and Banking].

''(5) Section 602(c) [amending provisions set out as a note below].

''(6) Section 701 [amending sections 1926, 1926c, 1932, 1981, 1994, 2000, 2006f, 2008, 2008a, and 2008b of this title] (except as provided in subsection (c) of this section).

''(7) Section 702 [amending sections 950aaa–1, 1926–1, 1991, 1994, 2007a, and 2007c to 2007e of this title and provisions set out as a note under section 2006f of this title].

''(8) Section 703(c) [amending section 950aa of this title].

''(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act [amending sections 1926, 1932, 1981, 1994, and 2000 of this title] to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

''(d) FOOD AND NUTRITION PROGRAMS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act [amending sections 1431e, 2012, 2014, 2015, 2017, 2018, 2020, 2025, 2026, 2028, 2029, and 2031 of this title, enacting provisions set out as notes under sections 2015, 2016, 2026, and 5930 of this title, and amending provisions set out as notes under sections 612c and 2012 of this title], and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

''(2) PASS ACCOUNTS EXCLUSION.—

''(A) IN GENERAL.—The amendment made by section 903(3) of this Act [amending section 2014 of this title] shall take effect on the earlier of—

''(i) the date of enactment of this Act [Dec. 13, 1991];

''(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

''(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

''(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 [section 2020(b) of this title] (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act [amending section 2014 of this title] applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 [section 2014(d)(16) of this title] (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act [Dec. 13, 1991].

''(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 [907, amending section 2015 of this title] of this Act shall take effect on September 30, 1991.

''(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act [amending section 2022 of this title] shall take effect on the date of enactment of this Act [Dec. 13, 1991].

''(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act [amending provisions set out as a note under section 2012 of this title] shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.''

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–624, title XI, § 1171, Nov. 28, 1990, 104 Stat. 3521, provided that:

''(a) IN GENERAL.—Except as otherwise specifically provided in title I through this title [see Tables for classification], such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of an agricultural commodity.

''(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, title I through this title, and the amendments made by such titles, shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1986 through 1990 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date prescribed by subsection (a).''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 903(b) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section] shall apply to nonpayments occurring after January 1, 1985.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–66, title I, § 1001(a), Aug. 10, 1993, 107 Stat. 312, provided that: ''This title [enacting sections 936c and 1314i of this title and section 460*l*–6c of Title 16, Conservation, amending sections 511r, 608b, 1308, 1308–3, 1314c, 1314e, 1358–1, 1359a, 1359bb, 1441–2, 1444–2, 1444f, 1445, 1445–1, 1445–2, 1445b–3a, 1445c–3, 1445j, 1446e, 1446f, 1446g, 1446h, 1463, 1465, 1469, 1506, 1508, 1508a, 1782, 1783, 1785, 5623, and 5641 of this title and sections 3830, 3831, and 3837 of Title 16, enacting provisions set out as notes under sections 936c, 1446e, 1506, and 5623 of this title, and amending provisions set out as notes under this section and sections 608c and 1445b–3a of this title] may be cited as the 'Agricultural Reconciliation Act of 1993'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–237, § 1, Dec. 13, 1991, 105 Stat. 1818, provided that: ''This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–624, § 1(a), Nov. 28, 1990, 104 Stat. 3359, provided that: ''This Act [see Tables for classification] may be cited as the 'Food, Agriculture, Conservation, and Trade Act of 1990'.''

Pub. L. 101–508, title I, § 1001(a), Nov. 5, 1990, 104 Stat. 1388, provided that: ''This title [enacting section 940d of this title, amending sections 511r, 1441–2, 1444–2, 1444f, 1445, 1445b–3a, 1445c–3, 1445j, 1446e, 1446f to 1446h, 1722, 1736, 1736a, 1783, 1994, 1999, and 5822 of this title and section 136a of Title 21, Food and Drugs, enacting provisions set out as notes under this section and sections 136w, 511r, and 1445b–3a of this title, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENTS

Pub. L. 101–239, title I, § 1001(a), Dec. 19, 1989, 103 Stat. 2106, provided that: ''This title [enacting section 1433d of this title, amending sections 1444e, 1445b–2, 1446, 1464, and 1736s of this title, enacting provisions set out as notes under sections 1433d, 1444e, 1445b–2, 1446, and 1464 of this title and section 2278b–9 of Title 12, Banks and Banking, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1989'.''

Pub. L. 101–82, § 1(a), Aug. 14, 1989, 103 Stat. 564, provided that: ''This Act [enacting sections 1508a and 1926a of this title and section 493 of Title 25, Indians, amending sections 1359, 1464, 1471d, and 1471e of this title and section 2202 of Title 16, Conservation, enacting provisions set out as notes under this section and sections 1359, 1464, 1926a, 1929a, 1941, and 1961 of this title and sections 2202 and 2203 of Title 16, and amending provisions set out as a note under this section] may be cited as the 'Disaster Assistance Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–418, title II, § 2221, Aug. 23, 1988, 102 Stat. 1336, provided that: ''This part [part II (§§ 2221–2227) of subtitle B of title II of Pub. L. 100–418, which amended section 1431 of this title and enacted provisions set out as notes under section 1431 of this title] may be cited as the 'American Aid to Poland Act of 1988'.''

Pub. L. 100–387, § 1, Aug. 11, 1988, 102 Stat. 924, provided: ''That this Act [see Tables for classification] may be cited as the 'Disaster Assistance Act of 1988'.''

Section 601 of title VI of act Oct. 31, 1949, ch. 792, as added Aug. 11, 1988, Pub. L. 100–387, title I, § 101(a), 102 Stat. 925, provided that: ''This title [enacting sections 1471 to 1471j of this title] may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENTS

Pub. L. 100–203, title I, § 1001(a), Dec. 22, 1987, 101 Stat. 1330, provided that: ''This title [enacting sections 940b, 940c, 944a, 1308–1 to 1308–3, and 2030 of this title, amending sections 608c, 946, 948, 1308, 1308–1, 1314b, 1314c, 1423, 1431, 1441–1, 1444, 1444–1, 1444e, 1445, 1445b–2, 1445b–3, 1445c–2, 1446, 1466, 1782, 1932, and 2371 of this title and section 713a–11 of Title 15, Commerce and Trade, enacting provisions set out as notes under sections 936a, 948, 1308 to 1308–3, 1441–1, 1444, 1444–1, 1444e, 1445, 1445b–2, 1445b–3, 1445c–2, 1446, 1466, and 1508 of this title, sections 713a–11 and 714b of Title 15, and section 7545 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under this section] may be cited as the 'Agricultural Reconciliation Act of 1987'.''

Pub. L. 100–45, § 1, May 27, 1987, 101 Stat. 318, provided: ''That this Act [amending sections 1441–1, 1444–1, 1444e, 1445b–3, and 1446 of this title and section 701n of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 1441–1, 1444–1, 1444e, 1445b–3, and 1446 of this title and section 3835 of Title 16, Conservation] may be cited as the 'Farm Disaster Assistance Act of 1987'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–258, § 1, Apr. 10, 1984, 98 Stat. 130, provided: ''That this Act [enacting section 1981b of this title, amending sections 1431, 1441, 1444, 1444d, 1445b–1, 1943, 1946, 1961, 1964, 1986, and 1994 of this title, enacting provisions set out as notes under sections 1921, 1961, and 1981 of this title, and amending provisions set out as a note preceding section 1961 of this title] may be cited as the 'Agricultural Programs Adjustment Act of 1984'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–180, § 1, Nov. 29, 1983, 97 Stat. 1128, provided: ''That this Act [enacting sections 511r, 4501 to 4514, and 4531 to 4538 of this title, amending section 608c, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1379, 1445, 1445–1, 1445–2, and 1446 of this title, and enacting provisions set out as notes under this section and sections 1314b, 1314c, 1314e, 1427, 1445, 1446, and 1727g of this title] may be cited as the 'Dairy and Tobacco Adjustment Act of 1983'.''

Pub. L. 98–180, title I, § 101, Nov. 29, 1983, 97 Stat. 1128, provided that: ''This title [enacting sections 4501 to 4513 of this title, amending section 1446 of this title, and enacting provisions set out as notes under section 1446 of this title] may be cited as the 'Dairy Production Stabilization Act of 1983'.''

Pub. L. 98–180, title II, § 201, Nov. 29, 1983, 97 Stat. 1143, provided that: ''This title [enacting section 511r of this title, amending sections 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1379, 1445, 1445–1, and 1445–2 of this title, and enacting provisions set out as notes under sections 1314b, 1314c, 1314e, and 1445 of this title] may be cited as the 'Tobacco Adjustment Act of 1983'.''

Pub. L. 98–88, §1, Aug. 26, 1983, 97 Stat. 494, provided: ''That this Act [amending sections 1308, 1427, 1441, and 1444 of this title, repealing section 1347 of this title, and enacting provisions set out as notes under sections 1342, 1347, and 1444 of this title] may be cited as the 'Extra Long Staple Cotton Act of 1983'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–358, §1, Oct. 21, 1982, 96 Stat. 1714, provided: ''That this Act [enacting section 1433b of this title] may be cited as the 'Surplus Agricultural Commodities Disposal Act of 1982'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–213, §1, Mar. 18, 1980, 94 Stat. 119, provided: ''That this Act [amending sections 1308, 1309, 1441, 1444, 1444c, and 1445b of this title, and enacting provisions set out as notes under sections 1308 and 1309 of this title] may be cited as the 'Agricultural Adjustment Act of 1980'.''

SHORT TITLE

Section 1 of act Oct. 31, 1949, provided that: ''This Act [enacting this section and sections 1422 to 1431, 1432, 1433, 1441, 1443 to 1445a, 1446, 1446a, 1446d, 1447 to 1449, and 1461 to 1468 of this title, amending sections 612c, 1301, 1322, 1328, 1343, 1344, 1345, and 1353 to 1356 of this title, and repealing section 1302 of this title; amending sections 1134c and 1134j of Title 12, Banks and Banking, section 713a–4 of Title 15, Commerce and Trade, section 410 of Title 42, The Public Health and Welfare] may be cited as the 'Agricultural Act of 1949'.''

REPEALS

Section 414 of act Oct. 31, 1949, provided in part that: ''any provision of law in conflict with the provisions of this Act [see Short Title note set out above] are hereby repealed.''

SEPARABILITY PROVISION FOR PUB. L. 101–624

Pub. L. 101–624, title XXV, §2518, formerly §2519, Nov. 28, 1990, 104 Stat. 4078; renumbered §2518 by Pub. L. 104–66, title I, §1101(h), Dec. 21, 1995, 109 Stat. 710, provided that: ''If any provision of this Act [see Short Title of 1990 Amendment note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.''

SEPARABILITY PROVISION FOR PUB. L. 98–180

Pub. L. 98–180, title III, §305, Nov. 29, 1983, 97 Stat. 1152, provided that: ''Except as otherwise provided in this Act [see Short Title of 1983 Amendment note above], if any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

EMERGENCY AND DISASTER ASSISTANCE FOR PRODUCERS

Pub. L. 106–113, div. B, §1000(a)(5) [title I], Nov. 29, 1999, 113 Stat. 1536, 1501A–290, provided in part that: ''For an additional amount for specialty crop assistance authorized by section 803(c)(1) of Public Law 106–78 [set out below], $2,800,000: *Provided*, That the definition of eligible persons in section 803(c)(2) of Public Law 106–78 shall include producers who have suffered quality or quantity losses due to natural disasters on crops harvested and placed in a warehouse and not sold.''

Pub. L. 106–113, div. B, §1000(a)(5) [title I], Nov. 29, 1999, 113 Stat. 1536, 1501A–290, provided in part that: ''For an additional amount for livestock assistance authorized by section 805 of Public Law 106–78 [set out below], $10,000,000: *Provided*, That the Secretary of Agriculture may use this additional amount to provide assistance to persons who raise livestock owned by other persons for income losses sustained with respect to livestock during 1999 if the Secretary finds that such losses are the result of natural disasters.''

Pub. L. 106–78, title VIII, Oct. 22, 1999, 113 Stat. 1175, as amended by Pub. L. 106–113, div. B, §1000(a)(5) [title I, §102], Nov. 29, 1999, 113 Stat. 1536, 1501A–291, provided that:

''Subtitle A—Crop and Market Loss Assistance

''SEC. 801. CROP LOSS ASSISTANCE.

''(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the 'Secretary') shall use $1,200,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred losses in a 1999 crop due to a disaster, as determined by the Secretary.

''(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105–277), including using the same loss thresholds as were used in administering that section.

''(c) QUALIFYING LOSSES.—Assistance under this section may be made for losses associated with crops that are, as determined by the Secretary—

''(1) quantity losses;

''(2) quality losses; or

''(3) severe economic losses due to damaging weather or related condition.

''(d) CROPS COVERED.—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which a crop is harvested, livestock, and fisheries), as determined by the Secretary, due to disasters.

''(e) CROP INSURANCE.—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(f) RICE LOAN DEFICIENCY PAYMENTS.—In the case of producers of the 1999 crop of rice that harvested such rice on or before August 4, 1999, the Secretary may use funds made available under this section to—

''(1) make loan deficiency payments to producers that received, or that were eligible to receive, such payments under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) in a manner that results in the same total payment that would have been made if the payment had been requested by the producers on August 5, 1999; and

''(2) recalculate any repayment made for a marketing assistance loan for the 1999 crop of rice on or before August 4, 1999, as if the repayment had been made on August 5, 1999.

''(g) HONEY RECOURSE LOANS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary may use

funds made available under this section to make available recourse loans to producers of the 1999 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

''(2) LOAN RATE.—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1999 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

''(h) RECOURSE LOANS FOR MOHAIR.—

''(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, during fiscal year 2000, the Secretary may use funds made available under this section to make recourse loans available in accordance with section 137(c) of the Agricultural Market Transition Act (7 U.S.C. 7237(c)) to producers of mohair produced during or before that fiscal year.

''(2) INTEREST.—Section 137(c)(4) of that Act shall not apply to a loan made under paragraph (1).

''SEC. 802. MARKET LOSS ASSISTANCE.

''(a) ASSISTANCE AUTHORIZED.—The Secretary shall use not more than $5,544,453,000 of funds of the Commodity Credit Corporation to provide assistance to owners and producers on a farm that are eligible for final payments for fiscal year 1999 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

''(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the contract payment received by the owners and producers for fiscal year 1999 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

''(c) PROTECTION OF TENANTS AND SHARECROPPERS; SHARING OF PAYMENTS.—Sections 111(c) and 114(g) of the Agricultural Market Transition Act (7 U.S.C. 7211(c), 7214(g)) shall apply to the payments made under subsection (a).

''SEC. 803. SPECIALTY CROPS.

''(a) PEANUTS.—

''(1) IN GENERAL.—The Secretary shall use such amounts as are necessary of funds of the Commodity Credit Corporation to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for continuing low commodity prices, and increasing costs of production, for the 1999 crop year.

''(2) AMOUNT.—The amount of a payment made to producers on a farm of quota peanuts or additional peanuts under paragraph (1) shall be equal to the product obtained by multiplying—

''(A) the quantity of quota peanuts or additional peanuts produced or considered produced by the producers; and

''(B) an amount equal to 5 percent of the loan rate established for quota peanuts or additional peanuts, respectively, under section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271).

''(b) CONDITION ON PAYMENT OF SALARIES AND EXPENSES.—None of the funds appropriated or otherwise made available by this Act or any other Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out or enforce section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) through fiscal year 2001.

''(c) TOBACCO.—

''(1) IN GENERAL.—The Secretary shall use $328,000,000 of funds of the Commodity Credit Corporation to make payments to States on behalf of persons described in paragraph (2) for the reduction in the quantity of quota allotted to certain farms under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) from the 1998 crop year to the 1999 crop year.

''(2) ELIGIBLE PERSONS.—To be eligible to receive a payment under paragraphs (1) through (5), a person must own or operate, or produce tobacco on, a farm—

''(A) for which the quantity of quota allotted to the farm under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) was reduced from the 1998 crop year to the 1999 crop year; and

''(B) that was used for the production of tobacco during the 1998 or 1999 crop year.

''(3) ALLOCATION TO STATES.—The Secretary shall allocate funds made available under paragraph (1) to States with eligible persons described in paragraph (2) in proportion to the relative quantity of quota allotted to farms in the States that was reduced from the 1998 crop year to the 1999 crop year.

''(4) DISTRIBUTION BY STATES.—

''(A) IN GENERAL.—In the case of a State described in paragraph (3) that is a party to the National Tobacco Grower Settlement Trust, the State shall distribute funds made available under paragraph (3) to eligible persons in the State in accordance with the formulas established pursuant to the Trust.

''(B) OTHER STATES.—Subject to the approval of the Secretary, in the case of a State described in paragraph (3) that is not a party to the National Tobacco Grower Settlement Trust, the State shall distribute funds made available under paragraph (3) to eligible persons in the State in a manner determined by the State.

''(5) ALTERNATIVE DISTRIBUTION.—In lieu of making payments under this subsection to States, the Secretary may distribute funds directly to eligible persons using the facilities of private disbursing agents, facilities of the Farm Service Agency, or other available facilities.

''(6) FLUE-CURED TOBACCO.—

''(A) LIMITATION ON QUANTITY OF ALLOTMENT LEASED OR SOLD.—[Amended section 1314b of this title.]

''(B) TRANSFERS OF QUOTA OR ALLOTMENT ACROSS COUNTY LINES IN A STATE.—[Amended section 1314b of this title.]

''(C) SAME GROWER IN CONTIGUOUS COUNTIES.—[Amended section 1379 of this title.]

''SEC. 804. OILSEEDS.

''(a) IN GENERAL.—The Secretary shall use $475,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 1999 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

''(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

''(1) a payment rate determined by the Secretary;

''(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

''(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

''(c) ACREAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the greater of—

''(A) the number of acres planted to the oilseed by the producers on the farm during the 1997 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late); or

''(B) the number of acres planted to the oilseed by the producers on the farm during the 1998 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

''(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 1999 crop year but not the 1997 or 1998 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1999 crop year, as reported by the produc-

ers on the farm to the Secretary (including any acreage reports that are filed late).

''(d) YIELD.—

''(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

''(A) the average county yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre;

''(B) the actual yield of the producers on the farm for the 1997 crop year; or

''(C) the actual yield of the producers on the farm for the 1998 crop year.

''(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

''(A) the average national yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre;

''(B) the actual yield of the producers on the farm for the 1997 crop year; or

''(C) the actual yield of the producers on the farm for the 1998 crop year.

''(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 1999 crop year but not the 1997 or 1998 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

''(A) the average county yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

''(B) the actual yield of the producers on the farm for the 1999 crop.

''(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

''SEC. 805. LIVESTOCK AND DAIRY.

''The Secretary shall use $325,000,000 of funds of the Commodity Credit Corporation to provide assistance directly to livestock and dairy producers, in a manner determined appropriate by the Secretary, to compensate the producers for economic losses incurred during 1999.

''SEC. 806. UPLAND COTTON.

''[Amended section 7236 of this title.]

''SEC. 807. MILK

''(a) IN GENERAL.—[Amended section 7251 of this title.]

''(b) CONFORMING AMENDMENT.—[Amended section 7252 of this title.]

''Subtitle B—Other Assistance

''SEC. 811. AUTHORITY FOR ADVANCE PAYMENT IN FULL OF REMAINING PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.

''[Amended section 7212 of this title.]

''SEC. 812. COMMODITY CERTIFICATES.

''[Enacted section 7286 of this title.]

''SEC. 813. LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.

''(a) IN GENERAL.—Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1) [1308(2)]), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for one or more contract commodities and oilseeds produced during the 1999 crop year may not exceed $150,000.

''(b) 1999 MARKETINGS.—In carrying out subsection (a), the Secretary shall allow a producer that has marketed a quantity of an eligible 1999 crop for which the producer has not received a loan deficiency payment or marketing loan gain under section 134 or 135 of the Agricultural Market Transition Act (7 U.S.C. 7234, 7235) to receive such payment or gain as of the date on which the quantity was marketed or redeemed, as determined by the Secretary.

''SEC. 814. ASSISTANCE FOR PURCHASE OF ADDITIONAL CROP INSURANCE COVERAGE.

''The Secretary shall transfer $400,000,000 of funds of the Commodity Credit Corporation to the Federal Crop Insurance Corporation to be used to assist agricultural producers in purchasing additional coverage for the 2000 crop year (and 2001 crop year for citrus fruit, avocados in California, and macadamia nuts) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''SEC. 815. FORGIVENESS OF CERTAIN WATER AND WASTE DISPOSAL LOANS.

''The Secretary shall forgive the principal indebtedness and accrued interest owed by the City of Stroud, Oklahoma, to the Rural Utilities Service on water and waste disposal loans numbered 9105 and 9107.

''SEC. 816. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

''[Amended section 2008j of this title.]

''SEC. 817. FISHERIES.

''(a) NORTON SOUND FISHERIES FAILURE.—

''(1) INCOME ELIGIBILITY.—[Amended section 101(a) [title VII, §763(a)] of Pub. L. 105–277, 112 Stat. 2681–36.]

''(2) EMERGENCY ASSISTANCE.—[Amended section 101(a) [title XI, §1124] of Pub. L. 105–277, set out below.]

''(3) APPROPRIATION.—

''(A) IN GENERAL.—In addition to amounts appropriated or otherwise made available by this Act [see Tables for classification], there is appropriated to the Department of Agriculture for fiscal year 2001, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until expended, to provide emergency disaster assistance to persons or entities affected by the 1999 fisheries failure in the Norton Sound region of Alaska.

''(B) TRANSFER.—To carry out this paragraph, the Secretary shall transfer to the Secretary of Commerce for obligation and expenditure—

''(i) $10,000,000 for fiscal year 2001 for grants under section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149); and

''(ii) $5,000,000 for fiscal year 2001 for carrying out section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

''(b) COMMERCIAL FISHERIES FAILURE.—

''(1) IN GENERAL.—In addition to amounts appropriated or otherwise made available by this Act, there is appropriated to the Department of Agriculture for fiscal year 2001, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until expended, which shall be transferred to the Department of Commerce to provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries.

''(2) USE.—Amounts made available under this subsection shall be used to support cooperative research and management activities administered by the National Marine Fisheries Services and based on recommendations by the New England Fishery Management Council.

''SEC. 818. SENSE OF THE CONGRESS REGARDING FAST-TRACK AUTHORITY AND FUTURE WORLD TRADE ORGANIZATION NEGOTIATIONS.

''It is the sense of the Congress that—

''(1) the President should make a formal request for appropriate fast-track authority for future United States trade negotiations;

''(2) regarding future World Trade Organization negotiations—

''(A) rules for trade in agricultural commodities should be strengthened and trade-distorting import and export practices should be eliminated or substantially reduced;

''(B) the rules of the World Trade Organization should be strengthened regarding the practices or policies of a foreign government that unreasonably—

''(i) restrict market access for products of new technologies, including products of biotechnology; or

''(ii) delay or preclude implementation of a report of a dispute panel of the World Trade Organization; and

''(C) negotiations within the World Trade Organization should be structured so as to provide the maximum leverage possible to ensure the successful conclusion of negotiations on agricultural products;

''(3) the President should—

''(A) conduct a comprehensive evaluation of all existing export and food aid programs, including—

''(i) the export credit guarantee program established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622);

''(ii) the market access program established under section 203 of that Act (7 U.S.C. 5623);

''(iii) the export enhancement program established under section 301 of that Act (7 U.S.C. 5651);

''(iv) the foreign market development cooperator program established under section 702 of that Act (7 U.S.C. 5722); and

''(v) programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

''(B) transmit to Congress—

''(i) the results of the evaluation under subparagraph (A); and

''(ii) recommendations on maximizing the effectiveness of the programs described in subparagraph (A); and

''(4) the Secretary should carry out a purchase and donation or concessional sales initiative in each of fiscal years 1999 and 2000 to promote the export of additional quantities of soybeans, beef, pork, poultry, and products of such commodities (including soybean meal, soybean oil, textured vegetable protein, and soy protein concentrates and isolates) using programs established under—

''(A) the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.);

''(B) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

''(C) titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.); and

''(D) the Food for Progress Act of 1985 (7 U.S.C. 1736*o*).

''Subtitle C—Administration

''SEC. 821. COMMODITY CREDIT CORPORATION.

''The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

''SEC. 822. ADMINISTRATIVE COSTS.

''(a) RESERVATION OF FUNDS.—Subject to subsections (b) and (c), the Secretary may reserve up to $56,000,000 of the amounts made available under subtitle A to cover administrative costs incurred by the Farm Service Agency directly related to carrying out that subtitle.

''(b) PROPORTIONAL RESERVATION.—The amount reserved by the Secretary from the amounts made available under each section of subtitle A (other than section 802) shall bear the same proportion to the total amount reserved under subsection (a) as the administrative costs incurred by the Farm Service Agency to carry out that section (other than section 802) bear to the total administrative costs incurred by the Farm Service Agency to carry out that subtitle (other than section 802).

''(c) EXCEPTION FOR MARKET LOSS ASSISTANCE.—The Secretary may not reserve any portion of the amount made available under section 802 to pay administrative costs.

''SEC. 823. EMERGENCY REQUIREMENT.

''The entire amount necessary to carry out this title and the amendments made by this title shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title note set out under section 900 of Title 2, The Congress], as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act [2 U.S.C. 901(b)(2)(A)].

''SEC. 824. REGULATIONS.

''(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act [Oct. 22, 1999], the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement subtitle A and the amendments made by subtitle A. The promulgation of the regulations and administration of subtitle A shall be made without regard to—

''(1) the notice and comment provisions of section 553 of title 5, United States Code;

''(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

''(3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

''SEC. 825. LIVESTOCK AND DAIRY ASSISTANCE.

''(a) LIVESTOCK ASSISTANCE.—Of the funds provided in sections 801 and 805, no less than $200,000,000 shall be in the form of assistance to livestock producers for losses due to drought or other natural disasters.

''(b) DAIRY ASSISTANCE.—Of the funds provided in section 805, no less than $125,000,000 shall be in the form of assistance to dairy producers.

''(c) FORM OF ASSISTANCE.—Assistance for livestock losses shall be in the form of grants and or other in-kind assistance, but shall not include loans.''

EMERGENCY AND MARKET LOSS ASSISTANCE

Pub. L. 106–31, title I, §101, May 21, 1999, 113 Stat. 61, provided that:

''(a) CROP LOSS ASSISTANCE FOR CERTAIN MULTIYEAR LOSSES.—From funds remaining in a reserve held under subsection (c) of section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105–277; 112 Stat. 2681–43), for errors, omissions, and appeals, the Secretary of Agriculture may use not more than 15 percent of the reserve funds to provide assistance to a producer described in subsection (b) who incurred losses to a commodity due to disasters in two crop years during the five-crop year period beginning with the 1994 crop year.

''(b) ELIGIBILITY CRITERIA.—A producer on a farm is eligible for assistance under subsection (a) only if—

''(1) the producer received a federally insured indemnity payment for crop losses in two crop years of such five-crop year period;

''(2) the producer acquired federally insured crop insurance in one additional crop year during such pe-

riod, but did not receive a federally insured indemnity payment;

''(3) the producer received a non-federally insured indemnity payment for crop losses in the crop year referred to in paragraph (2); and

''(4) the producer does not receive a payment under subsection (b) or (c) of such section 1102.

''(c) CROP YEARS COVERED; PAYMENT RATE.—Any payment to a producer under subsection (a) may be paid only for losses incurred during the crop years described in paragraph (1) of subsection (b). The payment rate may not exceed the payment rate used under subsection (c) of such section 1102.

''(d) EFFECT ON EXISTING AUTHORITY.—Nothing in this section authorizes the Secretary to delay the provision of crop loss assistance under such section 1102, and the Secretary shall complete the payment of multiyear assistance under subsection (c) of such section 1102 before making any payment under the authority of this section.

''(e) DESIGNATION AS EMERGENCY REQUIREMENT.—Such sums as are necessary to carry out the amendments made by subsection (a): *Provided*, That such amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement under section 251(b)(2)(A) of such Act [2 U.S.C. 901(b)(2)(A)].''

Pub. L. 106–31, title I, §104, May 21, 1999, 113 Stat. 62, provided that: ''For an additional amount for the Livestock Assistance Program under Public Law 105–277 [see section 101(a) [title XI] of Pub. L. 105–277, set out below], $70,000,000: *Provided*, That for the purposes of section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) [set out below], notwithstanding any other provision of law or regulation, the definition of 'livestock' shall include 'reindeer': *Provided further*, That the entire amount shall be available only to the extent an official budget request for $70,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act [2 U.S.C. 901(b)(2)(A)].''

Pub. L. 105–277, div. A, §101(a) [title XI], Oct. 21, 1998, 112 Stat. 2681, 2681–42, as amended by Pub. L. 106–31, title III, §3018, May 21, 1999, 113 Stat. 99; Pub. L. 106–78, title VIII, §817(a)(2), title IX, §913(b), Oct. 22, 1999, 113 Stat. 1184, 1205, provided that:

''Subtitle A—Emergency Assistance for Crop and Livestock Feed Losses Due to Disasters

''SEC. 1101. GENERAL PROVISIONS.

''(a) FAIR AND EQUITABLE DISTRIBUTION.—Assistance made available under this subtitle shall be distributed in a fair and equitable manner to producers who have incurred crop and livestock feed losses in all affected geographic regions of the United States.

''(b) PROGRAM ADMINISTRATION.—In carrying out this subtitle, the Secretary of Agriculture (referred to in this title as the 'Secretary') may determine—

''(1) 1 or more loss thresholds producers on a farm must incur with respect to a crop to be eligible for assistance;

''(2) the payment rate for crop and livestock feed losses incurred; and

''(3) eligibility and payment limitation criteria (as defined by the Secretary) for persons to receive assistance under this subtitle, which, in the case of assistance received under any section of this subtitle, shall be in addition to—

''(A) assistance made available under any other section of this subtitle and subtitle B;

''(B) payments or loans received by a person under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.);

''(C) payments received by a person for the 1998 crop under the noninsured crop assistance program established under section 196 of that Act (7 U.S.C. 7333);

''(D) crop insurance indemnities provided for the 1998 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

''(E) emergency loans made available for the 1998 crop under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

''SEC. 1102. CROP LOSS ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall administer a program under which emergency financial assistance is made available to producers on a farm who have incurred losses associated with crops due to disasters (as determined by the Secretary).

''(b) LOSSES INCURRED FOR 1998 CROP.—Subject to section 1132, the Secretary shall use not more than $1,500,000,000 to make available assistance to producers on a farm who have incurred losses in the 1998 crop due to disasters.

''(c) MULTIYEAR LOSSES.—Subject to section 1132, the Secretary shall use not more than $875,000,000 to make available assistance to producers on a farm who have incurred multiyear losses (as defined by the Secretary) in the 1998 and preceding crops of a commodity due to disasters (including, but not limited to, diseases such as scab).

''(d) RELATIONSHIP BETWEEN ASSISTANCE.—The Secretary shall make assistance available to producers on a farm under either subsection (b) or (c).

''(e) QUALIFYING LOSSES.—Assistance under this section may be made for losses associated with crops that are due to, as determined by the Secretary—

''(1) quantity losses;

''(2) quality (including, but not limited to, aflatoxin) losses; or

''(3) severe economic losses due to damaging weather or related condition.

''(f) CROPS COVERED.—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which a crop is harvested), as determined by the Secretary, due to disasters.

''(g) CROP INSURANCE.—

''(1) ADMINISTRATION.—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm who have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(2) ENCOURAGING FUTURE CROP INSURANCE PARTICIPATION.—Subject to section 1132, the Secretary, acting through the Federal Crop Insurance Corporation, may use the funds made available under subsections (b) and (c), and only those funds, to provide premium refunds or other assistance to purchasers of crop insurance for their 1998 insured crops, or their preceding (including 1998) insured crops.

''(3) PRODUCERS WHO HAVE NOT PURCHASED CROP INSURANCE FOR 1998 CROP.—As a condition of receiving assistance under this section, producers on a farm who have not purchased crop insurance for the 1998 crop under that Act shall agree by contract to purchase crop insurance for the 1999 and 2000 crops produced by the producers.

''(4) LIQUIDATED DAMAGES.—

''(A) IN GENERAL.—The contract under paragraph (3) shall provide for liquidated damages to be paid by the producers due to the failure of the producers to purchase crop insurance as provided in paragraph (3).

''(B) NOTICE OF DAMAGES.—The amount of the liquidated damages shall be established by the Sec-

retary and specified in the contract agreed to by the producers.

''(5) FUNDING FOR CROP INSURANCE PURCHASE REQUIREMENT.—Subject to section 1132, such sums as may be necessary, to remain available until expended, shall be available to the Federal Crop Insurance Corporation to cover costs incurred by the Corporation as a result of the crop insurance purchase requirement of paragraph (3). Funds made available under subsections (b) and (c) may not be used to cover such costs.

''SEC. 1103. EMERGENCY LIVESTOCK FEED ASSISTANCE.

''Subject to section 1132, the Secretary shall use not more than $200,000,000 to make available livestock feed assistance to livestock producers affected by disasters during calendar year 1998.

''Subtitle B—Market Loss Assistance

''SEC. 1111. MARKET LOSS ASSISTANCE.

''(a) IN GENERAL.—Subject to section 1132 and except as provided in subsection (d), the Secretary shall use not more than $3,057,000,000 for assistance to owners and producers on a farm who are eligible for final payments for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) to partially compensate the owners and producers for the loss of markets for the 1998 crop of a commodity.

''(b) AMOUNT.—Except as provided in subsection (d), the amount of assistance made available to owners and producers on a farm under this section shall be proportional to the amount of the contract payment received by the owners and producers for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

''(c) TIME FOR PAYMENT.—The assistance made available under this section for an eligible owner or producer shall be made as soon as practicable after the date of enactment of this Act [Oct. 21, 1998].

''(d) Of the total amount provided under subsection (a), $200,000,000 shall be available to provide assistance to dairy producers in a manner determined by the Secretary: *Provided*, That no payments made under this section shall affect any decision with respect to rulemaking activities described under section 143 of Public Law 104–127 [7 U.S.C. 7253].

''Subtitle C—Other Assistance

''SEC. 1121. INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

''(a) FEDERAL CONTRIBUTION.—Subject to subsection (b), the Secretary of Agriculture shall pay $5,000,000 to the State of Georgia to help fund an indemnity fund, to be established and managed by that State, to compensate cotton producers in that State for losses incurred in 1998 or 1999 from the loss of properly stored, harvested cotton as the result of the bankruptcy of a warehouseman or other party in possession of warehouse receipts evidencing title to the commodity, an improper conversion or transfer of the cotton, or such other potential hazards as determined appropriate by the State.

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State also contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2000, to provide compensation to cotton producers as provided in such subsection. If the State of Georgia fails to make its contribution of $5,000,000 to the indemnity fund by July 1, 1999, the funds that would otherwise be paid to the State shall be available to the Secretary for the purpose of providing partial compensation to cotton producers as provided in such subsection.

''(c) REPORTING REQUIREMENTS.—Upon the establishment of the indemnity fund, and not later than October 1, 1999, the State of Georgia shall submit a report to the Secretary of Agriculture and the Congress describing the State's efforts to use the indemnity fund to provide compensation to injured cotton producers.

''SEC. 1122. HONEY RECOURSE LOANS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary shall make available recourse loans to producers of the 1998 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

''(b) LOAN RATE.—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1998 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

''(c) NO NET COST BASIS.—Repayment of a loan under this section shall include repayment for interest and administrative costs as necessary to operate the program established under this section on a no net cost basis: *Provided*, That no administrative costs shall be charged against this program which would have been incurred otherwise.

''SEC. 1123. NONINSURED CROP ASSISTANCE TO RAISIN PRODUCERS.

''Notwithstanding any of the provisions of section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that would exclude the following producers from benefits thereunder, the Secretary shall make Noninsured Crop Assistance Program payments in fiscal year 1999 to raisin producers who obtained catastrophic risk protection but because of adverse weather conditions were not able to comply with the policy deadlines for laying the raisins in trays.

''SEC. 1124. EMERGENCY ASSISTANCE.

''In addition to amounts appropriated or otherwise made available by this Act [probably means the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, Pub. L. 105–277, div. A, §101(a), Oct. 21, 1998, 112 Stat. 2681, see Tables for classification], $50,000,000 is appropriated to the Department of Agriculture, to remain available until expended, to provide emergency disaster assistance to persons or entities who have incurred losses from a failure under section 312(a) of Public Law 94–265 [16 U.S.C. 1861a(a)] or a fisheries failure in the Norton Sound region of Alaska that has resulted in the closure of commercial and subsistence fisheries to persons that depend on fish as their primary source of food and income.

''SEC. 1125. FOOD FOR PROGRESS.

''[Amended section 1736*o* of this title.]

''SEC. 1126. TEMPORARY EXPANSION OF RECOURSE LOAN AUTHORITY.

''[Amended section 7237 of this title.]

''SEC. 1127. PILOT PROGRAMS.

''(a) DOMESTIC MARKET REPORTING PILOT PROGRAM.—[Enacted section 229a of this title.]

''(b) EXPORT MARKET REPORTING.—The Secretary shall—

''(1) implement a streamlined electronic system for collecting export sales and shipments data, in the least intrusive manner possible, for fresh or frozen muscle cuts of meat food products; and

''(2) develop a data-reporting program to disseminate summary information in a timely manner (in the case of beef, consistent with the reporting under section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a))).

''(c) FUNDING. —An amount of $250,000 is hereby appropriated to carry out subsection (b).

''Subtitle D—Administration

''SEC. 1131. COMMODITY CREDIT CORPORATION.

''Subject to section 1132, the Secretary shall use the funds, facilities, and authorities of the Commodity

Credit Corporation to carry out subtitles A, B, and C of this title.

''SEC. 1132. EMERGENCY REQUIREMENT.

''Notwithstanding the last sentence of section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 901(b)(2)(A)], as amended, amounts made available by subtitles A, B, and C of this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to Congress.

''SEC. 1133. REGULATIONS.

''(a) ISSUANCE OF REGULATIONS.—As soon as practicable after the date of enactment of this Act [Oct. 21, 1998], the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement subtitles A, B, and C of this title. The issuance of the regulations shall be made without regard to—

''(1) the notice and comment provisions of section 553 of title 5, United States Code;

''(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

''(3) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.''

[Amendment by section 913(b) of Pub. L. 106–78 to terminate 5 years after Oct. 22, 1999, see section 942 of Pub. L. 106–78, set out in a Livestock Mandatory Reporting note under section 1635 of this title.]

PROGRAMS FOR FARMERS AND RANCHERS WHO WERE ACTIVATED RESERVISTS DURING PERSIAN GULF CONFLICT

Pub. L. 102–25, title III, §§381–388, Apr. 6, 1991, 105 Stat. 95–98, established programs for farmers and ranchers who were activated reservists during Persian Gulf conflict to provide for protection of producer's crop acreage base for any program crop, waiver of minimum planting requirement, temporary waiver of conservation requirements, relief for borrowers under farm credit provisions, and authority of a spouse or close relative to participate in programs administered by Secretary of Agriculture on behalf of activated reservists.

SURVEY OF PROGRAM PARTICIPANTS

Pub. L. 101–624, title XI, §1148, Nov. 28, 1990, 104 Stat. 3517, directed Secretary of Agriculture to require producers, during sign-up period for commodity programs under section 1421 et seq. of this title in the 1992 calendar year, to complete survey regarding preference of producers, either to increase efficiency of their farming operation or to assist in meeting conservation requirements for farm, for redistribution of any crop acreage bases on each producer's farm, to compile and analyze data collected from survey to determine potential increases and decreases in State, regional, and national acreage that would be planted to various program crops, potential commodity program costs or savings, and potential impact of such redistribution on competitiveness of United States agriculture in world markets, and, not later than Jan. 31, 1993, to submit to Congress results of survey.

OPTIONS PILOT PROGRAM

Pub. L. 101–624, title XI, subtitle E, Nov. 28, 1990, 104 Stat. 3518, as amended by Pub. L. 102–237, title I, §114(a)(2), Dec. 13, 1991, 105 Stat. 1838, known as Options Pilot Program Act of 1990, authorized Secretary of Agriculture to conduct pilot program for each of the 1991 through 1995 crops of corn and for each of the 1993 through 1995 crops of wheat and soybeans, to determine whether regulated agricultural commodity options trading could be used by producers to obtain protection from fluctuations in market prices of commodities produced and impact of such trading on prices of the commodities, authorized terms and conditions for participation in pilot program, provided for consultation with representatives of commodity futures trading industry, and provided that the pilot program was to be carried out by and through the Commodity Credit Corporation, prior to repeal by Pub. L. 104–127, title I, §191(i), Apr. 4, 1996, 110 Stat. 942.

HURRICANE HUGO FORESTRY ASSISTANCE; COST-SHARE ASSISTANCE

Pub. L. 101–624, title XXII, §2235(b), Nov. 28, 1990, 104 Stat. 3960, directed Secretary of Agriculture to develop and implement cost-share program to provide financial assistance to owners of private timber stands that were damaged in 1989 by Hurricane Hugo.

APPROPRIATIONS FOR FORESTRY ASSISTANCE AND DOUBLE CROPPING ON DISASTER AREAS

Pub. L. 101–624, title XXII, §2235(c), Nov. 28, 1990, 104 Stat. 3961, provided that benefits or assistance provided under section 2235 of Pub. L. 101–624 or amendments made by such that (enacting provisions set out above and amending provisions set out below) were to be provided only to extent provided for in advance by appropriation acts and authorized appropriations for fiscal years 1991 through 1995.

SCARCE FEDERAL RESOURCES

Pub. L. 101–624, title XXV, §2515, Nov. 28, 1990, 104 Stat. 4075, authorized Secretary of Agriculture, after concurrence of certain Members of Congress, to rank by priority studies or reports authorized by Pub. L. 101–624 and determine which of those studies or reports was to be completed, but directed Secretary to complete at least 12 of the studies or reports.

RECORDKEEPING IMPROVEMENT

Pub. L. 101–624, title XXV, §2516, Nov. 28, 1990, 104 Stat. 4075, which provided that section could be cited as ''Agricultural Program Reporting and Recordkeeping Improvement Act of 1990'', directed Secretary of Agriculture, not later than 240 days after Nov. 28, 1990, to submit to Congress a report containing specific proposals for reducing and simplifying recordkeeping and other paperwork required of producers participating in programs administered by Secretary and directed Secretary to take appropriate action to integrate various data bases of Department relating to agricultural program data, and to facilitate sharing of relevant data among various agencies of Department.

READJUSTMENT OF SUPPORT LEVELS

Pub. L. 101–508, title I, §1302, Nov. 5, 1990, 104 Stat. 1388–12, as amended by Pub. L. 103–66, title I, §1301(b), Aug. 10, 1993, 107 Stat. 330, provided that, if by June 30, 1992, and by June 30, 1993, the United States had not entered into agricultural trade agreement in Uruguay Round of multilateral trade negotiations under General Agreement on Tariffs and Trade (GATT) the Secretary of Agriculture was to reconsider and adjust agricultural acreage limitation and price support and production adjustment programs and export promotion levels, as appropriate to protect interests of American agricultural producers and ensure international competitiveness of United States agriculture and that such provisions were to cease to be effective if President certified to Congress that failure to enter into such agreement was result in whole or in part of provisions of 19 U.S.C. 2191, or essentially similar provisions, not applying or in effect not applying during period ending May 31, 1991

(or during period June 1, 1991, through May 31, 1993, if condition of 19 U.S.C. 2903(b)(1)(B)(i) was satisfied) to implementing bills submitted with respect to such an agreement entered into during applicable period under 19 U.S.C. 2902(b), prior to repeal by Pub. L. 104–127, title II, § 263(a), Apr. 4, 1996, 110 Stat. 974.

REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS

Pub. L. 101–220, § 14, Dec. 12, 1989, 103 Stat. 1885, provided that effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, produced by producers that qualified for assistance under section 201(a) of Pub. L. 100–387 or section 101(a) of Pub. L. 101–82 (set out below), if the Secretary of Agriculture determines that any portion of the advance deficiency payment made to producers for such crop under section 1445b–2 of this title had to be refunded, such refund could not be required to be made prior to July 31, 1990.

PILOT PROJECT ON CLEAN GRAIN PREMIUMS

Pub. L. 100–518, § 3, Oct. 24, 1988, 102 Stat. 2587, directed Secretary of Agriculture to conduct study of schedule of premiums and discounts applied to loans made in accordance with this chapter to determine how premiums and discounts could be used to encourage production, marketing, and exporting of high quality, clean grain, to submit, not later than May 1, 1989, to Congress report on results of such study, to include recommendations with respect to schedule of premiums and discounts in such report, and to establish pilot project for 1989 crops of wheat, soybeans, and feed grains to test effectiveness of such recommendations, and to submit report describing result of project, not later than 180 days after end of 1989 marketing year for feed grains.

EMERGENCY CROP LOSS ASSISTANCE

Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1712, as amended by Pub. L. 102–368, title VI, Sept. 23, 1992, 106 Stat. 1130, appropriated an additional $1,750,000,000, to remain available until expended, for losses associated with 1990 crops as authorized by Pub. L. 101–624, formerly set out below, and for losses associated with 1991 and 1992 crops under same terms and conditions.

Pub. L. 101–624, title XXII, §§ 2241–2272, Nov. 28, 1990, 104 Stat. 3962–3977, as amended by Pub. L. 101–508, title I, § 1204(d), Nov. 5, 1990, 104 Stat. 1388–12; Pub. L. 102–237, title I, § 114(a)(4)–(16), Dec. 13, 1991, 105 Stat. 1838, 1839, related to emergency crop loss assistance for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, and rice, for orchards, and for forest crops, prior to repeal by Pub. L. 103–354, title I, § 119(c), Oct. 13, 1994, 108 Stat. 3208. Similar provisions for prior crop years were contained in:

Pub. L. 101–82, title I, Aug. 14, 1989, 103 Stat. 565, as amended by Pub. L. 101–134, § 1, Oct. 30, 1989, 103 Stat. 780; Pub. L. 101–220, § 9(a)–(c), Dec. 12, 1989, 103 Stat. 1882; Pub. L. 101–624, title XXII, §§ 2231, 2232, 2235(a), Nov. 28, 1990, 104 Stat. 3958, 3959; Pub. L. 102–237, title VI, § 602(a), (c), Dec. 13, 1991, 105 Stat. 1878.

Pub. L. 100–387, title II, Aug. 11, 1988, 102 Stat. 933, as amended by Pub. L. 101–82, title VI, § 602, Aug. 14, 1989, 103 Stat. 587; Pub. L. 101–239, title I, § 1004(a), Dec. 19, 1989, 103 Stat. 2108.

SPECIAL STUDY AND PILOT PROJECTS ON FUTURES TRADING

Pub. L. 99–198, title XVII, subtitle E, §§ 1741–1743, Dec. 23, 1985, 99 Stat. 1643, 1644, as amended by Pub. L. 100–203, title I, § 1502, Dec. 22, 1987, 101 Stat. 1330–27, directed Secretary of Agriculture to conduct study to determine manner in which commodity futures markets and commodity options markets might be used by producers of commodities traded on such markets to provide price stability and income protection, extent of price stability and income protection producers might reasonably expect to receive from such participation, and Federal budgetary impact of such participation compared with cost of applicable established price support programs, to report results of study to Congress on or before Dec. 31, 1989, and in connection with such study, to conduct pilot program with respect to crops of wheat, feed grains, soybean, and cotton.

FARM INCOME PROTECTION INSURANCE PROGRAM TASK FORCE, STUDY, AND REPORT

Pub. L. 97–98, title XI, § 1112, Dec. 22, 1981, 95 Stat. 1267, directed Secretary of Agriculture to appoint a special task force to study and report to Congress, not later than 18 months after Dec. 22, 1981, as to whether farm income protection insurance would provide the basis for an acceptable alternative to the commodity price support, income maintenance, and disaster assistance programs currently administered by the Department of Agriculture for the benefit of farmers.

STUDIES IN RICE PRICE SUPPORT; REPORT TO CONGRESS; TERMINATION DATE

Section 315 of act Aug. 28, 1954, directed Secretary of Agriculture to study various two-price systems of price support and marketing which could be made applicable to rice and to submit to Congress on or before Mar. 1, 1955, a detailed report thereon.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425, 1428, 1444, 1444b, 1445a, 1448 of this title.

§ 1421a. Financial impact study

(a) Study

The Secretary of Agriculture shall conduct an annual study of the financial impact of the support levels established and announced by the Secretary under programs contained in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] (hereafter in this section referred to as ''programs''), including a study of the effect of the support levels on the ability of producers to meet their financial obligations (with special emphasis on borrowers from the Farmers Home Administration and the Farm Credit System).

(b) Report

The Secretary shall annually prepare a report containing the results of the study and submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, not later than the date of the final announcement for the programs by the Secretary for any 1 year.

(c) Informational purposes

The study under this section (including the study of the effect of the support levels on the ability of producers to meet their financial obligations) shall be only for informational purposes and for Congressional oversight and shall not give rise to any cause of action, be a basis for, or be used as evidence in support of, any claim or right of any person, including farmers and borrowers, in any administrative or judicial proceeding.

(Pub. L. 101–624, title XI, § 1147, Nov. 28, 1990, 104 Stat. 3516.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

§ 1421b. Costs of production

Congress finds that, to improve the accuracy of commodity program benefit forecasts, the Secretary of Agriculture should designate a single organization to manage its commodity program forecasting and establish a quality control program to—

(1) systematically identify the source of forecasting errors;

(2) maintain records of data used for supply and demand forecasts;

(3) document its forecasting methods; and

(4) correct weaknesses in its various forecasting components.

(Pub. L. 101–624, title XXV, § 2512, Nov. 28, 1990, 104 Stat. 4073; Pub. L. 104–66, title I, § 1011(b), Dec. 21, 1995, 109 Stat. 709.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1995—Pub. L. 104–66 struck out subsec. (a) designation and heading ''Improving accuracy of commodity program budget forecasts'' before ''Congress finds that'', and struck out subsec. (b) ''Return on assets'' which read as follows: ''The Secretary of Agriculture shall annually publish a report analyzing the return on assets resulting from the production of upland cotton, rice, wheat, corn, oats, barley, grain sorghum, soybeans, peanuts, sugar from sugar beets, and raw sugar from sugar cane. In conducting this analysis, the Secretary shall consider returns from agricultural price support programs, the effects of agricultural price support programs on cost of production, the factors currently used in Department of Agriculture cost of production data, current value of land, and any other information that he considers necessary to reflect accurately return on the production of such crops.''

§ 1421c. Repealed. Pub. L. 104–66, title I, § 1011(c), Dec. 21, 1995, 109 Stat. 709

Section, Pub. L. 101–624, title XXV, § 2513, Nov. 28, 1990, 104 Stat. 4074, directed Secretary of Agriculture to develop system for informing consumers of farm value of agricultural products and to submit annual reports on such information to Congress.

§ 1421d. Commodity reports

(a) Crop reports

The Secretary of Agriculture (hereafter in this section referred to as the ''Secretary'') shall gather data from producers to be used to develop crop reports to be distributed by the Secretary during the growing season. The report shall contain statements of the conditions of those crops by State, with such explanations, comparisons, and information as may be useful for illustrating such reports.

(b) Special reports

(1) In general

In addition to the reports compiled pursuant to subsection (a) of this section, the Secretary shall annually survey producers for information for reports regarding supply, acreage, production, disposition, and prices for the following commodities as determined by the Secretary:

(A) 25 fresh market vegetables;

(B) 3 processing vegetables;

(C) 6 fruits and nuts;

(D) 17 forage and turf seeds;

(E) 50 vegetable seeds; and

(F) maple syrup.

(2) Administrative

The Secretary shall annually prepare a report containing results of the surveys described in paragraph (1) in such States as determined by the Secretary. Such reports shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published.

(c) Tree inventories

The Secretary shall survey producers for information for reports regarding fruit and nut tree inventories. Such surveys and reports shall be conducted, printed, and distributed on a regular basis every 3 to 5 years as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(d) Omitted

(e) Authorization

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XXV, § 2514, Nov. 28, 1990, 104 Stat. 4074.)

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section is comprised of section 2514 of Pub. L. 101–624. Subsec. (d) of section 2514 of Pub. L. 101–624 repealed section 411a of this title.

§ 1422. Increase of price support levels

(a) Notwithstanding any other provision of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the na-

tional welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination and the record of the hearing shall be available to the public.

(b) Effective only for the 1991 through 1995 crops of wheat, feed grains, cotton, and rice, the Secretary of Agriculture may provide for annual adjustments in the established prices for such program crops to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates in such calendar year.

(Oct. 31, 1949, ch. 792, title IV, § 402, 63 Stat. 1054; Pub. L. 101–624, title XI, § 1127, Nov. 28, 1990, 104 Stat. 3508.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

CROSS REFERENCES

Price support levels, see section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1441, 1444 of this title.

§ 1423. Adjustments of support prices

(a) In general

The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. The adjustments shall, so far as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors be equal to the level of support determined as provided in this Act. Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.

(b) Adjustment in support prices for cotton

The Secretary may make appropriate adjustments in the support price for cotton for differences in quality factors and location. Beginning with the 1991 crop, the quality differences (premiums and discounts for quality factors) for the upland cotton loan program shall be established by the Secretary by giving equal weight to (1) loan differences for the preceding crop, and (2) market differences for such crop in the designated United States spot markets.

(c) Limitation on adjustments for wheat and feed grains

Notwithstanding any other provision of this section, for each of the 1990 through 1995 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease the regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 3 percent.

(Oct. 31, 1949, ch. 792, title IV, § 403, 63 Stat. 1054; Pub. L. 85–835, title I, §§ 108, 111, Aug. 28, 1958, 72 Stat. 993; Pub. L. 89–321, title VIII, § 802, Nov. 3, 1965, 79 Stat. 1213; Pub. L. 97–98, title V, § 507, Dec. 22, 1981, 95 Stat. 1241; Pub. L. 100–203, title I, § 1105, Dec. 22, 1987, 101 Stat. 1330–5; Pub. L. 101–624, title XI, § 1128, title XX, § 2011, Nov. 28, 1990, 104 Stat. 3508, 3932.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–624, § 2011, inserted at end of subsec. (a) ''Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.''

Pub. L. 101–624, § 1128, in amending section generally, designated part of existing text as subsecs. (a), (b), and (c), and in subsec. (a) inserted provisions excluding cotton, in subsec. (b) substituted reference to 1991 crop for reference to 1982 crop, and substituted reference to quality factors for reference to grade, staple and micronaire, and in subsec. (c) substituted reference to 1990 through 1995 crops for reference to 1988 through 1990 crops, substituted reference to 3 percent for reference to 2 percent, and struck out provisions relating to establishment and duties of a study committee and authority of Secretary to review and revise procedures and criteria for establishing values of premiums and discounts for grade, staple and micronaire for upland cotton program.

1987—Pub. L. 100–203 inserted at end ''Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting

transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.''

1981—Pub. L. 97–98 inserted provision directing that beginning with 1982 crop of upland cotton, the quality differences for the loan program be established by giving equal weight to the loan differences for the preceding crop and to the market differences for the crop in the nine designated United States spot markets and authorizing the Secretary to establish a study committee to study and report on alternative methods of establishing values of premiums and discounts for grade, staple, and micronaire for the upland cotton loan program that accurately represent true relative market values and reflect actual market demand for upland cotton produced in the United States and to review procedures and criteria for determining quality differences, prior to the announcement of the loan rate differences for the 1982 crop of upland cotton, and based on such review, revise such procedures and criteria to actually reflect the actual market value of upland cotton produced in the United States.

1965—Pub. L. 89–321 provided that, in determining support prices for 1966 and 1967 rice crops, the Secretary shall use head and broken rice value factors for the various varieties which are not lower than those with respect to the 1965 crop and which do not differ as between any two varieties by a greater amount than the value factors used with respect to the 1965 crop for such two varieties differed.

1958—Pub. L. 85–835 provided for support of split grades, and repealed, effective with the 1961 crop, sentence prescribing standard cotton grade for parity and price support purposes.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1128 of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444, 1445 of this title.

§ 1424. Utilization of services and facilities of Commodity Credit Corporation

The Secretary, in carrying out programs under section 612c of this title and section 1755 of title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it.

(Oct. 31, 1949, ch. 792, title IV, §404, 63 Stat. 1054; Pub. L. 106–78, title VII, §752(b)(2), Oct. 22, 1999, 113 Stat. 1169.)

AMENDMENTS

1999—Pub. L. 106–78 made technical amendment to reference in original act which appears in text as reference to section 1755 of title 42.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1425. Producer rights and liabilities

(a) Liability for deficiencies

Except as otherwise provided in section 1425a of this title, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program. There is authorized to be included in the terms and conditions of any such nonrecourse loan a provision whereby on and after the maturity of the loan or any extension thereof Commodity Credit Corporation shall have the right to acquire title to the unredeemed collateral without obligation to pay for any market value which such collateral may have in excess of the loan indebtedness.

(b) Sugarcane and sugar beets

The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 1421(e)(2) of this title.

(Oct. 31, 1949, ch. 792, title IV, §405, 63 Stat. 1054; Pub. L. 85–835, title V, §502, Aug. 28, 1958, 72 Stat. 996; Pub. L. 99–198, title X, §1004, Dec. 23, 1985, 99 Stat. 1447; Pub. L. 100–460, title VI, §634(a), Oct. 1, 1988, 102 Stat. 2263; Pub. L.

102–237, title I, §111(b), Dec. 13, 1991, 105 Stat. 1830.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) Notwithstanding any other provision of law, the Secretary may provide a negotiable certificate to any producer who repays, together with interest, a price support loan made available to such producer under any of the annual programs, for wheat, feed grains, upland cotton, or rice established under this Act.

''(2) The amount of such certificates shall be equal to the amount of the interest paid by the producer on such loan.

''(3) Such certificate shall be redeemable in wheat, feed grains, upland cotton, or rice, as the case may be, owned by the Commodity Credit Corporation.

''(4) The issuance of such certificate shall be subject to the availability of commodities owned by the Corporation.''

1988—Subsec. (a). Pub. L. 100–460 substituted ''Except as otherwise provided in section 1425a of this title, no producer'' for ''No producer''.

1985—Pub. L. 99–198 temporarily designated existing provisions as subsec. (a) and added subsec. (b). See Effective and Termination Dates of 1985 Amendment note below.

1958—Pub. L. 85–835 authorized the Commodity Credit Corporation to acquire title to agricultural commodities on which nonrecourse price-support loans have been made without the necessity of computing and making payments to the farmer.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 634(a) of Pub. L. 100–460 provided that the amendment made by that section is effective beginning with 1989 crop year for honey.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1004 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1425a. Producers of honey; loan obligations and liabilities

(a) Loan forfeiture limitation

A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 1446h[1] of this title by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the person for such crop of honey under section 1446h[1] of this title, does not exceed $200,000 in the 1991 crop year, $175,000 in the 1992 crop year, $150,000 in the 1993 crop year, and $125,000 in each of the 1994 and subsequent crop years: *Provided, however*, That the loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 1446h(b)(2)[1] of this title.

(b) Liability for nonforfeitable part of obligation

The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a) of this section, is prohibited.

(c) Extent of personal liability

The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section.

(d) Promulgation of regulations

The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section. The regulations shall provide for the attribution of the value of collateral forfeited on loans described in subsection (a) of this section.

(Oct. 31, 1949, ch. 792, title IV, §405A, as added Pub. L. 100–460, title VI, §634(b), Oct. 1, 1988, 102 Stat. 2263; amended Pub. L. 101–624, title X, §1002, title XI, §1161(d), Nov. 28, 1990, 104 Stat. 3490, 3521.)

REFERENCES IN TEXT

Section 1446h of this title, referred to in subsec. (a), was repealed by Pub. L. 104–127, title I, §171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624, §1161(d), substituted references to sections 1446h and 1446h(b)(2) of this title for references to sections 1446(b) and 1446(b)(2)(B) of this title, respectively.

Pub. L. 101–624, §1002(1), substituted ''person for such crop of honey under section 1446h of this title, does not exceed $200,000 in the 1991 crop year, $175,000 in the 1992 crop year, $150,000 in the 1993 crop year, and $125,000 in each of the 1994 and subsequent crop years'' for ''producer for such crop of honey under section 1446(b) of this title, does not exceed $250,000''.

Subsec. (d). Pub. L. 101–624, §1002(2), inserted provisions requiring that the regulations issued pursuant to this subsection provide for the attribution of the value of collateral forfeited on loans described in subsec. (a).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with pro-

[1] See References in Text note below.

vision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

PROHIBITION ON USE OF FUNDS FOR HONEY PAYMENTS OR LOAN FORFEITURES

Pub. L. 104–37, title VII, § 718, Oct. 21, 1995, 109 Stat. 331, provided that none of the funds appropriated or otherwise made available by Pub. L. 104–37 were to be used by the Secretary of Agriculture to provide total amount of payments and/or total amount of loan forfeitures to a person to support the price of honey under this section or former section 1446h of this title in excess of zero dollars in the 1994, 1995, and 1996 crop years.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–330, title VII, § 723, Sept. 30, 1994, 108 Stat. 2469.

Pub. L. 103–111, title VII, § 728, Oct. 21, 1993, 107 Stat. 1081.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1425 of this title.

§ 1426. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938

Section, acts Oct. 31, 1949, ch. 792, title IV, § 406, 63 Stat. 1055; Dec. 23, 1985, Pub. L. 99–198, title X, § 1016, 99 Stat. 1457; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1129, 104 Stat. 3508; Dec. 13, 1991, Pub. L. 102–237, title I, § 113(11), 105 Stat. 1838, provided for advance announcement of price support levels.

§ 1427. Commodity Credit Corporation sales price restrictions

(a) In general

The Commodity Credit Corporation may sell any farm commodity owned or controlled by the Corporation at any price not prohibited by this section.

(b) Inventories

In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should consider the establishment of such policies with respect to prices, terms, and conditions as the Corporation determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

(c) Sales price restrictions

(1) In general

Except as otherwise provided in this section, the Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 115 percent of the lower of—

(A) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

(B) the loan repayment level.

(2) Extra long staple cotton

The Corporation may sell extra long staple cotton for unrestricted use at such price as the Corporation determines is appropriate to maintain and expand export and domestic markets.

(3) Oilseeds

The Corporation shall not sell oilseeds at less than the lower of—

(A) 105 percent of the current national average price support loan rate for the oilseed, adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

(B) 115 percent of the loan repayment level.

(4) Wheat and feed grains

Whenever the producer reserve program for wheat and feed grains established under section 1445e of this title is in effect, the Corporation may not sell any of its stocks of wheat or feed grains at a level that is less than 150 percent of the then current loan rate for wheat or feed grains.

(5) Upland cotton

The Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same price the Corporation sells upland cotton for export, but in no event at less than the amount provided for in paragraph (1).

(d) Nonapplication of sales price restrictions

The foregoing restrictions of this section shall not apply to—

(1) sales for new or byproduct uses;

(2) sales of peanuts and oilseeds for the extraction of oil;

(3) sales for seed or feed if the sales will not substantially impair any price support program;

(4) sales of commodities that have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity;

(6) sales for export (excluding sales of upland cotton for export);

(7) sales of wool; and

(8) sales for other than primary uses.

(e) Distress, disaster, and livestock emergency areas

(1) In general

Notwithstanding the foregoing provisions of this section, the Corporation, on such terms and conditions as the Secretary may consider in the public interest, may—

(A) make available any farm commodity or product thereof owned or controlled by the Corporation for use in relieving distress—

(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal

marketing of agricultural commodities; and

(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) donate or sell commodities in accordance with subchapter V of this chapter.

(2) Costs

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making the commodity available under this subsection beyond the cost of the commodities to the Corporation in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area.

(f) Efficient operations

(1) In general

Subject to paragraph (2), the foregoing restrictions of this section shall not apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantities involved, or because of age, location or questionable continued storability of the commodity.

(2) Offsets

The sales shall be offset (if necessary) by the purchases of commodities as the Corporation determines is appropriate to prevent the sales from substantially impairing any price support program or unduly affecting market prices, except that the purchase price shall not exceed the Corporation's minimum sales price for the commodities for unrestricted use.

(3) Competitive bid basis

Subject to the sales price restrictions contained in this section, the Corporation may sell any basic agricultural commodity or storable nonbasic commodity on a competitive bid basis, if the sale is determined to be appropriate by the Secretary.

(g) Sales for export

For the purposes of this section, sales for export shall include—

(1) sales made on condition that the identical commodities sold be exported; and

(2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.

(Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, § 308, formerly § 301, 68 Stat. 458, renumbered § 308, Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548; amended July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Pub. L. 85–835, title I, § 109, Aug. 28, 1958, 72 Stat. 993; Pub. L. 87–127, Aug. 7, 1961, 75 Stat. 293; Pub. L. 87–703, title III, § 325(2), title IV, § 404, Sept. 27, 1962, 76 Stat. 631, 632; Pub. L. 88–297, title I, § 104, title II, § 204, Apr. 11, 1964, 78 Stat. 175, 183; Pub. L. 88–585, § 1, Sept. 11, 1964, 78 Stat. 927; Pub. L. 89–321, title IV, § 404, Nov. 3, 1965, 79 Stat. 1197; Pub. L. 89–808, § 3(e), Nov. 11, 1966, 80 Stat. 1538; Pub. L. 90–475, § 7, Aug. 11, 1968, 82 Stat. 703; Pub. L. 90–559, § 1(5), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title IV, § 409, title VI, § 603, Nov. 30, 1970, 84 Stat. 1367, 1377; Pub. L. 95–113, title IV, § 408, title VI, § 603, Sept. 29, 1977, 91 Stat. 927, 939; Pub. L. 97–98, title V, § 503, title XI, §§ 1103, 1111(a), Dec. 22, 1981, 95 Stat. 1240, 1264, 1267; Pub. L. 98–88, § 5, Aug. 26, 1983, 97 Stat. 499; Pub. L. 99–198, title V, § 503, title X, § 1007, title XVII, § 1763(b), Dec. 23, 1985, 99 Stat. 1418, 1451, 1651; Pub. L. 100–387, title I, § 101(b)(2), Aug. 11, 1988, 102 Stat. 931; Pub. L. 100–707, title I, § 109(a)(2), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 101–624, title XI, § 1130, Nov. 28, 1990, 104 Stat. 3509.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (e)(1)(A)(ii), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 308 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 13, 73 Stat. 609; amended Sept. 27, 1962, Pub. L. 87–703, title II, § 203, 76 Stat. 611, cited as a credit to this section, which enacted section 1697 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, designating part of existing text as subsecs. (a) to (g), and as so designated, in subsec. (c), substituting provisions restricting sales of nonbasic or agricultural commodities at less than 115 percent of the levels of the current national price support level or the loan repayment level for provisions restricting such sales at less than 5 percent above the current support price, substituting provisions authorizing the sale of extra long staple cotton at any price determined appropriate for provisions that it sell at not less than 15 percent above the current support price, adding provisions relating to oilseeds, and wheat and feed grains, deleting provisions relating to sales of extra long staple cotton for unrestricted use and the authority of Secretary in carrying out this section.

1988—Pub. L. 100–707, substituted ''the Disaster Relief and Emergency Assistance Act'' for ''Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)''.

Pub. L. 100–387 substituted provision authorizing the Commodity Credit Corporation to donate or sell commodities in accordance with subchapter V of this chapter for provision authorizing the Commodity Credit Corporation to make feed for livestock available to certain persons in certain areas during emergencies.

1985—Pub. L. 99–198, § 1007, temporarily reenacted substantially without change the amendments made in 1981 by section 1103 of Pub. L. 97–98, which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges; designated such provisions as thus reenacted as cl. (A) of the proviso involved and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop; and reenacted,

also without change, the amendments by Pub. L. 97–98 which had the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use. See Effective and Termination Dates of 1985 Amendment note below.

Pub. L. 99–198, § 1763(b), inserted provision giving the Commodity Credit Corporation authority to (1) make available feed for livestock to certain persons during emergencies in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the fourth sentence of this section, (2) make such feed available to such persons through feed dealers in the areas, (3) make such feed available at a price not less than the price prescribed in the fourth sentence of this section, and (4) bear any expenses incurred in connection with making such feed available to such persons under this sentence, including transportation and handling costs.

Pub. L. 99–198, § 503, temporarily reenacted substantially without change the amendments made in 1981 by section 503 of Pub. L. 97–98, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted ''as it sells upland cotton'' for ''as it sells cotton'' and ''percent'' for ''per centum''; designated such provisions as thus reenacted as cl. (A), and added cl. (B) relating to the Secretary's permitting the repayment of loans at a loan rate less than the loan level determined for such crop. See Effective and Termination Dates of 1985 Amendment note below.

1983—Pub. L. 98–88 inserted provision that, beginning Aug. 26, 1983, the Commodity Credit Corporation may sell extra long staple cotton for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.

1981—Pub. L. 97–98 temporarily reenacted without change the amendments made in 1977 by section 408 of Pub. L. 95–113, which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and the amendment made in 1977 by section 603 of Pub. L. 95–113, which provided that the Commodity Credit Corporation sell upland cotton for unrestricted use at the same prices as it sells cotton for export, but in no event at less than 115 per centum of the loan rate for Strict Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and substituted ''may make available'' for ''shall make available'' and ''may make feed'' for ''shall make feed''. See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95–113 temporarily reenacted without change the amendments made in 1970 by section 409 of Pub. L. 91–524 which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and reenacted the amendment made in 1970 by section 603 of Pub. L. 91–524 with regard to the sale of upland cotton by the Corporation with the single change of substituting ''at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton'' for ''at less than 110 per centum of the loan rate for Middling one-inch upland cotton'' in provisions setting the minimum price at which the Corporation shall sell upland cotton for unrestricted use. See Effective and Termination Dates of 1977 Amendment note below.

1970—Pub. L. 91–524 temporarily established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, changed the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and provided for sale of upland cotton by the Corporation for unrestricted use at the same prices as it sold for export, in no event, however, at less than 110 percent of the loan rate for Middling one-inch cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as deemed appropriate by the Secretary, plus reasonable carrying charges. See Effective and Termination Dates of 1970 Amendment note below.

1968—Pub. L. 90–559 extended termination date for sale of upland cotton from July 31, 1970, to July 31, 1971.

Pub. L. 90–475 required that notwithstanding any other provision of this section, effective Aug. 1, 1968, the Commodity Credit Corporation make available for sale for unrestricted use at current market prices a quantity of American grown extra long staple cotton equal to the specified amount, with the proviso that beginning with the marketing year for which the national marketing quota is not established pursuant to section 1347(b)(3) of this title, no sales shall be made at less than 115 percent of the loan rate for extra long staple cotton under section 1441(f) of this title, and required the Secretary to make adjustments in the quantities of cotton to be made available.

1966—Pub. L. 89–808 inserted proviso to third sentence prohibiting, whenever carryover at end of any marketing year of a price supported agricultural commodity for which a voluntary adjustment program is in effect will be less than 25 per centum (35 per centum in the case of wheat) of the estimated export and domestic consumption of such commodity during such marketing year, sale of CCC stocks of such commodity during such year for unrestricted use at less than 115 per centum (120 per centum in the case of wheat whenever its carryover will be less than 25 per centum of such estimated export and domestic consumption) of the current price support loan plus reasonable carrying charges.

1965—Pub. L. 89–321 required that notwithstanding any other provision of this section, for the period August 1, 1966, through July 31, 1970, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate, and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year, permitted the Secretary to make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence, and required such quantities of cotton as are required to be sold under such

sentence to be offered for sale in an orderly manner and so as not to affect market prices unduly.

1964—Pub. L. 88–585 provided that the Corporation, in providing feed to distressed areas, may charge not less than 75 percent of the current basic county support rate including the value of any applicable price support payment in kind, included the Virgin Islands within those areas where such feed can be made obtainable, authorized the Secretary to provide feed by feed dealers under such arrangement that the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons, and inserted ''or other area'' after ''one or more central locations in each State''.

Pub. L. 88–297, § 104, inserted proviso that beginning Aug. 1, 1964, the Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges.

Pub. L. 88–297, § 204, temporarily substituted proviso that if wheat marketing allocation program is in effect, the current price for wheat shall be the support price for wheat not accompanied by marketing certificates for proviso prescribing support price for wheat accompanied by marketing certificate and sale of wheat to be accompanied by marketing certificate, respectively. See Effective and Termination Dates of 1964 Amendment note below.

1962—Pub. L. 87–703 prescribed that a marketing certificate accompany the support price for wheat and wheat sold and authorized the Secretary to make Commodity Credit Corporation feed available, prior to Dec. 31, 1963, to milk producers to assure supply free of radioactive fallout contamination, respectively.

1961—Pub. L. 87–127 empowered Corporation to sell, at not less than 75 percent of the current support price, feed owned or controlled by it to assist in the preservation and maintenance of foundation herds of cattle, sheep, and goats in such areas where the Secretary determines an emergency exists warranting such assistance.

1958—Pub. L. 85–835 required Corporation to sell cotton for unrestricted use at not less than 15 per centum above support price plus reasonable carrying charges, and authorized Corporation to sell at market price a number of bales equal to that by which the national marketing quota is less than domestic consumption and exports.

1956—Act Jan. 28, 1956, included as ''sales for export'' sales made on condition that like commodities of comparable value or quantity be exported in raw or processed form.

1954—Act July 29, 1954, exempted from the minimum price requirement any sales where disposition is desirable in the interest of effective and efficient conduct of the Corporation's operations because of the small quantities involved or because of age, location, or questionable storability.

Act July 10, 1954, inserted provisions relating to use of farm commodities and products in relieving distress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 101(c) of Pub. L. 100–387 provided that:

''(1) This section and the amendments made by this section [enacting sections 1471 to 1471j of this title, amending this section, repealing sections 1433 and 2267 of this title, enacting provisions set out as a note under section 1421 of this title, and repealing provisions set out as notes under this section] shall become effective 15 days after the date of the enactment of this Act [Aug. 11, 1988].

''(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a) [7 U.S.C. 1471b(d), 1471c(c), 1471d(a)(2)(A), (e), 1471g(c), (d)], shall apply only with respect to any livestock emergency in 1988.''

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 503 of Pub. L. 99–198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1991.

Section 1007 of Pub. L. 99–198 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for wheat and feed grains] is effective only for marketing years for 1986 through 1990 crops.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 503 of Pub. L. 97–98 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales price restrictions for upland cotton] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1986.

Section 1103 of Pub. L. 97–98 provided that the amendment made by that section [with respect to Commodity Credit Corporation sales restrictions for wheat and feed grains] is effective only for marketing years for 1982 through 1985 crops.

Amendment by § 1111(a) of Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 408 of Pub. L. 95–113 provided that the amendment made by that section [which reenacted without change the amendment first made by section 409 of Pub. L. 91–524 establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1978 through 1981 crops.

Section 603 of Pub. L. 95–113 provided that the amendment made by that section [which reenacted with some changes (see 1977 Amendment note above) the amendment first made by section 603 of Pub. L. 91–524 relating to sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1978, and ending July 31, 1982.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 409 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(16), Aug. 10, 1973, 87 Stat. 230, provided that the amendment made by that section [establishing a floor for sales of wheat and feed grains and changing price at which purchases must be made to offset sales in interest of efficient conduct of Corporation's operations] is effective only with respect to marketing years for 1971 through 1977 crops.

Section 603 of Pub. L. 91–524, as amended by Pub. L. 93–86, § 1(21), Aug. 10, 1973, 87 Stat. 235, provided that the amendment made by that section [covering sale of upland cotton by Corporation] is effective only with respect to period beginning Aug. 1, 1971, and ending July 31, 1978.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EFFECTIVE AND TERMINATION DATES OF 1964 AMENDMENT

Section 204 of Pub. L. 88–297, as amended by Pub. L. 89–321, title V, § 503(3), Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the

amendment made by that section is effective only with respect to marketing years beginning in calendar years 1964 through 1970.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SALE OF CORN TO ETHANOL PRODUCERS

Section 332 of Pub. L. 100–387 provided that:

''(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture may make available for sale to domestic producers of ethanol fuel, for the production of ethanol, not more than 12,000,000 bushels per month of corn owned by the Commodity Credit Corporation.

''(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn, prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

''(c) MAXIMUM AMOUNT.—The total quantity of corn sold to any ethanol producer under this section may not exceed 2,000,000 bushels per month.

''(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

''(e) TERMS.—(1) The Secretary may not make corn or other commodities available under this section to any domestic producer of ethanol that uses in excess of 30,000,000 bushels of corn or comparable commodity annually in producing ethanol.

''(2) Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed byproducts equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

''(f) TERMINATION.—The Secretary shall terminate any program established under this section no later than September 1, 1989. The Secretary shall terminate the program on an earlier date if the Secretary determines that—

''(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

''(2) a sufficient supply of corn otherwise would not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

''(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) for corn on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.''

EMERGENCY FEED ASSISTANCE

Pub. L. 98–180, title III, §303, Nov. 29, 1983, 97 Stat. 1151, which authorized Secretary of Agriculture to make damaged corn available to assist eligible farmers and ranchers in areas adversely affected by drought, hot weather, or related disaster to preserve and maintain foundation herds of livestock and poultry, which corn was to be available until Sept. 30, 1984, or date, as determined by the Secretary, on which emergency no longer exists, was repealed by Pub. L. 100–387, title I, §101(b)(5), Aug. 11, 1988, 102 Stat. 932, eff. 15 days after Aug. 11, 1988.

SALE OF FEED FOR LIVESTOCK IN EMERGENCY AREAS; DESIGNATION OF EMERGENCY AREA; CONDITIONS; PENALTY

Pub. L. 86–299, Sept. 21, 1959, 73 Stat. 574, as amended by Pub. L. 88–585, §3, Sept. 11, 1964, 78 Stat. 927, which authorized Secretary of Agriculture to sell feed grains to provide feed for livestock in any area determined by Secretary to be an emergency area, and provided penalty for any person disposing of such feed other than by feeding livestock owned by him, was repealed by Pub. L. 100–387, title I, §101(b)(4), Aug. 11, 1988, 102 Stat. 931, eff. 15 days after Aug. 11, 1988.

FEED GRAIN; SALE BY CCC; TERMINATION DATE

Act Aug. 28, 1954, ch. 1041, title II, §208, 68 Stat. 901, authorized the Commodity Credit Corporation until March 1, 1955, to sell at the point of storage any feed grain owned by the Corporation at 10 per centum above the current support price for the commodity.

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO SELL WHEAT AND CORN

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase flour and cornmeal for donation and to sell, without regard to this section, an equivalent amount of wheat and corn, see note set out under section 1431 of this title.

SALE OF COMMODITIES FOR FOREIGN CURRENCIES

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

EX. ORD. NO. 11336. DELEGATION OF AUTHORITY RELATING TO EMERGENCY LIVESTOCK FEED

Ex. Ord. No. 11336, Mar. 22, 1967, 32 F.R. 4489, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) The Secretary of Agriculture is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by clause (1) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), to the extent prescribed in subsection (b) of this section.

(b) Whenever the Secretary of Agriculture determines that the chronic economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting any reservation or other land designated for Indian use which is utilized by members of such tribe for grazing livestock, he may, under subsection (a) of this section, declare such reservation or other land to be an acute distress area because of unemployment or other economic reasons if he finds that the use of farm commodities or the products thereof made available by the Commodity Credit Corporation for livestock feed in that area will not displace or interfere with normal marketing of agricultural commodities.

SEC. 2. Federal assistance in relieving distress, extended as a result of action by the Secretary of Agriculture under the authority delegated by section 1 of this order, shall terminate in each instance upon notice by the Secretary of Agriculture.

SEC. 3. In carrying out the provisions of this order the Secretary of Agriculture shall maintain liaison with the Secretary of the Interior and shall consult with the latter as may be appropriate.

SEC. 4. The declaration contained in the letter of the President to the Secretary of Agriculture, dated February 1, 1965, that reservation lands in Arizona, Utah and New Mexico, which are grazed in common by Indian tribes, are an acute distress area shall continue in effect until January 1, 1968, or until such earlier date as may be fixed by notice of the Secretary of Agriculture published in the Federal Register.

LYNDON B. JOHNSON.

CROSS REFERENCES

Agricultural commodity set-aside, dispositions not subject to pricing limitation, see section 1744 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359a, 1427a, 1428, 1444, 1446, 1744 of this title; title 50 App. section 2093.

§ 1427–1. Quality requirements for Commodity Credit Corporation owned grain

(a) Establishment of minimum standards

Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

(b) Inspection of grain acquisitions

The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests.

(Oct. 31, 1949, ch. 792, title IV, § 407A, as added Pub. L. 101–624, title XX, § 2012, Nov. 28, 1990, 104 Stat. 3933.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster

(a) Establishment, maintenance and disposal by Secretary; amount and nature of reserve

Notwithstanding any other provision of law, the Secretary of Agriculture may under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of not to exceed 75 million bushels of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

Such reserve inventories may include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

(b) Acquisition of commodities through price support program

The Secretary may acquire such commodities through the price support program. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other livestock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.

(c) Prerequisites for sale or disposition of commodities in reserve

Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 2267[1] of this title; or (2) use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5195 et seq.].

(e) Sale at equivalent prices for maintenance of reserve

The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

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[1] See References in Text note below.

(f) Utilization of Commodity Credit Corporation and usual and customary channels, etc., of trade and commerce

The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(g) Rules and regulations

The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Authorization of appropriations

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 91–524, title VIII, §813, as added Pub. L. 93–86, §1(27)(B), Aug. 10, 1973, 87 Stat. 239; amended Pub. L. 95–113, title XI, §1103, Sept. 29, 1977, 91 Stat. 953; Pub. L. 97–98, title X, §1003, Dec. 22, 1981, 95 Stat. 1260; Pub. L. 100–707, title I, §109(b), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 103–337, div. C, title XXXIV, §3412(b)(3), Oct. 5, 1994, 108 Stat. 3111.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

The Disaster Relief and Emergency Assistance Act and The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), are Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. Title VI of the Act is classified generally to subchapter IV–B (§5195 et seq.) of chapter 68 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86–299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

Section 2267 of this title, referred to in subsec. (d), was repealed by Pub. L. 100–387, title I, §101(b)(1), Aug. 11, 1988, 102 Stat. 931.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–337 substituted ''title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act'' for ''the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297)''.

1988—Subsec. (d). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''may'' for ''shall'' wherever appearing.

Subsec. (b). Pub. L. 97–98 substituted ''Secretary may acquire such commodities'' for ''Secretary shall acquire such commodities''.

1977—Subsec. (b). Pub. L. 95–113, §1103(a), inserted provisions authorizing Secretary to act if it is determined that no wheat, feed grains, or soybeans are available through the price support program at locations where they can be economically utilized to alleviate distress caused by a natural disaster.

Subsec. (d). Pub. L. 95–113, §1103(b), substituted ''(A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959, or section 2267 of this title'' for ''(a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

COMMODITY CREDIT CORPORATION FUND; DISASTER RESERVE ASSISTANCE PROGRAM

Pub. L. 105–18, title II, June 12, 1997, 111 Stat. 170, provided in part: ''That notwithstanding any other provision of law, beginning on October 1, 1997, grain in the disaster reserve established in the Agricultural Act of 1970 [see Short Title of 1970 Amendment note set out under section 1281 of this title] shall not exceed 20 million bushels''.

§ 1428. Definitions

For the purposes of this Act—

(a) A commodity shall be considered storable upon determination by the Secretary that, in normal trade practice, it is stored for substantial periods of time and that it can be stored under the price-support program without excessive loss through deterioration or spoilage or without excessive cost for storage for such periods as will permit its disposition without substantial impairment of the effectiveness of the price-support program.

(b) A ''cooperator'' with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided*, That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres

or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided*, That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further*, That for the 1976 through 1981 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the acreage required under section 1444(f) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(c) A ''basic agricultural commodity'' shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively.

(d) A ''nonbasic agricultural commodity'' shall mean any agricultural commodity other than a basic agricultural commodity.

(e) The ''supply percentage'' as to any commodity shall be the percentage which the estimated total supply is of the normal supply as determined by the Secretary from the latest available statistics of the Department of Agriculture as of the beginning of the marketing year for the commodity.

(f) ''Total supply'' of any nonbasic agricultural commodity for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(g) ''Carry-over'' of any nonbasic agricultural commodity for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any part of the crop or production of such commodity which was produced in the United States during the calendar year then current. The carryover of any such commodity may also include the quantity of such commodity in processed form on hand in the United States at the beginning of such marketing year, if the Secretary determines that the inclusion of such processed quantity of the commodity is necessary to effectuate the purposes of this Act.

(h) ''Normal supply'' of any nonbasic agricultural commodity for any marketing year shall be (1) the estimated domestic consumption of the commodity for the marketing year for which such normal supply is being determined, plus (2) the estimated exports of the commodity for such marketing year, plus (3) an allowance for carry-over. The allowance for carry-over shall be the average carry-over of the commodity for the five marketing years immediately preceding the marketing year in which such normal supply is determined, adjusted for surpluses or deficiencies caused by abnormal conditions, changes in marketing conditions, or the operation of any agricultural program. In determining normal supply, the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(i) ''Marketing year'' for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of a crop or production of such commodity is normally marketed by the producers thereof.

(j) Any term defined in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], shall have the same meaning when used in this Act.

(k)(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms ''support price'', ''level of support'', and ''level of price support'' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(2) References made to the terms ''price support'', ''price support operations'', and ''price support program'' in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

(3) Notwithstanding any other provision of law, this subsection shall be effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice.

(*l*) ''Producer'' shall include a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(Oct. 31, 1949, ch. 792, title IV, § 408, 63 Stat. 1055; Aug. 28, 1954, ch. 1041, title II, § 209, 68 Stat. 901; Pub. L. 89–321, title IV, § 402(b), Nov. 3, 1965, 79 Stat. 1197; Pub. L. 90–559, § 1(4), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title IV, § 408, title VI, §§ 604, 607, Nov. 30, 1970, 84 Stat. 1367, 1378; Pub. L. 93–86, § 1(22), Aug. 10, 1973, 87 Stat. 235; Pub. L. 94–214, title III, §§ 303, 304, Feb. 16, 1976, 90 Stat. 187, 188; Pub. L. 95–113, title IV, § 407, title VI, § 604(a), (b), title VII, §§ 704, 705, Sept. 29, 1977, 91 Stat. 927, 939, 944; Pub. L. 97–98, title XI, § 1104, Dec. 22, 1981, 95 Stat. 1264; Pub. L. 99–198, title X, § 1018, Dec. 23, 1985, 99 Stat. 1459; Pub. L. 101–624, title XI, § 1131, Nov. 28, 1990, 104 Stat. 3511.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 1441(g) of this title, referred to in subsec. (b), was omitted from the Code.

The Agricultural Adjustment Act of 1938, referred to in subsec. (j), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification

of this Act to the Code, see section 1281 of this title and Tables.

AMENDMENTS

1990—Subsec. (k). Pub. L. 101–624, § 1131(a), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows:

''(1) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

''(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 1421(a) of this title shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act.''

Subsecs. (*l*), (m). Pub. L. 101–624, § 1131(b), added subsec. (*l*) and struck out former subsecs. (*l*) and (m). See 1977 Amendment note below.

1985—Subsec. (k). Pub. L. 99–198 temporarily amended subsec. (k) generally, designating provisions before the semicolon as par. (1) and substituting ''loan and purchase level'' for ''level of loans and purchases'', and designating provisions after the semicolon as par. (2). See Effective and Termination Dates of 1985 Amendment note below.

1981—Subsec. (k). Pub. L. 97–98 temporarily substituted ''Reference made'' for ''References made'' and inserted reference to section 1427 of this title and to upland cotton and rice. See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (b). Pub. L. 95–113, §§ 604(a), 704, inserted proviso defining cooperator for purposes of the 1978 through 1981 crops of upland cotton as a producer on a farm who has set aside the acreage required under section 1444(f) of this title and substituted ''1976 through 1981 crops of rice'' for ''1976 and 1977 crops of rice'' in proviso defining cooperator for purposes of specific crops of rice.

Subsecs. (k) to (m). Pub. L. 95–113, §§ 407, 604(b), 705, temporarily amended subsecs. (k) to (m) generally. See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (b). Pub. L. 94–214, § 303, inserted proviso defining ''cooperator'' for 1976 and 1977 crops of rice.

Subsec. (m). Pub. L. 94–214, § 304, temporarily added subsec. (m). See Effective and Termination Dates of 1976 Amendment note below.

1973—Subsec. (b). Pub. L. 93–86 substituted ''1971 through 1977'' for ''1971, 1972, and 1973'' in proviso requiring that for such designated crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

1970—Subsec. (b). Pub. L. 91–524, § 604, inserted proviso that, for the 1971, 1972, and 1973 crops of upland cotton, a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title.

Subsecs. (k), (*l*). Pub. L. 91–524, §§ 408, 607, temporarily added subsecs. (k) and (*l*). See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (b). Pub. L. 90–559 provided for a one year extension, substituting ''1967 through 1970'' for ''1967, 1968, and 1969''.

1965—Subsec. (b). Pub. L. 89–321 temporarily inserted proviso. See Effective and Termination Dates of 1965 Amendment note below.

1954—Subsec. (b). Act Aug. 28, 1954, inserted ''or wheat'' after ''corn'', and ''or wheat-producing'' after ''corn producing''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 1018 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 1104 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Sections 407, 604(b), and 705 of Pub. L. 95–113 provided that the amendments made by those sections are effective for 1978 through 1981 crops.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 304 of Pub. L. 94–214 provided that the amendment made by that section is effective only with respect to 1976 and 1977 crops of rice.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Sections 408 and 607 of Pub. L. 91–524, as amended by section 1(15), (22) of Pub. L. 93–86, provided that the amendments made by those sections are effective only with respect to 1971 through 1977 crops.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 402(b) of Pub. L. 89–321, as amended by Pub. L. 90–559, § 1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only for 1966 through 1970 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

§ 1429. Determinations of Secretary as final and conclusive

Determinations made by the Secretary under this Act shall be final and conclusive: *Provided*, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(Oct. 31, 1949, ch. 792, title IV, § 412, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1430. Retroactive effect

This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act.

(Oct. 31, 1949, ch. 792, title IV, § 413, 63 Stat. 1057.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1431. Disposition of commodities to prevent waste

(a) Eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children). In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this subsection, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this subsection, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this subsection the terms ''State'' and ''United States'' include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(b) Furnishing of eligible commodities for carrying out programs of assistance in developing and friendly countries; availability of eligible commodities for nonprofit and voluntary agencies and cooperatives

(1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.] and under the Food for Progress Act of 1985 [7 U.S.C. 1736*o*], as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

(2) As used in this subsection, the term ''eligible commodities'' means—

(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary determines meet the criteria specified in subsection (a) of this section; and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts

that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(a)] shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.

(5)(A) Section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736] in connection with those commodities, shall be in addition to the level of assistance programmed under that Act [7 U.S.C. 1691 et seq.] and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In addition, foreign currency proceeds generated in Poland may also be used by governmental and nongovernmental agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland,

established for the study of events related to the Holocaust in Poland;

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 10 percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater, for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1721 et seq., 1727 et seq.], and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985 [7 U.S.C. 1736*o*].

(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

(II) if the proceeds are generated in a currency generally accepted in the other country.

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

(F) The provisions of sections 403(i) and 407(c)[1] of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1733(i), 1736a(c)] shall apply to donations, sales and barters of eligible commodities under this subsection.

The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.

(8)(A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

[1] See References in Text note below.

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

(Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 309, formerly § 302, 68 Stat. 458, renumbered § 309, Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548; amended May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203; Pub. L. 85–483, § 1, July 2, 1958, 72 Stat. 286; Aug. 26, 1954, ch. 937, title IV, § 402, 68 Stat. 843, as amended Pub. L. 86–108, ch. II, § 205(c), July 24, 1959, 73 Stat. 250; Pub. L. 87–703, title II, § 202, Sept. 27, 1962, 76 Stat. 611; Pub. L. 88–638, § 4, Oct. 8, 1964, 78 Stat. 1038; Pub. L. 89–808, § 3(c), Nov. 11, 1966, 80 Stat. 1538; Pub. L. 91–233, Apr. 17, 1970, 84 Stat. 199; Pub. L. 92–603, title IV, § 411(g), Oct. 30, 1972, 86 Stat. 1492; Pub. L. 95–113, title XIII, § 1302(a)(2), Sept. 29, 1977, 91 Stat. 979; Pub. L. 97–253, title I, § 110, Sept. 8, 1982, 96 Stat. 766; Pub. L. 98–258, title V, § 502, Apr. 10, 1984, 98 Stat. 137; Pub. L. 99–83, title X, § 1007, Aug. 8, 1985, 99 Stat. 271; Pub. L. 99–198, title XI, §§ 1109, 1129, Dec. 23, 1985, 99 Stat. 1467, 1486; Pub. L. 99–260, § 16, Mar. 20, 1986, 100 Stat. 55; Pub. L. 100–203, title I, § 1503, Dec. 22, 1987, 101 Stat. 1330–28; Pub. L. 100–277, §§ 1–5, Apr. 4, 1988, 102 Stat. 67, 68; Pub. L. 100–418, title II, § 2225, Aug. 23, 1988, 102 Stat. 1337; Pub. L. 101–513, title V, § 562(part), Nov. 5, 1990, 104 Stat. 2032; Pub. L. 101–624, title XV, §§ 1514, 1575, title XVII, § 1771(b)(2), Nov. 28, 1990, 104 Stat. 3662, 3702, 3807; Pub. L. 102–237, title III, § 333, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102–289, § 1, May 20, 1992, 106 Stat. 176; Pub. L. 103–306, title V, § 576(c), Aug. 23, 1994, 108 Stat. 1654; Pub. L. 104–127, title II, § 264, Apr. 4, 1996, 110 Stat. 974.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsec. (b)(1), (6), (7)(D)(iii), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. Titles II and III of the Act are classified generally to subchapters III (§ 1721 et seq.) and III–A (§ 1727 et seq.), respectively, of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Food for Progress Act of 1985, referred to in subsec. (b)(1), (7)(D)(iii), is Pub. L. 99–198, title XI, § 1110, Dec. 23, 1985, 99 Stat. 1472, which is classified to section 1736*o* of this title.

This Act, referred to in subsec. (b)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 2226 of the American Aid to Poland Act of 1988, referred to in subsec. (b)(7)(D)(ii), is section 2226 of Pub. L. 100–418, which is set out as a note below.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736a(c)], referred to in subsec. (b)(7)(F), was redesignated section 407(b) of that Act [7 U.S.C. 1736a(b)] by Pub. L. 104–66, title I, § 1011(e)(2), Dec. 21, 1995, 109 Stat. 709.

AMENDMENTS

1996—Subsec. (b)(7). Pub. L. 104–127, § 264(1)(A)(ii), inserted concluding provisions and struck out former concluding provisions which read as follows: ''No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives.''

Subsec. (b)(7)(D)(iv). Pub. L. 104–127, § 264(1)(A)(i), substituted ''a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—'' and subcls. (I) and (II) for ''one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, (II) after one year of acquisition as appropriate to achieve the purposes of clause (i), and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country.''

Subsec. (b)(8)(C). Pub. L. 104–127, § 264(1)(B), struck out subpar. (C), which related to proposals by nonprofit and voluntary agencies or cooperatives to make eligible commodities available, notice and comment on issuance of final guidelines, and transmission of orders to Commodity Credit Corporation.

Subsec. (b)(10) to (12). Pub. L. 104–127, § 264(1)(C), struck out pars. (10) to (12) which, in par. (10), authorized Secretary to make available for disposition in each of fiscal years 1986 through 1990 not less than specified minimum quantities of eligible commodities, in par. (11), authorized Secretary to furnish eligible commodities in connection with concessional sales agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 or other statutes, or agricultural export bonus or promotion programs carried out under the Commodity Credit Corporation Charter Act or other statutes, and, in par. (12), authorized funding for fiscal year 1988 for technical assistance for sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.

Subsec. (c). Pub. L. 104–127, § 264(2), struck out subsec. (c), which established 2 year pilot program relating to barter or exchange of dairy products for ultra-high temperature processed fluid milk, and required reports to Congress.

1994—Subsec. (b)(7)(D)(ii)(IV). Pub. L. 103–306 added subcl. (IV).

1992—Subsec. (b)(7)(D)(iv). Pub. L. 102–289 substituted ''(II)'' for ''and (II)'' and inserted before period at end '', and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country''.

1991—Subsec. (b)(7)(F). Pub. L. 102–237 made technical amendment to directory language of Pub. L. 101–624, § 1514(5)(B). See 1990 Amendment note below.

1990—Subsec. (a)(3). Pub. L. 101–624, § 1771(b)(2), substituted ''hospitals and facilities, to the extent that they serve needy persons (including infants and children)'' for ''hospitals, to the extent that needy persons are served''.

Subsec. (b)(1). Pub. L. 101–624, § 1514(1), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(3)(B)(i). Pub. L. 101–624, § 1514(2), substituted reference to section 403(a) of Agricultural Trade Development and Assistance Act of 1954 for reference to section 401(b) of such Act.

Subsec. (b)(5)(A). Pub. L. 101–624, § 1514(3), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(6). Pub. L. 101–624, § 1514(4), substituted reference to section 406 of Agricultural Trade Development and Assistance Act of 1954 for reference to section 203 of such Act.

Subsec. (b)(7)(D)(ii). Pub. L. 101–513 substituted ''governmental and nongovernmental'' for ''such'' and inserted ''governmental or'' after ''activities of''.

Subsec. (b)(7)(D)(iii). Pub. L. 101–624, § 1514(5)(A), inserted reference to title III of Agricultural Trade Development and Assistance Act of 1954.

Subsec. (b)(7)(F). Pub. L. 101–624, § 1514(5)(B), as amended by Pub. L. 102–237, added subpar. (F).

Subsec. (d). Pub. L. 101–624, § 1575, struck out subsec. (d) which established pilot program for barter of agricultural commodities for strategic materials not produced in sufficient amounts domestically and for which national stockpile or reserve goals are unmet.

1988—Subsec. (b)(2)(A). Pub. L. 100–277, § 1(a), substituted ''wheat, rice, feed grains'' for ''grains'' and inserted '', and the products thereof,'' after ''price support operations''.

Subsec. (b)(3)(D). Pub. L. 100–277, § 2, added subpar. (D).

Subsec. (b)(4). Pub. L. 100–277, § 3, inserted at end ''In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.''

Subsec. (b)(7). Pub. L. 100–277, § 1(b)(2), in introductory provisions struck out '', and products thereof,'' after ''commodities''.

Subsec. (b)(7)(D)(ii). Pub. L. 100–418 inserted provisions respecting use of foreign currency proceeds generated in Poland and describing activities eligible for such funds.

Pub. L. 100–277, § 4(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.''

Subsec. (b)(7)(D)(iii). Pub. L. 100–277, § 4(b), substituted ''10 percent'' for ''5 percent'' and inserted '', or the minimum tonnage required, whichever is greater,'' after ''furnished''.

Subsec. (b)(8)(C). Pub. L. 100–277, § 5, added subpar. (C).

Subsec. (b)(10)(B)(i). Pub. L. 100–277, § 1(b)(1), substituted ''wheat, rice, feed grains,'' for ''grains'' in two places.

1987—Subsec. (b)(12). Pub. L. 100–203 added par. (12).

1986—Subsec. (b)(10)(B). Pub. L. 99–260 inserted ''or, in the case of fiscal year 1986, prior to March 31, 1986'' in two places.

1985—Subsec. (a). Pub. L. 99–198, § 1109(1), struck out provisions that such dairy products could also be donated through foreign governments and public and nonprofit private humanitarian organizations for assistance of needy persons outside the United States, that Commodity Credit Corporation could pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including cost of overseas delivery, and that in order to assure that any such donations for use outside the United States were coordinated with and would complement other United States foreign assistance, such donations had to be coordinated through mechanism designated by President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and were to be in addition to level of assistance programmed under that Act.

Subsec. (b). Pub. L. 99–198, § 1109(2), in amending subsec. (b) generally, substituted provisions relating to furnishing of eligible commodities for purpose of carrying out programs of assistance in developing and friendly countries under title II of the Agricultural Trade Development and Assistance Act of 1954 and section 1736*o* of this title for provisions relating to furnishing of dairy products, rice and wheat (which had been acquired by Commodity Credit Corporation through price support operations) for purpose of carrying out title II of that Act.

Pub. L. 99–83 added applicability to rice acquired by the Commodity Credit Corporation through price support operations.

Subsec. (d). Pub. L. 99–198, § 1129, added subsec. (d).

1984—Pub. L. 98–258 designated existing provisions as subsec. (a), substituted ''subsection'' for ''section'' wherever appearing, and added subsecs. (b) and (c).

1982—Pub. L. 97–253 inserted provision that notwithstanding any other provision of law, dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965, and that such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery, and that in order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.

1977—Pub. L. 95–113 struck out provision that no person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of the Social Security Act shall be eligible, with certain exceptions, to participate in any program conducted under this section.

1972—Pub. L. 92–603 inserted provision that persons eligible to receive supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] shall not be eligible to participate in programs conducted under this section, with certain exceptions.

1970—Pub. L. 91–233 changed priorities for sales over donations in the disposition of food commodities acquired under support programs insofar as dairy products, so acquired, are concerned by giving preference to the use of such products in nonprofit school lunch and similar feeding programs.

1966—Pub. L. 89–808 struck out provisions of cl. (4) for donations of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States provisions for payment of charges in case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States, and that assistance to needy persons provided in such cl. (4) be directed toward community and other self-help activities designed to alleviate the causes for the need for such assistance. See section 1721 et seq. of this title.

1964—Pub. L. 88–638 directed that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need.

1962—Pub. L. 87–703 inserted ''and in nonprofit school lunch programs'' after ''needy persons'' in cl. (4).

1959—Pub. L. 86–108 substituted ''waste of commodities whether in private stocks or acquired through price-support operations'' for ''waste of commodities acquired through price-support operations''.

1958—Pub. L. 85–483 permitted donation of food commodities for use in nonprofit summer camps for children.

1956—Act May 28, 1956, authorized payment of cost of processing commodities into a form suitable for home or institutional use.

1954—Act July 10, 1954, amended section generally to eliminate its applicability only to ''food'' commodities; to eliminate the necessity for a finding that commodities are in danger of a loss through ''deterioration or spoilage''; to establish barter as a disposal method; and to expand the list of eligible domestic recipients.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 576(d) of Pub. L. 103–306 provided that: ''The amendments made by this section [amending this section and provisions set out below] shall take effect October 1, 1994.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1302(b) of Pub. L. 95–113, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(g) of Pub. L. 92–603 provided that the amendment made by that section is effective Jan. 1, 1974.

Pub. L. 93–233, §8(b)(2), Dec. 31, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, §3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94–365, §2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95–59, §3(2), June 30, 1977, 915 Stat. 255, provided that: ''The last sentence of section 416 of the Act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92–603) [see 1972 Amendment Note above] shall not be effective for the period ending September 30, 1978.''

[Amendment by Pub. L. 93–335, effective July 1, 1974, see section 1(c) of Pub. L. 93–335, set out as a note under section 1382 of Title 42, The Public Health and Welfare. Section 3 of Pub. L. 95–59 provided in part that the amendment of section 8 of Pub. L. 93–233 by section 3(2) of Pub. L. 95–59 is effective July 1, 1977.]

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(c) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES

Section 2223 of Pub. L. 100–418, as amended by Pub. L. 101–513, title V, §562(part), Nov. 5, 1990, 104 Stat. 2032; Pub. L. 103–306, title V, §576(a), (b), Aug. 23, 1994, 108 Stat. 1654, provided that:

''(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[,] the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)], for each of the fiscal years 1995 through 1999, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by governmental and nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 [of Pub. L. 100–418, set out below] and by the United States chief of diplomatic mission in Poland.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'eligible commodities' has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(2)] and, in addition, includes feed grains, soybeans, and soybean products; and

''(2) the term 'nongovernmental agencies' includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.''

USE OF POLISH CURRENCIES

Section 2224 of Pub. L. 100–418 provided that:

''(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act [Aug. 23, 1988] pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 [of Pub. L. 100–418, set out below] and by the United States chief of diplomatic mission in Poland.

''(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.''

JOINT COMMISSION

Section 2226 of Pub. L. 100–418 provided that:

''(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 [of Pub. L. 100–418, set out above] and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(7)(D)(ii)] (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

''(b) MEMBERSHIP.—The joint commission shall be composed of—

''(1) appropriate representatives of the Government of Poland;

''(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

''(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.''

BARTER OF AGRICULTURAL COMMODITIES

Section 4309 of Pub. L. 100–418 provided that: ''In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.''

Pub. L. 98–180, title III, §302, Nov. 29, 1983, 97 Stat. 1151, provided that:

''(a) It is the sense of Congress that the Secretary of Agriculture should exchange or barter, to the maximum extent practicable under the provisions of law specified in subsection (b), commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries.

''(b) The provisions of law referred to in subsection (a) are—

''(1) section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)),

''(2) section 310 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1692) [7 U.S.C. 1727g], and

''(3) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431).''

MINIMUM LEVEL OF FOOD ASSISTANCE

Annual minimum of food assistance made available to foreign countries to be not less than one-third of total amount of foreign economic assistance provided for each fiscal year, see section 4310 of Pub. L. 100–418, set out as a note under section 1691 of this title.

ADDITIONAL LEVELS OF FLOUR, CORNMEAL, WHEAT, SOYBEANS, AND DAIRY PRODUCTS FOR FRIENDLY COUNTRIES IN FISCAL YEARS 1987, 1988, AND 1989

Pub. L. 99–500, § 101(a) [title VI, § 646], Oct. 18, 1986, 100 Stat. 1783, 1783–36, and Pub. L. 99–591, § 101(a) [title VI, § 646], Oct. 30, 1986, 100 Stat. 3341, 3341–36, provided that:

''(1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981 [Pub. L. 97–98, enacting sections 1431e and 4004a of this title and amending section 4004 of this title], section 416(a) of the Agricultural Act of 1949 [7 U.S.C. 1431(a)], section 4 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86, 7 U.S.C. 612c note], and any other provision of law administered by the Secretary.

''(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(B)], notwithstanding paragraph (11)(c) of section 416(b) of such Act.

''(b) Commodities made available under this section during any fiscal year shall be—

''(1) subject to the agreement of recipient nations—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

''(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

''(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

''(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

''(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

''(2) No greater than such amounts as is requested by recipient nations.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

''(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

''(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section 416 of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(A)], at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

''(b) Commodities made available to a nation under this section during any fiscal year shall be—

''(1) subject to the agreement of the Nation—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

''(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 [former 7 U.S.C. 1708] and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

''(2) No greater than such amounts as is requested by such governments.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

''(d) For purchases [purposes] of this section, the term 'friendly countries' shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

''(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

''(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949 [7 U.S.C. 1431(b)(11)(B)], notwithstanding paragraph (11)(C) of section 416(b) of such Act.

''(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

''(1) subject to the agreement of the nation—

''(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

''(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved pro-

grams of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480 [probably means former 7 U.S.C. 1708]; and

''(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

''(2) No greater than such amounts as is requested by such government.

''(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

''(d) For purposes of this section, the term 'friendly countries' shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.].

''(e) It is the sense of Congress that of the commodities made available under this subsection—

''(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

''(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

''(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

''(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.''

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES WITH UNEXPECTED OR AVAILABLE FUNDS; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS; PARTICIPATION IN PROGRAM OF INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Authority of Secretary to purchase and furnish agricultural commodities under commodity distribution programs and participation of individuals receiving supplemental security income benefits in such programs, see section 4 of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PERIOD ENDING JUNE 30, 1977

Individuals receiving supplemental security income benefits not to be considered members of households for any purpose of the food distribution program for families under this section for any month during the period ending June 30, 1977, if, for such month, such individual resides in a State which provides State supplementary payments of the type described in section 1382e(a) of Title 42, The Public Health and Welfare, and the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

HOME ECONOMICS TRAINING

Pub. L. 86–756, Sept. 13, 1960, 74 Stat. 899, as amended by Pub. L. 87–179, Aug. 30, 1961, 75 Stat. 411, provided: ''That schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) [clause (3) of this section] or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.''

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR, CORNMEAL AND PROCESSED FOOD GRAIN PRODUCTS

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as amended by Pub. L. 88–550, Aug. 31, 1964, 78 Stat. 755; Pub. L. 97–98, title XII, §1209, Dec. 22, 1981, 95 Stat. 1280, provided: ''That at any time Commodity Credit Corporation has any grain available for donation pursuant to clause (3) or (4) [now deleted] of section 416 of the Agricultural Act of 1949, as amended [this section], section 210 of the Agricultural Act of 1956 [section 1859 of this title], or title II of the Agricultural Trade Development and Assistance Act, as amended [sections 1721 to 1726 of this title], the Corporation, in lieu of processing all or any part of such grain into human food products, may purchase such processed food products in quantities not to exceed the equivalent of the respective grain available for donation on the date of such purchase and donate such processed food products pursuant to clause (3) or (4) of such section 416, and to such section 210, and make such processed food products available to the President pursuant to such title II, and may sell, without regard to the provisions of section 407 of the Agricultural Act of 1949, as amended [section 1427 of this title], a quantity of the grain equivalent to the processed food products so purchased: *Provided*, That no food product purchased pursuant to the authority contained herein shall constitute less than 50 per centum by weight of the grain from which processed (except that this limitation does not apply in the case of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities), or contain any additive other than for normal vitamin enrichment, preservative, and bleaching purposes.''

IRISH POTATOES ACQUIRED UNDER 1949 PRICE SUPPORT PROGRAM

Section 3 of act Mar. 31, 1950, ch. 81, 64 Stat. 41, made Irish potatoes acquired under the 1949 price support program available to school-lunch programs, the Bureau of Indian Affairs, Federal, State, or local public welfare organizations, private or international nonprofit welfare organizations, penal institutions, and nonprofit hospitals.

BARTERING AUTHORITY OF SECRETARY

Bartering authority of Secretary of Agriculture, exchange of agricultural commodities for strategic materials and materials for other purposes, cooperation of agencies, and assistance to cooperatives, see section 1692 of this title.

CROSS REFERENCES

Donations for school feeding programs abroad; student financing; and priorities, see section 1431d of this title.

Sale of surplus agricultural commodities for foreign currencies, see section 1691 et seq., of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1444, 1446a, 1736a, 1736*o*, 4004, 5201, 7301 of this title; title 22 sections 5413, 5425; title 42 sections 1761, 1762a, 1766, 1777, 1786, 3030a, 3045f; title 46 App. section 1241f.

§ 1431a. Cotton donations to educational institutions

Commodity Credit Corporation is authorized, on such terms as the Secretary of Agriculture may approve, to donate cotton acquired through its price support operations to educational institutions for use in the training of students in the processing and manufacture of cotton into textiles.

(Pub. L. 85–835, title V, § 505, Aug. 28, 1958, 72 Stat. 996.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1958, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1431b. Distribution of surplus commodities to other United States areas

Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 612c of this title and section 1431 of this title.

(Pub. L. 85–931, § 9, Sept. 6, 1958, 72 Stat. 1792; Pub. L. 87–703, title II, § 204, Sept. 27, 1962, 76 Stat. 611; Pub. L. 89–808, § 3(a), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89–808 struck out special authority of the Commodity Credit Corporation for purchase of fats and oils for donation abroad, now included in the general authority provided by section 1721 et seq. of this title.

1962—Pub. L. 87–703 inserted ''and in nonprofit school lunch programs'' after ''needy persons''.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(a) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

CROSS REFERENCES

Donations for school feeding programs abroad, student financing, see section 1431d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431d of this title.

§ 1431c. Enrichment and packaging of cornmeal, grits, rice, and white flour available for distribution

(a) In order to insure the nutritional value of cornmeal, grits, rice, and white flour when such foods are made available for distribution under section 1431(3)[1] of this title or for distribution to schools under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] or any other Act, such foods shall be enriched so as to meet the standards for enriched cornmeal, enriched corn grits, enriched rice, or enriched flour, as the case may be, prescribed in regulations promulgated under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; and in order to protect the nutritional value and sanitary quality of such enriched foods during transportation and storage such foods shall be packaged in sanitary containers. For convenience and ease in handling, the weight of any sanitary container when filled shall not exceed fifty pounds unless a larger container is requested by the recipient agency. Nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

(b) The term ''sanitary container'' means any container of such material and construction as (1) will not permit the infiltration of foreign matter into the contents of such container under ordinary conditions of shipping and handling, and (2) will not, for a period of at least one year, disintegrate so as to contaminate the contents of the container, necessitating the washing of the contents prior to use.

(Pub. L. 86–341, title II, § 201, Sept. 21, 1959, 73 Stat. 610; Pub. L. 87–803, Oct. 11, 1962, 76 Stat. 910; Pub. L. 106–78, title VII, § 752(b)(3), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

Section 1431(3) of this title, referred to in subsec. (a), was redesignated as section 1431(a)(3) of this title by Pub. L. 98–258, title V, § 502(1), Apr. 10, 1984, 98 Stat. 137.

The Richard B. Russell National School Lunch Act, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CODIFICATION

Section was not enacted as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

1962—Subsec. (a). Pub. L. 87–803 inserted provisions requiring the enrichment of rice to meet the standards for enriched rice, empowered recipient agencies to request containers larger than 50 pounds, and provided that nothing in this section shall prohibit the distribution of fortified parboiled rice which is substantially equal in nutritional value to that of enriched rice.

§ 1431d. Donations for school feeding programs abroad; student financing; priorities

In any school feeding programs undertaken on and after September 27, 1962 outside the United States pursuant to section 1431 of this title, section 308 of Public Law 480 (83d Congress), as amended, and section 1431b of this title, the Secretary shall receive assurances satisfactory to him that, insofar as practicable, there will be student participation in the financing of such programs on the basis of ability to pay, and such

[1] See References in Text note below.

programs shall be undertaken with the understanding that commodities will be available for those programs only in accordance with the provisions of such statutes and that commodities made available under section 1431 of this title will be available only in accordance with the priorities established in such section.

(Pub. L. 87–703, title II, §205, Sept. 27, 1962, 76 Stat. 611.)

REFERENCES IN TEXT

Section 308 of Public Law 480 (83d Congress), referred to in text, which was classified to section 1697 of this title, was repealed by Pub. L. 89–808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1962, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§1431e. Distribution of surplus commodities to special nutrition projects; reprocessing agreements with private companies

(1) Notwithstanding any other provision of law, whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under the authority of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 4004 of this title. Such distribution may include bulk distribution to congregate nutrition sites and to providers of home delivered meals under the Older Americans Act of 1965. The Commodity Credit Corporation is authorized to use available funds to operate the program under this subsection and to further process products to facilitate bonus commodity use. Commodities made available under this section shall include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

(2)(A) Effective through September 30, 2002, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of such commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies. The expense of reprocessing shall be paid by such eligible recipient agencies.

(B) To maintain eligibility to enter into, and to continue, any agreement with the Secretary of Agriculture under subparagraph (A), a private company shall annually settle all accounts with the Secretary and any appropriate State agency regarding commodities processed under such agreements.

(C) Whenever commodities are made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), the Secretary shall encourage access to processed end products containing the commodities when in the Secretary's judgment it is cost effective. The requirements of this subparagraph shall be met in the most efficient and effective way possible. The Secretary may, among other alternatives, use direct purchase, State option contracts authorized under section 3A of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note), State processing programs, and (beginning in fiscal year 1994) agreements with private companies operated as a part of the national commodity processing program.

(D) In each of fiscal years 1992, 1993, and 1994, the Secretary shall conduct a pilot project in not more than three States under which any commodity made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) that the Secretary determines to be appropriate for reprocessing is made available to the agencies as reprocessed end products. The reprocessing shall be performed pursuant to agreements with private companies, at the expense of the agencies, and operated as part of the national commodity processing program established under subparagraph (A). In determining the appropriateness of the commodities to be reprocessed under the pilot project, the Secretary shall consider the common needs of the agencies and the availability of processors.

(Pub. L. 97–98, title XI, §1114(a), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 99–198, title XV, §1567(a), (b), Dec. 23, 1985, 99 Stat. 1591, 1592; Pub. L. 100–237, §6, Jan. 8, 1988, 101 Stat. 1740; Pub. L. 101–624, title XVII, §1775, Nov. 28, 1990, 104 Stat. 3813; Pub. L. 102–237, title IX, §921, Dec. 13, 1991, 105 Stat. 1887; Pub. L. 104–127, title IV, §405, Apr. 4, 1996, 110 Stat. 1029.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in par. (1), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1996—Par. (2)(A). Pub. L. 104–127 substituted ''2002'' for ''1995''.

1991—Par. (2)(D). Pub. L. 102–237 substituted ''1992, 1993, and 1994'' for ''1992 and 1993''.

1990—Par. (2)(A). Pub. L. 101–624, §1775(a), substituted ''1995'' for ''1990''.

Par. (2)(C), (D). Pub. L. 101–624, §1775(b), added subpars. (C) and (D).

1988—Par. (2)(A). Pub. L. 100–237 substituted ''September 30, 1990'' for ''June 30, 1987''.

1985—Pub. L. 99–198 designated existing provisions as par. (1), inserted provision directing that commodities made available under this section include, but not be

limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal, and added par. (2).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

Pub. L. 99–500, title III, § 364, Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, § 364, Oct. 30, 1986, 100 Stat. 3341–371; Pub. L. 99–661, div. D, title IV, § 4404, Nov. 14, 1986, 100 Stat. 4079, provided that: ''In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.''

§ 1432. Extension of price support on long staple cotton seeds and products

Any price support program in effect on cottonseed or any of its products shall be extended to the same seed and products of the cottons defined under section 1347(a) of this title.

(Oct. 31, 1949, ch. 792, title IV, § 420, as added July 17, 1952, ch. 933, § 3(2), 66 Stat. 759.)

REFERENCES IN TEXT

Section 1347 of this title, referred to in text, was repealed by Pub. L. 98–88, § 2, Aug. 26, 1983, 97 Stat. 494.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433. Repealed. Pub. L. 100–387, title I, § 101(b)(3), Aug. 11, 1988, 102 Stat. 931

Section, act Oct. 31, 1949, ch. 792, title IV, § 421, as added Sept. 11, 1964, Pub. L. 88–585, § 2, 78 Stat. 927, related to penalties for misuse of feed intended to relieve distress or preserve foundation herds. See section 1471j of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§ 1433a. Forgiveness of violations; determinations

Notwithstanding any other provision of law, whenever a producer samples, turns, moves, or replaces grain or any other commodity which is security for a Commodity Credit Corporation producer loan or is held under a producer reserve program, and does so in violation of law or regulation, the appropriate county committee established under section 590h(b) of title 16 may forgive some or all of the penalties and requirements that would normally be imposed on the producer by reason of the violation, if such committee determines that (1) the violation occurred inadvertently or accidentally, because of lack of knowledge or understanding of the law or regulation, or because the producer or the producer's agent acted to prevent spoilage of the commodity, and (2) the violation did not result in harm or damage to the rights or interests of any person. The county committee shall furnish a copy of its determination to the Administrator of the Agricultural Stabilization and Conservation Service and the appropriate State committee established under section 590h(b) of title 16. The determination may be disapproved by either the Administrator or the State committee within sixty days after receipt of a copy of the determination. Any determination not disapproved by the Administrator or such State committee within such sixty-day period shall be considered approved.

(Oct. 31, 1949, ch. 792, title IV, § 422, as added Pub. L. 97–98, title X, § 1002, Dec. 22, 1981, 95 Stat. 1260.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433b. Processing of surplus agricultural commodities into liquid fuels and agricultural commodity byproducts

(a) Authority of Commodity Credit Corporation; terms and conditions established by Secretary; fuel prices

Notwithstanding any other provision of law, in order to prevent the accumulation of excessive stocks of agricultural commodities through the price support and stabilization operations of the Commodity Credit Corporation[1] the Corporation may, under terms and conditions established by the Secretary, make its accumulated stocks of agricultural commodities available, at no cost or reduced cost, to encourage the purchase of such commodities for the production of liquid fuels and agricultural commodity byproducts. In carrying out the program established by this section, the Secretary shall ensure, insofar as possible, that any use of agricultural commodities made available be made in such manner as to encourage increased use and avoid displacing usual marketings of agricultural commodities.

(b) Feasibility of processing

In determining the feasibility of providing for the processing of Commodity Credit Corporation stocks of commodities under subsection (a) of this section, the Secretary shall consider the nature of the commodities, and the acquisition, transportation, handling, storage, interest, and other costs associated with acquiring and maintaining such stocks, including the effect of such stocks in depressing commodity prices, as well as the value and utility of such stocks when

[1] So in original. Probably should be followed by a comma.

processed into liquid fuels and agricultural commodity byproducts.

(c) Annual report to Congress

Not later than one hundred and twenty days after October 21, 1982, and annually thereafter, the Secretary shall report to the Congress with respect to the operation of this section, including any recommendations for legislative changes the Secretary finds necessary with respect to the authority provided in this section.

(Oct. 31, 1949, ch. 792, title IV, § 423, as added Pub. L. 97–358, § 2, Oct. 21, 1982, 96 Stat. 1714; amended Pub. L. 99–198, title X, § 1024, Dec. 23, 1985, 99 Stat. 1460.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198 substituted provision authorizing the Corporation to make its accumulated agricultural commodities stocks available at no cost or reduced cost to encourage the purchase thereof for the production of liquid fuels and commodity byproducts, with any use of such commodities to be made in such a manner as to encourage increased use and avoid displacing usual marketings of such commodities for provision authorizing the Corporation to provide for processing of its accumulated stock into liquid fuels and commodity byproducts to be either made available to Federal agencies to meet their regular or emergency needs or to be sold commercially by the Corporation, at a price determined by the Secretary notwithstanding any other provisions of law and in a manner so as not to disrupt the prices in commercial markets of agriculturally-derived liquid fuel.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

§ 1433c. Advance recourse commodity loans

Notwithstanding any other provision of this Act, the Secretary may make advance recourse loans available to producers of the commodities of the 1986 through 1990 crops for which nonrecourse loans are made available under this Act if the Secretary finds that such action is necessary to ensure that adequate operating credit is available to producers. Such recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe, except that the Secretary shall require that a producer obtain crop insurance for the crop as a condition of eligibility for a loan.

(Oct. 31, 1949, ch. 792, title IV, § 424, as added Pub. L. 99–198, title X, § 1003, Dec. 23, 1985, 99 Stat. 1447.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE AND TERMINATION DATES

Section 1003 of Pub. L. 99–198 provided that this section is effective for the 1986 through 1990 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(J) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1433c–1 of this title.

§ 1433c–1. Advance recourse loans

(a) Availability; due date; procedures for repayment; applicability; security; limitation

It is the sense of Congress that the Secretary of Agriculture carry out a program authorized by section 424 of the Agricultural Act of 1949 [7 U.S.C. 1433c]. Such program, if implemented, shall provide for the following:

(1) Advance recourse loans shall be made available only to those producers of a commodity who are unable to obtain sufficient credit elsewhere to finance the production of the 1986 crop of that commodity, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes (as determined by the Secretary) in the community in or near which the applicant resides. A producer who has received a commitment or been furnished sufficient credit or a loan for production of the 1986 crop of a commodity shall not be eligible for an advance recourse loan to finance the production of that commodity for such crop year.

(2) Advance recourse loans shall be made available to producers of a commodity at the applicable nonrecourse loan rate for the commodity (as determined by the Secretary). Within the limits set out in paragraphs (5) and (7), advance recourse loans shall be available—

(A) to producers of wheat, feed grains, cotton, and rice who agree to participate in the program announced for the commodity on an amount of the commodity equal to one-half of the farm program yield for the commodity multiplied by the farm program acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary;

(B) to producers of tobacco and peanuts who are on a farm for which a marketing quota or poundage quota has been established on an amount of the commodity equal to one-half of the farm marketing quota or poundage quota for the commodity, as determined by the Secretary; and

(C) to producers of other commodities on an amount of the commodity equal to one-half of the farm yield for the commodity multiplied by the farm acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary.

(3) An advance recourse loan under section 424 [7 U.S.C. 1433c] shall come due at such time immediately following harvest as the Secretary determines appropriate. Each loan contract entered into under section 424 shall specify the date on which the loan is to come due.

(4)(A) The Secretary shall establish procedures, when practicable, under which a producer, simultaneously with repayment of his recourse loan, may obtain a nonrecourse loan on his crop (as otherwise provided for in the

Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]) in an amount sufficient to repay his recourse loan.

(B) In cases in which nonrecourse loans under such Act are not normally made available directly to producers, the Secretary shall establish procedures under which a producer may repay a recourse loan at the same time the producer receives advances or other payment from the producer's disposition of his crop.

(5) Advance recourse loans shall be made available as needed solely to cover costs involved in the production of the 1986 crop that are incurred or are outstanding on or after March 20, 1986.

(6) To obtain an advance recourse loan, the producer on a farm must—

(A) provide as security for the loan a first lien on the crop covered by the loan or provide such other security as may be available to the producer and determined by the Secretary to be adequate to protect the Government's interests; and

(B) obtain multiperil crop insurance, if available, to protect the crop that serves as security for the loan.

If a producer does not have multiperil crop insurance and is located in a county in which the signup period for multiperil crop insurance has expired, the producer shall be required to obtain other crop insurance, if available.

(7) The total amount in advance recourse loans that may be made to a producer under section 424 [7 U.S.C. 1433c] may not exceed $50,000.

(8) An advance recourse loan may be made available only to a producer who agrees to comply with such other terms and conditions determined appropriate by the Secretary and consistent with the provisions of section 424 [7 U.S.C. 1433c].

(b) Use of Commodity Credit Corporation, Agricultural Stabilization and Conservation Service, and county committees

The Secretary shall carry out the program provided for under section 424 [7 U.S.C. 1433c] through the Commodity Credit Corporation, using the services of the Agricultural Stabilization and Conservation Service and the county committees established under section 590h(b) of title 16 to make determinations of eligibility with respect to the credit test under subsection (a)(1) of this section, and determinations as to the sufficiency of security under subsection (a)(6) of this section. The Secretary may use such committees for such other purposes as the Secretary determines appropriate in carrying out section 424.

(c) Regulations

It is further the sense of Congress that the Secretary of Agriculture issue or, as appropriate, amend regulations to implement any program established under section 424 [7 U.S.C. 1433c] as soon as practicable, but not later than 15 days after March 20, 1986. Loans and other assistance provided under such program shall be made available beginning on the date such regulations are issued or amended.

(Pub. L. 99–260, § 13, Mar. 20, 1986, 100 Stat. 53.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a)(4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Improvements Act of 1986, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1433d. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title IV, § 425, as added Dec. 19, 1989, Pub. L. 101–239, title I, § 1003(a), 103 Stat. 2108, related to reduction of deficiency payments. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 1003(a) of Pub. L. 101–239 provided that this section is effective only for the 1990 crops.

§ 1433e. Repealed. Pub. L. 103–354, title II, § 281(b), Oct. 13, 1994, 108 Stat. 3233

Section, act Oct. 31, 1949, ch. 792, title IV, § 426, as added Nov. 28, 1990, Pub. L. 101–624, title XI, § 1132(a), 104 Stat. 3512; amended Dec. 13, 1991, Pub. L. 102–237, title I, § 113(12), 105 Stat. 1838, related to appeals from determinations by State and county committees under Agricultural Act of 1949 and other Acts administered by Agricultural Stabilization and Conservation Service. See section 6991 et seq. of this title.

§ 1433f. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title IV, § 427, as added Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(1), 108 Stat. 3207, required producer to obtain at least catastrophic risk protection insurance coverage as condition of receiving any benefit (including payments) for each of 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar.

§ 1434. Encouragement of production of crops of which United States is a net importer and for which price support programs are not in effect; authority to plant on set-aside acreage with no reduction in payment rate

Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

(Pub. L. 91–524, title VIII, § 814, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 91–524, Nov. 30, 1970, 84 Stat. 1358, known as the Agricultural Act of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1435. Production of commodities for conversion into alcohol or hydrocarbons for use as motor fuels or other fuels; terms and conditions; determinations; payments, etc., for program

(a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(Pub. L. 95–113, title XX, § 2001, as added Pub. L. 96–294, title II, § 260(a), June 30, 1980, 94 Stat. 709.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsecs. (a) and (b)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1977 as added by the Biomass Energy and Alcohol Fuels Act of 1980 which is title II of the Energy and Security Act, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1358–1, 1463, 1736f, 5822 of this title.

§ 1441. Price support levels

The Secretary of Agriculture (hereinafter called the ''Secretary'') is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

(a) For tobacco (except as otherwise provided herein), corn, and wheat, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

For rice of the 1959 and 1960 crops, the level of support shall be not less than 75 per centum of the parity price. For rice of the 1961 crop the level of support shall be not less than 70 per centum of the parity price. For the 1962 and subsequent crops of rice the level of support shall be not less than 65 per centum of the parity price.

(b) For cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 108	90
More than 108 but not more than 110	89
More than 110 but not more than 112	88
More than 112 but not more than 114	87
More than 114 but not more than 116	86
More than 116 but not more than 118	85
More than 118 but not more than 120	84
More than 120 but not more than 122	83
More than 122 but not more than 124	82
More than 124 but not more than 125	81
More than 125 but not more than 126	80
More than 126 but not more than 127	79
More than 127 but not more than 128	78
More than 128 but not more than 129	77
More than 129 but not more than 130	76
More than 130	75

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be 90 per centum of the parity price for the 1950 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(2) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be not less than 80 per centum of the parity price for the 1951 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) Repealed. Oct. 31, 1949, ch. 792, title I, § 104(b)(3), as added Aug. 28, 1958, Pub. L. 85–835, title II, § 201, 72 Stat. 994.

(5) the price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program;

(6) except as provided in subsection (c) of this section and section 1422 of this title, the level of support to cooperators shall be not more than 90 per centum and not less than 82½ per centum of the parity price for the 1955 crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas; within such limits, the minimum level of support shall be fixed as provided in subsections (a) and (b) of this section;

(7) Where a State is designated under section 1335(e) of this title, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, §§ 101, 104(b)(3), 63 Stat. 1051; July 17, 1952, ch. 933, §§ 2, 3(1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§ 201, 202, 68 Stat. 899; Pub. L. 85–28, Apr. 25, 1957, 71 Stat. 27; Pub. L. 85–497, July 2, 1958, 72 Stat. 296; Pub. L. 85–835, title II, § 201, title III, § 302(a), Aug. 28, 1958, 72 Stat. 993, 994; Pub. L. 86–389, § 2, Feb. 20, 1960, 74 Stat. 7; Pub. L. 90–475, § 5, Aug. 11, 1968, 82 Stat. 702; Pub. L. 94–214, title I, § 102, Feb. 16, 1976, 90 Stat. 183; Pub. L. 95–113, title VI, § 607, title VII, § 702, Sept. 29, 1977, 91 Stat. 940; Pub. L. 96–176, Dec. 31, 1979, 93 Stat. 1290; Pub. L. 96–213, § 4(a), Mar. 18, 1980, 94 Stat. 119; Pub. L. 96–365, title II, § 201(a), Sept. 26, 1980, 94 Stat. 1319; Pub. L. 97–98, title V, § 508, title VI, § 602, Dec. 22, 1981, 95 Stat. 1242; Pub. L. 97–253, title I, § 125, Sept. 8, 1982, 96 Stat. 771; Pub. L. 98–88, § 2, Aug. 26, 1983, 97 Stat. 494; Pub. L. 98–258, title IV, §§ 401, 402, Apr. 10, 1984, 98 Stat. 135; Pub. L. 99–198, title VI, § 602, Dec. 23, 1985, 99 Stat. 1427; Pub. L. 104–127, title I, § 171(b)(3), Apr. 4, 1996, 110 Stat. 938.)

REFERENCES IN TEXT

Subsec. (e) of section 1335 of this title, referred to in subsec. (d)(7), was eliminated and other provisions substituted by Pub. L. 87–703, title III, § 315, Sept. 27, 1962, 76 Stat. 621.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–127 added subsec. (e).

1985—Subsec. (i)(1). Pub. L. 99–198 temporarily redesignated existing provisions as subpar. (A) and added subpars. (B) to (D). See Effective and Termination Dates of 1985 Amendment note below.

1984—Subsec. (i)(2)(C). Pub. L. 98–258, § 401, substituted ''and $11.90 per hundredweight for the 1984 and 1985 crops'' for ''$11.90 per hundredweight for the 1984 crop, and $12.40 per hundredweight for the 1985 crop''.

Subsec. (i)(5)(A). Pub. L. 98–258, § 402(1), substituted ''third, fourth, and fifth'' for ''third and fourth'' after ''Notwithstanding any other provision of law, except as provided in the''.

Pub. L. 98–258, § 402(2), inserted sentence providing: ''For the 1985 crop of rice, if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed twenty-five million hundredweight, the Secretary shall provide for a combination of an acreage limitation program as described under this subparagraph and a land diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 25 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction under the land diversion program equal to the difference between the total reduction for the farm and the 20 per centum reduction under the acreage limitation program.''

Pub. L. 98–258, § 402(3), substituted ''1983 and 1985 crops of rice'' for ''1983 crop of rice'' after ''As a condition of eligibility for loans, purchases, and payments on the''.

Subsec. (i)(5)(B). Pub. L. 98–258, § 402(4), inserted sentence providing that if the Secretary implements a land diversion program for the 1985 crop of rice under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph.

Pub. L. 98–258, § 402(5), substituted ''Diversion payments made to producers under this subparagraph shall be made in an amount computed by multiplying'' for ''Such payments shall be made in an amount computed by multiplying''.

Pub. L. 98–258, § 402(6), substituted ''$3.00 per hundredweight for the 1983 crop of rice, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate, and at not less than $2.70 per hundredweight for the 1985 crop of rice'' for ''$3.00 per hundredweight, except that the rate may be re-

duced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate'' after ''The diversion payment rate shall be established by the Secretary at not less than'' and inserted a proviso that if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed (I) thirty-five million hundredweight, such rate shall be established by the Secretary at not less than $3.25 per hundredweight, and (II) forty-two million five hundred thousand hundredweight, such rate shall be established by the Secretary at not less than $3.50 per hundredweight.

Pub. L. 98–258, § 402(7), substituted ''1983 and 1985 crops'' for ''1983 crop'' after ''The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the''.

1983—Subsec. (f). Pub. L. 98–88 struck out subsec. (f) which read as follows: ''The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of this section and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available for the 1982 and each subsequent crop of extra long staple cotton through nonrecourse loans as provided in this subsection. If producers have not disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which is not less than 75 per centum or more than 125 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. If producers have disapproved marketing quotas for any crop of extra long staple cotton, price support loans shall be made available to cooperators for such crop at a level which shall be 50 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States. Nothing contained herein shall affect the authority of the Secretary to make price support available for extra long staple cotton in accordance with section 1422 of this title.'' See section 1444(h) of this title.

1982—Subsec. (i)(5)(A). Pub. L. 97–253, § 125(1)–(3), substituted ''Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the'' for ''Notwithstanding any other provision of this subsection, the'', following second sentence, inserted provision that for the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subpar. (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program, and that as a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program, and, following ninth sentence, inserted provision that notwithstanding the other provisions of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

Subsec. (i)(5)(B). Pub. L. 97–253, § 125(4), inserted provision requiring the Secretary to implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to producers making a reduction additional to that required under subpar. (A) and devoting an equivalent acreage of cropland to conservation purposes, and provisions for the computation of payments, and establishment of payment rates by the Secretary, as well as payment by the Secretary of not less than 50 per centum of any payments under this subparagraph to 1983 crop producers as soon as practicable after any such producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to Oct. 1, 1982, and repayment of advances, with interest, in the event of noncompliance by such producer with such contract.

1981—Subsec. (f). Pub. L. 97–98, § 508, substituted provisions authorizing price support for extra long staple cotton for the 1982 crop and each subsequent crop through nonrecourse loans as provided in this subsection and prescribing the level of price support loans available to cooperators if producers have not, or have, disapproved marketing quotas for any crop of extra long staple cotton as specified percentages of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton, micronaire 3.5 through 4.9, of such crop at average location in the United States for provisions authorizing price support for extra long staple cotton to cooperators for the 1980 crop and each subsequent crop based on the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, provisions authorizing the manner and mode of payments authorized under this section, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

Subsec. (i). Pub. L. 97–98, § 602, temporarily added subsec. (i). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (h)(4)(B). Pub. L. 96–365, § 201(a)(1), substituted ''Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of rice''.

Pub. L. 96–213, § 4(a)(1), substituted ''1978, 1979, and 1980 crops of rice'' for ''1978 and 1979 crops of rice''.

Subsec. (h)(4)(C). Pub. L. 96–365, § 201(a)(2), substituted ''Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of rice''.

Pub. L. 96–213, § 4(a)(2), substituted ''1978, 1979, and 1980 crops of rice'' for ''1978 and 1979 crops of rice''.

Subsec. (h)(4)(D), (E). Pub. L. 96–365, § 201(a)(3), added subpar. (D) and redesignated former subpar. (D) as (E).

1979—Subsec. (f). Pub. L. 96–176 substituted ''1980'' for ''1968'', ''85'' for ''50'', ''135'' for ''100'', and ''55'' for ''65''.

1977—Subsec. (f). Pub. L. 95–113, § 607, substituted ''Strict Low Middling one and one-sixteenth inch'' for ''Middling one-inch''.

Subsec. (h). Pub. L. 95–113, § 702, temporarily added subsec. (h). See Effective and Termination Dates of 1977 Amendment note below.

1976—Subsec. (g). Pub. L. 94–214 temporarily added subsec. (g). See Effective and Termination Dates of 1976 Amendment note below.

1968—Subsec. (f). Pub. L. 90–475 substituted provisions authorizing price support for extra long staple cotton for the 1968 crop and each subsequent crop based on the loan level established for Middling one-inch upland cotton and adjusted by the specified factors, provisions determining the computation of acreage allotments of extra long staple cotton, provisions authorizing the Secretary to establish the price-support payment factor, and provisions authorizing the manner and mode of payments authorized under this section, for provisions

authorizing price support for extra long staple cotton for the 1957 crop and each subsequent crop based on the parity price for the 1956 crop and adjusted by certain specified factors, with a minimum price support level of not less than 60 percent of the parity price, and provisions making operative subsec. (d)(3) of this section upon the disapproval by producers of the national marketing quota established pursuant to section 1347 of this title.

1960—Subsec. (e). Pub. L. 86–389 repealed subsec. (e) which provided that: ''Notwithstanding any of the provisions of this Act, section 2 of the Act of July 28, 1945 (59 Stat. 506) shall continue in effect.'' See section 1445 of this title.

1958—Subsec. (a). Pub. L. 85–835, § 302(a), substituted ''and wheat'' for ''wheat, and rice'' and added par. requiring rice price support levels to be not less than 75, 70, and 65 per centum of parity for 1959 and 1960, 1961, and 1962 and subsequent crop years, respectively.

Subsec. (d)(4). Act Oct. 31, 1949, § 104(b)(3), as added Pub. L. 85–835, § 201, repealed par. (4) which provided for price support level for corn to cooperators outside the commercial corn-producing area at 75 per centum of the level of price support to cooperators in the commercial corn-producing area.

Subsec. (f). Pub. L. 85–497 provided that the level of support for crops of extra long staple cotton shall not exceed the same per centum of the parity price as for the 1956 crop, required such level to be determined after consideration of the factors specified in section 1421(b) of this title and the price levels for similar qualities of cotton produced outside the United States, and established a minimum of not less than 60 per centum of the parity price as the level for extra long staple cotton.

1957—Subsec. (f). Pub. L. 85–28 set the price support for extra long staple cotton for 1957 and each subsequent crop at same per centum of parity price as for 1956 crop.

1954—Subsec. (d)(6). Act Aug. 28, 1954, § 201(a), provided for flexible price supports.

Subsec. (d)(7). Act Aug. 28, 1954, § 201(b), added par. (7).

Subsec. (f). Act Aug. 28, 1954, § 202, set the price support for long staple cotton at the minimum determined in accordance with the schedule in subsec. (b) of this section.

1952—Subsec. (d)(6). Act July 17, 1952, § 2, added par. (6).

Subsec. (f). Act July 17, 1952, § 3(1), added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 602 of Pub. L. 99–198 provided that the amendment made by that section is effective for 1985 crop of rice.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–88 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 508 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with 1982 crop of extra long staple cotton.

Section 602 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of rice.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–176 provided that the amendment made by that section is effective with respect to 1980 and subsequent crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 702 of Pub. L. 95–113 provided that the amendment made by that section is effective only for 1978 through 1981 crops of rice.

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, except as otherwise provided, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Section 102 of Pub. L. 94–214 provided that the amendment made by that section is effective for 1976 and 1977 crops of rice.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 104(b)(3) of act Oct. 31, 1949, as added by section 201 of Pub. L. 85–835, provided for repeal of subsec. (d)(4) of this section effective with 1959 crop, to be operative as provided in section 1444a(b) of this title. See 1958 Referendum for Selection of Alternative Corn Program and Operative Status of Certain Provisions note set out under section 1444a of this title.

Section 302(a) of Pub. L. 85–835 provided in part that the amendment by Pub. L. 85–835 [amending this section] is effective beginning with the 1959 crop.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(A) of this title.

Pub. L. 101–624, title VIII, § 808, Nov. 28, 1990, 104 Stat. 3478, provided that: ''Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1991 through 1995 crops of peanuts.''

Section 707 of Pub. L. 99–198 provided that: ''Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1986 through 1990 crops of peanuts.''

Section 707 of Pub. L. 97–98 provided that: ''Section 101 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of peanuts.''

REPORT ON TRADING OF RICE FUTURES

Section 603 of Pub. L. 97–98 required Secretary of Agriculture to submit a report to Congress evaluating the trading of rice futures on commodity exchanges by July 31, 1983.

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Term ''payments'' as used in subsec. (g)(13) of this section shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to 1977 crops of wheat, feed grains, upland cotton, and rice, see Pub. L. 95–156, set out as a note under section 1307 of this title.

1963 WHEAT CROP

Pub. L. 87–703, title III, § 306, Sept. 27, 1962, 76 Stat. 615, required that price support for 1963 crop of wheat be made available as provided in section 1441 of this title with certain exceptions.

1962 WHEAT CROP

Pub. L. 87–128, title I, § 123, Aug. 8, 1961, 75 Stat. 297, required that price support for 1962 crop of wheat be made available as provided in section 1441 of this title with certain exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 1428, 1442, 1444, 1444a, 1444b, 1445, 1445a, 7301 of this title.

§ 1441–1. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 101A, as added Dec. 23, 1985, Pub. L. 99–198, title VI, § 601, 99 Stat.

1419; amended Mar. 20, 1986, Pub. L. 99–260, § 2(d), 100 Stat. 47; May 27, 1987, Pub. L. 100–45, § 5, 101 Stat. 320; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(e), 1102(d), 1113(d), 101 Stat. 1330–2, 1330–3, 1330–10, related to loan rates, target prices, disaster payments, acreage limitation program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 601 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of rice.

§ 1441–1a. Marketing certificates for rice

(a) Authority of Commodity Credit Corporation to issue negotiable marketing certificates

Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this section. Such payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this section, including such payments as may be necessary to make rice in inventory on August 1, 1986, available on the same basis.

(b) Determination of value of certificates

The value of each certificate issued under subsection (a) of this section shall be based on the difference between—

(1) the loan repayment rate for the class of rice; and

(2) the prevailing world market price for the class of rice, as determined by the Secretary of Agriculture under a published formula submitted for public comment before its adoption.

(c) Commodity Credit Corporation assistance in redemption, marketing, or exchange of certificates

The Commodity Credit Corporation, under regulations prescribed by the Secretary of Agriculture, may assist any person receiving marketing certificates under this section in the redemption of certificates for cash, or marketing or exchange of such certificates for (1) rice owned by the Commodity Credit Corporation or (2) (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section. Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this section.

(d) Exchange of certificates for commodities and products

Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, such owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of such certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

(e) Prevention of adverse effects

The Secretary of Agriculture shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this section from adversely affecting the income of producers of such commodities or products.

(f) Transfer of certificates

Under regulations prescribed by the Secretary of Agriculture, certificates issued to rice exporters under this section may be transferred to other exporters and persons approved by the Secretary.

(Pub. L. 99–198, title VI, § 603, Dec. 23, 1985, 99 Stat. 1429.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1441–2. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(A), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 101B, as added Nov. 28, 1990, Pub. L. 101–624, title VI, § 601, 104 Stat. 3443; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§ 1101(d), 1102(c), 104 Stat. 1388–1, 1388–2; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(a), 104, 106(a), 113(1), 105 Stat. 1821, 1823, 1824, 1837; Aug. 10, 1993, Pub. L. 103–66, title I, § 1104, 107 Stat. 316; May 6, 1994, Pub. L. 103–247, § 1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(2), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of rice.

§ 1441a. Cost of production study and establishment of current national weighted average cost of production

The Secretary of Agriculture, in cooperation with the land grant colleges, commodity organizations, general farm organizations, and individual farmers, shall conduct a cost of production study of the wheat, feed grain, cotton, and dairy commodities under the various production practices and establish a current national weighted average cost of production. This study shall be

updated annually and shall include all typical variable costs, including interest costs, a return on fixed costs, and a return for management.

(Pub. L. 91–524, title VIII, § 808, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237; amended Pub. L. 97–98, title XI, § 1117, Dec. 22, 1981, 95 Stat. 1271.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–98 inserted ''including interest costs,'' after ''variable costs,'', substituted '', and a return for management'' for ''equal to the existing interest rates charged by the Federal Land Bank, and return for management comparable to the normal management fees charged by other comparable industries'', and struck out provision that these studies be based upon the size unit that requires one man to farm on a full-time basis.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 1442. Price support and acreage requirements for corn and other feed grains

(a) Conditions of eligibility

Notwithstanding any other provision of law, whenever base acreages are in effect for corn, the Secretary shall require, as a condition of eligibility for price support on corn, that the producer (1) devote an acreage of cropland (tilled in normal rotation), at the option of the producer, to either the acreage reserve program for corn or the conservation reserve program, equal to 15 per centum of such producer's farm base acreage for corn, and (2) not exceed such farm base acreage for corn: *Provided*, That price support may be made available to any producer who does not meet the foregoing requirements at such level, not in excess of the level of price support to producers who meet such requirements, as the Secretary determines will facilitate the effective operation of the price support program. Corn acreage allotments shall not be effective for the 1956 crop.

(b) Referendum of producers of corn

Not later than December 15, 1956, the Secretary shall conduct a referendum of producers of corn in 1956 in the commercial corn-producing area to determine whether such producers favor a price-support program as provided in subsection (c) of this section for the 1957 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(c) Restriction on acreage allotment of corn; price support level

Notwithstanding any other provision of law, if two-thirds or more of the producers voting in the referendum conducted pursuant to subsection (b) of this section favor a price-support program as provided in this subsection, no acreage allotment of corn shall be established for the commercial corn-producing area for any county, or for any farm, with respect to the 1957 and subsequent crops, and price support made available for such crops by Commodity Credit Corporation shall be at such level as the Secretary determines will assist producers in marketing corn in the normal channels of trade but not encourage the uneconomic production of corn.

(d) Price support level for 1956 and 1957 crops of grain sorghums, barley, rye, oats, and corn

Notwithstanding any other provision of law, (1) the level of price support for the 1956 crop of grain sorghums, barley, rye, and oats, respectively, shall be 76 per centum of the parity price for the commodity as of May 1, 1956, (2) the level of price support for corn produced outside the commercial corn-producing area, for any crop for which base acreages are in effect (except as provided in (3) below), shall be 82½ per centum of the level of price support for corn in the commercial corn-producing area to producers complying with acreage limitations, and (3) if price support is made available for the 1957 crop of corn in the commercial corn-producing area to producers not complying with acreage limitations, price support shall be made available for the 1957 crop of grain sorghums, barley, rye, oats, and corn produced outside the commercial corn-producing area, respectively, at a level, not less than 70 per centum of the parity price as of the beginning of the marketing year, determined by the Secretary to be fair and reasonable in relation to the level at which price support is made available for corn in the commercial corn-producing area to producers not complying with acreage limitations, taking into consideration the normal price relationships between such commodity and corn in the commercial area, the feed value of such commodity in relation to corn, the supply of such commodity in relation to the demand therefor, and the ability to dispose of stocks of such commodity acquired through price support programs.

(May 28, 1956, ch. 327, title III, § 308, 70 Stat. 206.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (b), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1956, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REFERENDUM OF PRODUCERS OF CORN

The referendum provided for in subsec. (b) of this section was held on Dec. 11, 1956, and the required two-thirds vote was not obtained in favor of the price support program provided for in subsec. (c) of this section. See 22 F.R. 480.

§ 1443. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 102, as added Aug. 28, 1958, Pub. L. 85–835, title I, § 101, 72 Stat. 988, related to acreage allotment and price support levels for the 1959 and 1960 crops of upland cotton.

§ 1444. Cotton price support levels

(a) Basic support levels for 1961 and subsequent years

Notwithstanding the provisions of section 1441 of this title, price support to cooperators for each crop of upland cotton, beginning with the 1961 crop, for which producers have not disapproved marketing quotas shall be at such level not more than 90 per centum of the parity price therefor nor less than the minimum level prescribed below as the Secretary determines appropriate after consideration of the factors specified in section 1421(b) of this title. For the 1961 crop the minimum level shall be 70 per centum of the parity price therefor, and for each subsequent crop the minimum level shall be 65 per centum of the parity price therefor: *Provided*, That the price support for the 1965 crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton. Price support in the case of noncooperators and in case marketing quotas are disapproved shall be as provided in section 1441(d)(3) and (5) of this title.

(b) Additional support levels for 1964 and 1965

If producers have not disapproved marketing quotas, the Secretary shall provide additional price support on the 1964 and 1965 crops of upland cotton to cooperators on whose farms the acreage planted to upland cotton for harvest does not exceed the farm domestic allotment established under section 1350 of this title. Such additional support shall be at a level up to 15 per centum in excess of the basic level of support established under subsection (a) of this section and shall be provided on the normal yield of the acreage planted for harvest within the farm domestic allotment. For purposes of this subsection, an acreage on the farm which the Secretary finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of cotton planted on the farm for harvest, provided such acreage is not subsequently devoted to any price supported crop for 1965.

(c) Alternative operations for carrying out additional price support; payment-in-kind certificates: value, marketing assistance, redemption, and deductions after thirty day period

In order to keep upland cotton to the maximum extent practicable in the normal channels of trade, any additional price support under subsection (b) of this section may be carried out through the simultaneous purchase of cotton at the support price therefor under subsection (b) of this section and the sale of such cotton at the support price therefor under subsection (a) of this section or similar operations, including loans under which the cotton would be redeemable by payment of the amount for which the cotton would be redeemable if the loan thereon had been made at the support price for such cotton under subsection (a) of this section, or payments-in-kind through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary. If such additional support is provided through the issuance of payment-in-kind certificates, such certificates shall have a value per pound of cotton equal to the difference between the level of support established under subsection (a) of this section and the level of support established under subsection (b) of this section. The corporation may, under regulations prescribed by the Secretary, assist the producers and persons receiving payment-in-kind certificates under this section and section 1348 of this title, in the marketing of such certificates at such time and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this section and such section 1348. In the case of any certificate not presented for redemption within thirty days of the date of its issuance, reasonable costs of storage and other carrying charges as determined by the Secretary for the period beginning thirty days after its issuance and ending with the date of its presentation for redemption shall be deducted from the value of the certificate.

(d) Price support and diversion payments for 1966 through 1970 crops

(1) Notwithstanding any other provision of this Act, if producers have not disapproved marketing quotas, price support and diversion payments shall be made available for the 1966 through 1970 crops of upland cotton as provided in this subsection.

(2) Price support for each such crop of upland cotton shall be made available to cooperators through loans at such level, not exceeding a level which will reflect for Middling one-inch upland cotton at average location in the United States 90 per centum of the estimated average world market price for Middling one-inch upland cotton for the marketing year for such crop, as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States taking into consideration the factors specified in section 1421(b) of this title: *Provided*, That the national average loan rate for the 1966 crop shall reflect 21 cents per pound for Middling one-inch upland cotton.

(3) The Secretary also shall provide additional price support for each such crop through payments in cash or in kind to cooperators at a rate not less than 9 cents per pound: *Provided*, That the rate shall be such that the amount obtained by—

(i) multiplying the rate by the farm domestic acreage allotment percentage, and

(ii) dividing the product thus obtained by the cooperator percentage established under section 1428(b) of this title, and

(iii) adding the result thus obtained to the national average loan rate

shall not be less than 65 per centum or more than 90 per centum of the parity price for cotton as of the month in which the payment rate provided for by this paragraph is announced. Such

payments shall be made on the quantity of cotton determined by multiplying the projected farm yield by the acreage planted to cotton within the farm domestic acreage allotment: *Provided*, That any such farm planting not less than 90 per centum of such domestic acreage allotment shall be deemed to have planted the entire amount of such allotment. An acreage on a farm in any such year which the Secretary finds was not planted to cotton because of drought, flood, or other natural disaster shall be deemed to be planted to cotton for purposes of payments under this subsection if such acreage is not subsequently devoted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect.

(4) The Secretary shall make diversion payments in cash or in kind in addition to the price support payments authorized in paragraph (3) to cooperators who reduce their cotton acreage by diverting a portion of their cotton acreage allotment from the production of cotton to approved conservation practices to the extent prescribed by the Secretary: *Provided*, That no reduction below the domestic acreage allotments established under section 1350 of this title shall be prescribed: *Provided further*, That payment under this paragraph shall be made available for diverting to conserving uses that part of the acreage allotment which must be diverted from cotton in order that the producer may qualify as a cooperator. The rate of payment for acreage required to be diverted in order to qualify as a cooperator shall not be less than 25 per centum of the parity price for upland cotton as of the month in which such rate is announced. The rate of payment for additional acreage diverted shall be such rate as the Secretary determines to be fair and reasonable, but shall not exceed 40 per centum of such parity price. Payment at each applicable rate shall be made on the quantity of cotton determined by multiplying the acreage diverted from the production of cotton at such rate by the projected farm yield. In addition to the foregoing payment, if any, payment at the rate applicable for acreage required to be diverted to qualify as a cooperator shall be made to producers on small farms as defined in section 1428(b) of this title who do not exceed their farm acreage allotments on a quantity of cotton determined by multiplying an acreage equal to 35 per centum of such farm acreage allotment by the projected farm yield.

(5) The Secretary may make not to exceed 50 per centum of the payments under this subsection to producers in advance of determination of performance and the balance of such payments shall be made at such time as the Secretary may prescribe.

(6) Where the farm operator elects to participate in the diversion program authorized in this subsection and no acreage is planted to cotton on the farm, diversion payments shall be made at the rate established under paragraph (4) for acreage required to be diverted to qualify as a cooperator on the quantity of cotton determined by multiplying that part of the farm acreage allotment required to be diverted to qualify as a cooperator by the projected farm yield, and the remainder of such allotment may be released under the provisions of section 1344(m)(2) of this title. The acreage on which payment is made under this paragraph shall be regarded as planted to cotton for purposes of establishing future State, county, and farm acreage allotments, and farm bases.

(7) Payments in kind under this subsection shall be made through the issuance of certificates which the Commodity Credit Corporation shall redeem for cotton under regulations issued by the Secretary at a value per pound equal to not less than the current loan rate therefor. The Corporation may, under regulations prescribed by the Secretary, assist the producers in the marketing of such certificates at such times and in such manner as the Secretary determines will best effectuate the purposes of the program authorized by this subsection.

(8) Payments under this subsection shall be conditioned on the farm having an acreage of approved conservation uses equal to the sum of (i) the reduction in cotton acreage required to qualify for such payments (hereinafter called ''diverted acreage''), and (ii) the average acreage of cropland on the farm devoted to designated soil-conserving crops or practices, including summer fallow and idle land, during a base period prescribed by the Secretary: *Provided*, That the Secretary may permit all or any part of such diverted acreage to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, and flaxseed, if he determines that such production is necessary to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income, subject to the condition that payment under paragraph (4) or (6) with respect to diverted acreage devoted to any such crop shall be at a rate determined by the Secretary to be fair and reasonable, taking into consideration the use of such acreage for the production of such crops, but in no event shall the payment exceed one-half the rate which otherwise would be applicable if such acreage were devoted to conservation uses.

(9) The acreage regarded as planted to cotton on any farm which qualifies for payment under this subsection except under paragraph (6) shall, for purposes of establishing future State, county, and farm acreage allotments and farm bases, be the farm acreage allotment established under section 1344 of this title, excluding adjustments under subsection (m)(2) thereof.

(10) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing diversion payments on a fair and equitable basis under this subsection. The Secretary shall provide for the sharing of price support payments among producers on the farm on the basis of their respective shares in the cotton crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable.

(11) In any case in which the failure of a producer to comply fully with the terms and conditions of the programs formulated under this Act preclude the making of payments under this sec-

tion, the Secretary may, nevertheless, make such payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(12) Notwithstanding any other provision of this Act, if, as a result of limitations hereafter enacted with respect to price support under this subsection, the Secretary is unable to make available to all cooperators the full amount of price support to which they would otherwise be entitled under paragraphs (2) and (3) of this subsection for any crop of upland cotton, (A) price support to cooperators shall be made available for such crop (if marketing quotas have not been disapproved) through loans or purchases at such level not less than 65 per centum nor more than 90 per centum of the parity price therefor as the Secretary determines appropriate; (B) in order to keep upland cotton to the maximum extent practicable in the normal channels of trade, such price support may be carried out through the simultaneous purchase of cotton at the support price therefor and resale at a lower price or through loans under which the cotton would be redeemable by payment of a price therefor lower than the amount of the loan thereon; and (C) such resale or redemption price shall be such as the Secretary determines will provide orderly marketing of cotton during the harvest season and will retain an adequate share of the world market for cotton produced in the United States.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection.

(14) The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection.

(e) Price support, diversion, and cropland set-aside program for crops beginning with 1971 crop

(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971 through 1977 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect the Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average price of American cotton in world markets for such cotton for the three-year period ending July 31 in the year in which the loan level is announced, except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price. The average world price for such cotton for such preceding three-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 or 1973 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound in the case of the 1974 and 1975 crops, 38 cents per pound adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ percent of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 percent shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 1350(f) of this title, (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30

per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3).

(3) Such payments shall be made available for a farm on the quantity of upland cotton determined by multiplying the acreage planted within the farm base acreage allotment for the farm for the crop by the average yield established for the farm: *Provided*, That payments shall be made on any farm planting not less than 90 per centum of the farm base acreage allotment on the basis of the entire amount of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. The average yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years, except that the 1970 farm projected yield shall be substituted in lieu of the actual yields for the years 1968 and 1969: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster: *Provided further*, That the average yield established for the farm for any year shall not be less than the yield used in making payments for the preceding year if the total cotton production on the farm in such preceding year is not less than the yield used in making payments for the farm for such preceding year times the farm base acreage allotment for such preceding year (for the 1970 crop, the farm domestic allotment).

(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment. The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (e)(2) of this section, to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (e)(4)(A) of this section. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration to the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on upland cotton and payments under this section shall be made available to the producers on such farm only if producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (e)(6) if he determines such action necessary because of an emergency created by drought or other disaster or in order to alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing on a fair and equitable basis, in payments under this section.

(8) In any case in which the failure of a producer to comply fully with the terms and condi-

tions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

(9) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subchapter.

(10) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(11) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(f), (g) Omitted

(h) Program for extra long staple cotton beginning with 1984 crop

(1) For purposes of this subsection, extra long staple cotton means cotton which is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which American upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary is suitable for the production of such varieties or types and which is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(2) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available to producers nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at a level which is not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period..[1] If authorized by the Secretary, nonrecourse loans provided for in this subsection may, upon request of the producer during the tenth month of the loan period for the cotton, be made available for an additional term of eight months. The loan level for any crop of extra long staple cotton shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which such loan is to be effective and such level shall not thereafter be changed.

(3)(A) In addition, payments shall be made for each crop of extra long staple cotton to producers on each farm at a rate equal to the amount by which the higher of—

(i) the average market price received by farmers for extra long staple cotton during the first eight months of the marketing year for such crop, as determined by the Secretary, or

(ii) the loan level determined under paragraph (2) of this subsection for such crop,

is less than the established price per pound times, in each case, the farm program acreage for extra long staple cotton (determined in accordance with paragraph (5)(A), but in no event on a greater acreage than the acreage actually planted to extra long staple cotton for harvest), multiplied by the farm program payment yield for extra long staple cotton (determined in accordance with paragraph (4)).

(B) The established price for each crop of extra long staple cotton shall be 120 per centum of the loan level determined for such crop under paragraph (2) of this subsection.

(C) If the Secretary establishes an acreage limitation program for a crop of extra long staple cotton in accordance with paragraph (5)(A) and determines that deficiency payments will likely be made for such crop of extra long staple cotton under subparagraph (A) of this paragraph, the Secretary may make available advance deficiency payments for such crop to producers who agree to participate in the acreage limitation program. Such advance payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such acreage limitation program and in such amount as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount shall not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary. In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under subparagraph (A) of this paragraph, is less than the amount paid to the producer as an advance deficiency payment under this paragraph, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer. If the Secretary determines that no deficiency payments are due producers on a crop, the producer who received advanced payments on such crop shall refund such payments. If a producer fails to comply with the requirements under the acreage limitation program after obtaining an advance deficiency payment under this paragraph, the producer shall immediately repay the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe.

(4) The farm program payment yield for each crop of extra long staple cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years, except that the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph in the determination of yields, the

[1] So in original.

Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(5)(A)(i) Notwithstanding any other provision of this subsection, the Secretary may establish a limitation on the acreage planted to extra long staple cotton if the Secretary determines that the total supply of extra long staple cotton, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction (including a zero percentage reduction) to the acreage base for each extra long staple cotton-producing farm. Producers who knowingly produce extra long staple cotton in excess of the permitted acreage for the farm shall be ineligible for extra long staple cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as a result of a limitation under this subparagraph shall be the average acreage planted on the farm to extra long staple cotton for harvest in the three crop years immediately preceding the year prior to the year for which the determination is made. For the purpose of the preceding sentence, acreage planted to extra long staple cotton for harvest shall include any acreage which the producers were prevented from planting to extra long staple cotton or other nonconserving crops in lieu of extra long staple cotton because of drought, flood, or other natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. There is hereby established for the 1984, 1985, and 1986 crops an acreage base reserve equal to 5 per centum of the total of the farm acreage bases established for the crop under the foregoing provisions of this subparagraph. Such reserve shall be in addition to the total of the farm acreage bases and shall be used by the county committees, in accordance with regulations of the Secretary, for making adjustments of farm acreage bases to correct inequities and prevent hardship, and for establishing bases for farms on which no extra long staple cotton was planted during the preceding four years. A number of acres on the farm determined by dividing (i) the product obtained by multiplying the number of acres required to be withdrawn from the production of extra long staple cotton times the number of acres actually planted to such commodity, by (ii) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary, shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion. The number of acres so determined is hereafter in this subsection referred to as ''reduced acreage''. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the reduced acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely. The individual farm program acreage shall be the actual acreage planted on the farm to extra long staple cotton for harvest within the permitted extra long staple cotton acreage for the farm as established under this paragraph.

(ii) Notwithstanding any other provision of this Act, the Secretary shall ensure, under such terms and conditions as may be prescribed by the Secretary, that the total of the crop acreage bases established on a farm which is enrolled in a production adjustment program for any commodity shall not be increased as a result of the application of the provisions set forth in paragraph (13)(C), as extended for the 1989 and 1990 crop.

(B) The Secretary may make land diversion payments to producers of extra long staple cotton, whether or not an acreage limitation program for extra long staple cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of extra long staple cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(C) The reduced acreage and the diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed

to carry out the purpose of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) An operator of a farm desiring to participate in the program conducted under paragraph (5) shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

(7) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(9) If the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure. The Secretary may authorize the county and State committees established under section 590h(b) of title 16 to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

(10) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(12) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments made under this subsection.

(13)(A) Compliance on a farm with the terms and conditions of any other commodity program or compliance with crop acreage base requirements for any other commodity may not be required as a condition of eligibility for loans or payments under this section.

(B) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the extra long staple cotton program with respect to any other farm operated by the producers.

(14) In order to encourage and assist producers in the orderly ginning and marketing of their extra long staple cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(15) References made in sections 1422, 1423, 1426,[2] 1427, and 1431 of this title to the terms ''support price'', ''level of support'', and ''level of price support'' shall be considered to apply as well to the level of loans for extra long staple cotton under this subsection; and references to the terms ''price support'', ''price support operations'', and ''price support program'' in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan operations for extra long staple cotton under this subsection.

(16) Notwithstanding any other provision of law, this subsection shall not be applicable to the 1996 and subsequent crops of extra long staple cotton.

(Oct. 31, 1949, ch. 792, title I, §103, as added Pub. L. 85–835, title I, §102, Aug. 28, 1958, 72 Stat. 989; amended Pub. L. 88–297, title I, §103(b), Apr. 11, 1964, 78 Stat. 174; Pub. L. 89–112, §2, Aug. 6, 1965, 79 Stat. 447; Pub. L. 89–321, title IV, §402(a), Nov. 3, 1965, 79 Stat. 1194; Pub. L. 89–451, §1, June 17, 1966, 80 Stat. 202; Pub. L. 90–559, §1(2), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title VI, §602, Nov. 30, 1970, 84 Stat. 1374; Pub. L. 93–86, §1(20), Aug. 10, 1973, 87 Stat. 233; Pub. L. 93–125, §1(b), Oct. 18, 1973, 87 Stat. 450; Pub. L. 95–113, title VI, §602, Sept. 29, 1977, 91 Stat. 934; Pub. L. 95–279, title I, §102, May 15, 1978, 92 Stat. 240; Pub. L. 95–402, Sept. 30, 1978, 92 Stat. 862; Pub. L. 96–213, §4(b), Mar. 18, 1980, 94 Stat. 119; Pub. L. 96–365, title II, §201(b), Sept. 26, 1980, 94 Stat. 1320; Pub. L. 97–98, title V, §502, Dec. 22, 1981, 95 Stat. 1234; Pub. L. 97–446, title I, §155, Jan. 12, 1983, 96 Stat. 2345; Pub. L. 98–88, §4, Aug. 26, 1983, 97 Stat. 494; Pub. L. 98–258, title III, §§301, 302, Apr. 10, 1984, 98 Stat. 133; Pub. L. 99–114, §3, Oct. 1, 1985, 99 Stat. 488; Pub. L. 99–198, title V, §507, Dec. 23, 1985, 99 Stat. 1419; Pub. L. 99–500, §101(a) [title VI, §644], Oct. 18, 1986, 100 Stat. 1783, 1783–36, and Pub. L. 99–591, §101(a) [title VI, §644], Oct. 30, 1986, 100 Stat. 3341, 3341–36; Pub. L. 99–641, title II, §201, Nov. 10, 1986, 100 Stat. 3562; Pub. L. 100–203, title I, §1101(d), Dec. 22, 1987, 101 Stat. 1330–2; Pub. L. 100–331, June 14, 1988, 102 Stat. 602; Pub. L. 100–418, title I, §1214(w), Aug. 23, 1988, 102 Stat. 1163; Pub. L. 101–624, title V, §506, Nov. 28, 1990, 104 Stat. 3440.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (d)(1), (11), (12) and (h)(5)(A)(ii), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (h)(14), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 1426 of this title, referred to in subsec. (h)(15), was repealed by Pub. L. 104–127, title I, §171(b)(2)(I), Apr. 4, 1996, 110 Stat. 938.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

[2] See References in Text note below.

AMENDMENTS

1990—Subsec. (h)(3)(A). Pub. L. 101–624, § 506(b)(1), substituted ''paragraph (5)(A)'' for ''paragraph (6) or paragraph (8)(A) of this subsection'' and ''paragraph (4)'' for ''paragraph (7) of this subsection''.

Subsec. (h)(3)(C). Pub. L. 101–624, § 506(b)(2), substituted ''paragraph (5)(A)'' for ''paragraph (8)(A) of this subsection''.

Subsec. (h)(4). Pub. L. 101–624, § 506(a)(1), (2), redesignated par. (7) as (4) and struck out former par. (4) which related to establishment of a national program acreage for extra long staple cotton by Secretary.

Subsec. (h)(5). Pub. L. 101–624, § 506(a)(1)–(3), redesignated par. (8) as (5), inserted ''(including a zero percentage reduction)'' after ''reduction'' in subpar. (A)(i), and struck out former par. (5) which required Secretary to determine a program allocation factor, not to exceed 100 per centum for each crop of extra long staple cotton.

Pub. L. 101–624, § 506(b)(3), struck out before last sentence in subpar. (A)(i) the following: ''If an acreage limitation program is announced under this paragraph for a crop of extra long staple cotton, paragraphs (4), (5), and (6) of this subsection shall not be applicable to such crop, including any prior announcement which may have been made under such paragraphs with respect to such crop.''

Pub. L. 101–624, § 506(b)(4), substituted ''paragraph (13)(C)'' for ''paragraph (16)(C)'' in subpar. (A)(ii).

Subsec. (h)(6). Pub. L. 101–624, § 506(b)(5), substituted ''paragraph (5)'' for ''paragraph (8) of this subsection''.

Pub. L. 101–624, § 506(a)(1), (2), redesignated par. (9) as (6) and struck out former par. (6) which provided a formula for determining individual farm program acreage for each crop of extra long staple cotton by multiplying allocation factor by acreage of extra long staple cotton planted for harvest on each farm for which individual farm program acreages are required to be determined.

Subsec. (h)(7) to (12). Pub. L. 101–624, § 506(a)(2), redesignated pars. (10) to (15) as (7) to (12), respectively. Former pars. (7) to (9) redesignated (4) to (6), respectively.

Subsec. (h)(13). Pub. L. 101–624, § 506(a)(2), (4), redesignated par. (16) as (13), struck out par. (13) as so redesignated, and added new par. (13). Former par. (13) redesignated (10). Prior to being struck out, par. (13) read as follows:

''(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

''(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

''(C) Notwithstanding any other provision of law, in the case of each of the 1987 through 1990 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.''

Subsec. (h)(14), (15). Pub. L. 101–624, § 506(a)(2), redesignated pars. (17) and (18) as (14) and (15), respectively. Former pars. (14) and (15) redesignated (11) and (12), respectively.

Subsec. (h)(16). Pub. L. 101–624, § 506(a)(2), (5), redesignated par. (19) as (16) and substituted ''1996'' for ''1991''. Former par. (16) redesignated (13).

Subsec. (h)(17) to (19). Pub. L. 101–624, § 506(a)(2), redesignated pars. (17) to (19) as (14) to (16), respectively.

1988—Subsec. (f)(3). Pub. L. 100–418 substituted ''subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States'' for ''items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States''.

Subsec. (h)(8)(A). Pub. L. 100–331, § 2, designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (h)(16)(C). Pub. L. 100–331, § 1, substituted ''through 1990'' for ''and 1988''.

1987—Subsec. (h)(3)(B). Pub. L. 100–203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) substituted ''Except as provided in clause (ii), the'' for ''The'' and added cl. (ii) which read as follows: ''In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).''

1986—Subsec. (h)(16). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–641, in generally amending par. (16) identically, designated existing provisions as subpar. (A), inserted ''except as provided in subparagraph (B),'' and added subpars. (B) and (C).

1985—Subsec. (h)(2). Pub. L. 99–198, § 507(1), in first sentence substituted ''85 percent or the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.'' for ''50 per centum in excess of the loan level established for each crop of Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States'', and, in last sentence substituted ''December 1'' for ''November 1'' and struck out '', or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later,''.

Pub. L. 99–114, § 3(1), inserted '', or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later,''.

Subsec. (h)(4). Pub. L. 99–114, § 3(2), inserted ''and announce'' after ''The Secretary shall establish'' and struck out sentence which had provided that national program acreage for extra long staple cotton had to be announced by the Secretary not later than November 1 of the calendar year preceding the year for which such acreage was established.

Subsec. (h)(19). Pub. L. 99–198, § 507(2), added par. (19).

1984—Subsec. (g)(3)(B). Pub. L. 98–258, § 301, substituted ''and $0.81 per pound for the 1984 and 1985 crops'' for ''$0.81 per pound for the 1984 crop, and $0.86 per pound for the 1985 crop''.

Subsec. (g)(9)(A). Pub. L. 98–258, § 302(1), inserted ''except as provided in the second and third sentences of this subparagraph,'' after ''Notwithstanding any other provision of this subsection,''.

Pub. L. 98–258, § 302(2), inserted sentences providing that for the 1985 crop of upland cotton, if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed three million seven hundred thousand bales, the Secretary (i) shall provide for a land division [diversion] program as described under subparagraph (B) under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not less than 5 per centum and (ii) may provide for an acreage limitation program as described under this subparagraph under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 20 per centum in addition to the reduction required under clause (i), that if the Secretary implements a combined acreage limitation program and land division [diversion] program, any reduction required by the Secretary in excess of 25 per centum of the acreage base for the farm shall be made under the land diversion program, and that, as a condition of eligibility for loans, purchases, and payments on the 1985 crop of upland cotton, if the Secretary implements a land diversion program or a combined acreage limita-

tion and land diversion program, the producers on a farm must comply with the terms and conditions of such program.

Subsec. (g)(9)(B). Pub. L. 98–258, § 302(3), inserted sentences providing that if the Secretary implements a land diversion program for the 1985 crop of upland cotton under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of upland cotton whose acreage planted to upland cotton for harvest on the farm is reduced so that it does not exceed the upland cotton acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), if any, and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the upland cotton acreage base under this subparagraph, that such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the acreage diverted under this subparagraph, that the diversion payment rate shall be established by the Secretary at not less than $0.275 per pound: *Provided*, That if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed (I) four million one hundred thousand bales, such rate shall be established by the Secretary at not less than $0.30 per pound, and (II) four million seven hundred thousand bales such rate shall be established by the Secretary at not less than $0.35 per pound, that the Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, and that if a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.

1983—Subsec. (h). Pub. L. 98–88 added subsec. (h).

Subsec. (f)(3). Pub. L. 97–446 temporarily substituted provision relating to the special quota status of Tariff Schedule items 955.01 and 955.03 before a special quota established under this subsection is filled and the cotton in question is duty free, for provision that, notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota was to become effective Oct. 1, 1977, even though the cotton might have been of a crop prior to the 1978 crop. See Effective and Termination Dates of 1983 Amendment note below.

1981—Subsec. (g). Pub. L. 97–98 temporarily added subsec. (g). See Effective and Termination Dates of 1981 Amendment note below.

1980—Subsec. (f)(5)(A). Pub. L. 96–365, § 201(b)(1), substituted ''Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton''.

Pub. L. 96–213, § 4(b)(1), substituted ''1978, 1979, and 1980 crops of upland cotton'' for ''1978 and 1979 crops of upland cotton''.

Subsec. (f)(5)(B). Pub. L. 96–365, § 201(b)(2), substituted ''Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton'' for ''Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton''.

Pub. L. 96–213, § 4(b)(2), substituted ''1978, 1979, and 1980 crops of upland cotton'' for ''1978 and 1979 crops of upland cotton''.

Subsec. (f)(5)(C). Pub. L. 96–365, § 201(b)(3), added subpar. (C).

1978—Subsec. (f)(1). Pub. L. 95–402 purported to strike out the fourth sentence of subsec. (f)(1). The enacting clause, however, stated that Pub. L. 95–402 was enacted to amend subsec. (f)(1) ''. . . to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities''. Accordingly, the third sentence of subsec. (f)(1) was struck out as the probable intent of Congress because it related to interest rates while the fourth sentence related to extension of the loan period and establishment of a special limited global import quota.

Pub. L. 95–279 temporarily substituted ''during three years of the five-year period ending July 31'' for ''during the four-year period ending July 31'' and inserted ''excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period'' in cl. (i), substituted ''for the fifteen-week period beginning July 1'' for ''for the first two full weeks of October'' in cl. (ii), and inserted proviso relating to the minimum loan level and the power of the Secretary to raise the loan level as he may deem appropriate when the average Northern European price is less than the average United States spot market price. See Effective and Termination Dates of 1978 Amendment note below.

1977—Subsec. (f). Pub. L. 95–113 temporarily added subsec. (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (e)(1). Pub. L. 93–86, § 1(20)(A), (B), substituted ''1971 through 1977 crops of upland cotton'' for ''1971, 1972, and 1973 crops of upland cotton'', ''three-year period'' for ''two-year period'' in two places, ''except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price'' for ''except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton'', ''average price of American cotton in world markets'' for ''acreage world price'', and ''any of the 1972 through 1977 crops'' for ''the 1972 or 1973 crop''.

Subsec. (e)(2). Pub. L. 93–86, § 1(20)(C), substituted provisions setting out the formula for determining payments for each crop of cotton to the producers on each farm using, as elements of such formula, the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, the loan level determined under paragraph (1) for such crop, an established price of 38 cents per pound in the case of the 1974 and 1975 crops, adjusted prices in the case of the 1976 and 1977 crops, adjustment of increases to reflect changes in the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made over the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made, and covering prevention of planting due to natural disasters and conditions for provisions authorizing payments by the Secretary to cooperators on the 1971, 1972, and 1973 crops of upland cotton, and struck out provisions directing preliminary payments to producers as soon as practicable after July 1 of the year in which the crop is harvested at a rate equal to 15 cents per pound.

Pub. L. 93–125 substituted ''prevented from planting any portion'' for ''prevented from planting, any portion''.

Subsec. (e)(4)(A). Pub. L. 93–86, § 1(20)(D)–(F), inserted '', if required by the Secretary,'' before ''(ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Sec-

retary'', substituted ''The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to a percentage of the farm base acreage allotment'' for ''If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level'', deleted provision prohibiting grazing during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of Title 16, and inserted provisions authorizing the raising of hay on set-aside acreage and the production of triticale, oats, and rye.

Subsec. (e)(5). Pub. L. 93–86, §1(20)(G), authorized Secretary in case of programs for 1974 through 1977 crops to pay an appropriate share of cost of practices designed to protect set-aside acreage from erosion, insects, weeds, and rodents and to provide wildlife food plots or wildlife habitat.

1970—Subsec. (e). Pub. L. 91–524 added subsec. (e).

1968—Subsec. (d)(1). Pub. L. 90–559 provided for a one year extension, substituting ''1966 through 1970'' for ''1966, 1967, 1968, and 1969''.

1966—Subsec. (d)(3). Pub. L. 89–451 substituted ''crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''income producing crop in such year'' in last sentence.

1965—Subsec. (b). Pub. L. 89–112 provided that the Secretary shall deem an acreage on a farm which he finds was not planted to cotton in 1965 because of flood, drought, or other natural disaster to be an actual acreage of cotton planted on the farm for harvest when that acreage was not subsequently devoted to any price support crop in 1965.

Subsec. (d). Pub. L. 89–321 added subsec. (d).

1964—Subsec. (a). Pub. L. 88–297, §103(b)(1), (2), designated existing provisions as subsec. (a) and provided that the price support for the 1964 cotton crop shall be a national average support price which reflects 30 cents per pound for Middling one-inch cotton.

Subsecs. (b), (c). Pub. L. 88–297, §103(b)(3), added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as a note under section 3001 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1101(d) of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1988 and 1989 crops of extra long staple cotton.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 4 of Pub. L. 98–88 provided that the amendment made by that section is effective beginning with 1984 crop of extra long staple cotton.

Section 155 of Pub. L. 97–446 provided that the amendment made by that section is effective for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 502 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crops of upland cotton.

EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENT

Section 102 of Pub. L. 95–279 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton.

Amendment by Pub. L. 95–279 effective Oct. 1, 1978, and applicability to elections by producers receiving loans and payments prior to such date, see section 103 of Pub. L. 95–279, set out as a note under section 1309 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 602 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of upland cotton, except as otherwise provided therein.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(20)(C) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

Section 1(20)(D) of Pub. L. 93–86 provided that the amendment made by that section, authorizing Secretary for 1974 through 1977 crops to limit acreage planted in upland cotton on farm in excess of farm base acreage allotment to a percentage of farm base acreage allotment, is effective beginning with 1974 crop.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 602 of Pub. L. 91–524 provided that the amendment made by that section is effective beginning with 1971 crop of upland cotton.

INAPPLICABILITY OF SECTION

Subsec. (a) of this section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(B) of this title.

Pub. L. 101–624, title V, §503, Nov. 28, 1990, 104 Stat. 3440, provided that: ''Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1991 through 1995 crops.''

Pub. L. 99–198, title V, §504, Dec. 23, 1985, 99 Stat. 1418, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446d) shall not be applicable to the 1986 through 1990 crops.''

Pub. L. 97–98, title V, §504, Dec. 22, 1981, 95 Stat. 1241, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949 [sections 1444(a) and 1446d of this title] shall not be applicable to the 1982 through 1985 crops.''

Pub. L. 95–113, title VI, §604(c), Sept. 29, 1977, 91 Stat. 939, provided that: ''Sections 103(a) and 203 of the Agricultural Act of 1949, as amended [sections 1444(a) and 1446d of this title] shall not be applicable to the 1978 through 1981 crops.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1428, 7301 of this title.

§ 1444–1. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §103A, as added Dec. 23, 1985, Pub. L. 99–198, title V, §501, 99 Stat. 1407; amended Mar. 20, 1986, Pub. L. 99–260, §2(c), 100 Stat. 46; May 27, 1987, Pub. L. 100–45, §4, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100–203, title I, §§1101(c), 1102(c), 1113(c), 101 Stat. 1330–1, 1330–3, 1330–9, related to loan rates, target prices, disaster payments, acreage limita-

tion program, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 501 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of upland cotton.

§ 1444–2. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(B), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 103B, as added Nov. 28, 1990, Pub. L. 101–624, title V, § 501, 104 Stat. 3421; amended Nov. 5, 1990, Pub. L. 101–508, title I, § 1101(c), 104 Stat. 1388–1; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(b), 106(b), 107, 113(2), (3), 125, 126, 105 Stat. 1821, 1825, 1827, 1837, 1845; Aug. 10, 1993, Pub. L. 103–66, title I, § 1101(a), 107 Stat. 313; May 6, 1994, Pub. L. 103–247, § 1(a), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(3), 108 Stat. 3207; Dec. 8, 1994, Pub. L. 103–465, title IV, § 401(b)(2), 108 Stat. 4957; Aug. 20, 1996, Pub. L. 104–188, title I, § 1954(b)(5), 110 Stat. 1928, related to loans, payments, and acreage reduction programs for 1991 through 1997 crops of upland cotton.

§ 1444a. Corn and feed grains and cotton programs

(a) Referendum of 1958 corn producers

Not later than December 15, 1958, the Secretary shall conduct a referendum of producers of corn in 1958 in the commercial corn-producing area for 1958 to determine whether such producers favor a price support program as provided in subsection (b) of this section for the 1959 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and price support as provided in section 1441 of this title.

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

(1) [Section enacted section 1329a of this title.]

(2) [Section enacted section 1444b of this title.]

(3) [Section repealed section 1441(d)(4) of this title.]

(c) Cotton research program

The Secretary of Agriculture is hereby authorized and directed to conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States at the earliest practicable date. There are hereby authorized to be appropriated such sums, not to exceed $10,000,000 annually, as may be necessary for the Secretary to carry out this special research program. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the results of such research.

(d) Cotton insect eradication

In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infested, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, established by the Secretary, who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Con-

gress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperations authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.

(Oct. 31, 1949, ch. 792, title I, §104, as added Pub. L. 85–835, title II, §201, Aug. 28, 1958, 72 Stat. 993; amended Pub. L. 88–297, title I, §103(a), Apr. 11, 1964, 78 Stat. 174; Pub. L. 91–524, title VI, §611, Nov. 30, 1970, as added Pub. L. 93–86, §1(24), Aug. 10, 1973, 87 Stat. 235; Pub. L. 103–437, §4(a)(6), Nov. 2, 1994, 108 Stat. 4581.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (a), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

This Act, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Subsec. (b)(1) of this section, as added by section 201 of Pub. L. 85–835, enacted section 330 of Agricultural Adjustment Act of 1938, which is classified as section 1329a of this title.

Subsec. (b)(2) of this section, as added by section 201 of Pub. L. 85–835, enacted section 105 of Agricultural Act of 1949, which is classified as section 1444b of this title.

Subsec. (b)(3) of this section, as added by section 201 of Pub. L. 85–835, repealed section 101(d)(4) of Agricultural Act of 1949, and was executed to text in the repeal of section 1441(d)(4) of this title.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry''.

1973—Subsec. (d). Pub. L. 91–524, §611, as added Pub. L. 93–86, §1(24), added subsec. (d).

1964—Subsec. (c). Pub. L. 88–297 added subsec. (c).

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in subsec. (b) of this section (254,262) rather than alternative corn acreage allotment and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

§ 1444b. Feed grains; price support program

(a) Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop, price support shall be made available to producers for each crop of corn at such level, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn: *Provided*, That in the case of any crop for which an acreage diversion program is in effect for feed grains, the level of price support for corn of such crop shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

(b) Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

(Oct. 31, 1949, ch. 792, title I, §105, as added Oct. 31, 1949, ch. 792, title I, §104(b)(2), as added Pub. L. 85–835, title II, §201, Aug. 28, 1958, 72 Stat. 994; amended Pub. L. 87–5, §1, Mar. 22, 1961, 75 Stat. 6; Pub. L. 87–128, title I, §131, Aug. 8, 1961, 75 Stat. 301; Pub. L. 87–425, §1, Mar. 30, 1962, 76 Stat. 50; Pub. L. 87–703, title III, §§301, 305, Sept. 27, 1962, 76 Stat. 612, 614; Pub. L. 88–26, §2, May 20, 1963, 77 Stat. 44; Pub. L. 89–112, §1, Aug. 6, 1965, 79 Stat. 446; Pub. L. 89–321, title III, §301, Nov. 3, 1965, 79 Stat. 1188; Pub. L. 89–451, §2, June 17, 1966, 80 Stat. 202; Pub. L. 89–321, title III, §301, Nov. 3, 1965, as amended Pub. L. 90–559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title V, §501, Nov. 30, 1970, 84 Stat. 1368; Pub. L. 91–524, title V, §501, Nov. 30, 1970, as amended Pub. L. 93–86, §1(18), Aug. 10, 1973, 87 Stat. 230; Pub. L. 93–86, §1(18), Aug. 10, 1973, 87 Stat. 230; Pub. L. 93–86, §1(18), Aug. 10, 1973, as amended Pub. L. 93–125, §1(d), Oct. 18, 1973, 87 Stat. 450; Pub. L. 93–228, §1(b), Dec. 29, 1973, 87 Stat. 944.)

CODIFICATION

Pub. L. 91–524, as amended by Pub. L. 93–86, amended section generally by substantially revising subsecs. (a) to (e) and enacting subsecs. (f) to (i), effective only through the 1977 crops of feed grains. See 1970 and 1973 Amendment notes and Effective and Termination Dates of 1970 and 1973 Amendment notes below. Prior to such amendment by Pub. L. 91–524 and Pub. L. 93–86, subsec. (c) was applicable only to the 1961 to 1963 crops of feed grains, subsec. (d) was applicable only to the 1964 and 1965 crops of feed grains, and subsec. (e) was applicable only to the 1966 through 1970 crops of feed grains.

AMENDMENTS

1973—Pub. L. 93–228 amended feed grains program for 1974 through 1977, as described below.

Pub. L. 93–125 amended feed grain loan and purchases price support program for 1974 through 1977, as described below.

Pub. L. 93–86 temporarily enacted feed grain loans and purchases price support program for 1974 through 1977, as described below. See Effective and Termination Dates of 1973 Amendment note below.

Pub. L. 91–524, §501, as amended Pub. L. 93–86, §1(18)(A), reenacted introductory text without change.

Subsec. (a)(1). Pub. L. 91–524, §501, as amended Pub. L. 93–86, §1(18)(A), increased minimum corn crop support level from $1.00 to $1.10 per bushel.

Subsec. (a)(2). Pub. L. 91–524, §501, as amended Pub. L. 93–36, §1(18)(A), reenacted par. (2) provisions without change.

Subsec. (b)(1). Pub. L. 91–524, §501, as amended Pub. L. 93–86, §1(18)(B), added par. (1). Former par. (1) related to subject matter as described in 1970 Amendment note for subsec. (b)(1) of this section.

Subsec. (b)(1) last sentence. Pub. L. 93–228 substituted ''(or of wheat, or cotton planted in lieu of the allotted crop)'' for ''(or other nonconserving crop planted instead of feed grains)''.

Subsec. (b)(2). Pub. L. 91–524, §501, as amended Pub. L. 93–86, §1(18)(B), added par. (2). Former par. (2) made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524, §501, as amended Pub. L. 93–86, §1(18)(B), substituted in: first sentence, ''the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment'' for ''the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base''; second sentence, including proviso, ''feed grain allotment'' for ''feed grain base''; third sentence, ''feed grain allotments'' for ''feed grain bases''; fourth sentence, ''90 per centum of the feed grain allotment'' for ''90 per centum of the portion of the feed grain base on which payments are made available'' and ''100 per centum of such allotment'' for ''100 per centum of such portion''; and sixth sentence ''effective operation of the program'' for ''effective operation of the feed grain or soybean program''; and authorized acreage devoted to guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, to be considered as feed grain acreage.

Subsec. (c)(1) second sentence. Pub. L. 93–86, §1(18)(D), formerly §1(18)(C [second]), renumbered by Pub. L. 93–125, §1(d)(ii), substituted in item (i) ''feed grain allotment'' for ''feed grain base'', inserted preceding item (ii) '', if required by the Secretary'', and substituted in item (ii) ''soil conserving uses'' for ''soil-conserving uses''.

Subsec. (c)(1) third sentence. Pub. L. 93–86, §1(18)(E), formerly §1(18)(D), renumbered by Pub. L. 93–125, §1(d)(ii), substituted ''The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.'' for ''The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section.''

Subsec. (c)(1) fifth sentence. Pub. L. 93–86, §1(18)(D), formerly §1(18)(C [second]), renumbered by Pub. L. 93–125, §1(d)(ii), substituted ''1971 through 1977'' for ''1971, 1972, 1973''.

Subsec. (c)(1) last sentence. Pub. L. 93–86, §1(18)(C), as amended Pub. L. 93–125, §1(d)(i), authorized set-aside acreage to be devoted to hay and production of triticale, oats, and rye, and deleted item (1) and (2) designation of existing provisions, and former introductory text reading ''Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 590h(b) of title 16, and subject to this limitation'', and provided for such provisions as run-in rather than new-paragraph text.

Subsec. (c)(3). Pub. L. 93–86, §1(18)(G), formerly §1(18)(F), renumbered by Pub. L. 93–125, §1(d)(ii), inserted after provision for devotion of set-aside acreage and diverted acreage to wildlife food plots or wildlife habitat the sentence ''The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.''

Subsec. (e)(1). Pub. L. 93–86, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93–125, §1(d)(ii), struck out provision reading ''For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960.''

Subsec. (e)(2). Pub. L. 93–86, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93–125, §1(d)(ii), substituted ''farm grain allotments'' for ''farm grain bases'' wherever appearing.

Subsec. (e)(3). Pub. L. 93–86, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93–125, §1(d)(ii), struck out provisions respecting reservation for farms in a State for any year for apportionment to farms without 1959 and 1960 acreage, apportionment factors, prohibition against reflection of new cropland by such reserved allocation, and consideration of farm feed grain base as farm feed grain acreage for 1959 and 1960 crop years.

Subsec. (g). Pub. L. 93–86, §1(18)(F), formerly §1(18)(E), renumbered by Pub. L. 93–125, §1(d)(ii), struck out provisions for preliminary payments, time and rate of payment, and reduction of preliminary payment rate.

1970—Pub. L. 91–524 temporarily enacted feed grains loans and purchases price support program for 1971, 1972, and 1973, as described below. See Effective and Termination Dates of 1970 Amendment note below.

Pub. L. 91–524 substituted as introductory text ''Notwithstanding any other provision of law'' for former subsec. (a) introductory text ''Notwithstanding the provisions of section 1441 of this title''.

Subsec. (a)(1). Pub. L. 91–524 substituted par. (1) provisions making loans and purchases available on corn crop at such level, not less than $1.00 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage exportation of feed grains and not result in excessive total stocks of feed grains in the United States for former subsec. (a) provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn, including proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (a)(2). Pub. L. 91–524 substituted par. (2) provisions making loans and purchases available on each crop of barley, oats, and rye, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of

such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn for former subsec. (b) provisions for such price support level on each crop of oats, rye, barley, and grain sorghums, beginning with the 1959 crop, at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

Subsec. (b)(1). Pub. L. 91–524 made payments available for crops of corn, grain sorghums, and barley; prescribed as payment rate for corn such rate as, together with the national average market price received by farmers during first five months of the marketing year for the crop would not be less than (A) $1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever was the greater; prescribed as payment rate for grain sorghums and barley such rate as was fair and reasonable in relation to the rate at which payments were made available for corn; and prescribed rate of payment for 1973 crop would not be such as would result in a total amount of payments which Secretary estimated would be made pursuant to this subsection with respect to 1973 crop of feed grains above total amount of payments made pursuant to this subsection with respect to 1972 crop of feed grains by reason of level specified in clause (B) being fixed above 68 per centum of the parity price for the corn.

Subsec. (b)(2). Pub. L. 91–524 made payments with respect to a farm available on 50 per centum of the feed grain base for the farm and for computation of the payments on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

Subsec. (b)(3). Pub. L. 91–524 added par. (3).

Former subsec. (b) provided that ''Beginning with the 1959 crop, price support shall be made available to producers for each crop of oats, rye, barley, and grain sorghums at such level of the parity price therefor as the Secretary of Agriculture determines is fair and reasonable in relation to the level at which price support is made available for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title,'' and is now incorporated in subsec. (a)(2) of this section.

Subsec. (c)(1). Pub. L. 91–524 required cropland setaside, taking into consideration excessive stocks and adequate carryover, and provided for conservation uses acreage, crop year feed grain acreage limitation, ''feed grains'' for consideration of wheat as feed grain acreage, consideration of section 1339c feed grains diversion program, grazing restriction, and authorization of setaside acreage for grazing and production of other commodities.

Subsec. (c)(2). Pub. L. 91–524 provided for land diversion payments for conservation uses acreage and for conservation uses acreage limitation.

Subsec. (c)(3). Pub. L. 91–524 required protective measures and provided for wildlife use standards and additional payments for public use.

Subsec. (c)(4). Pub. L. 91–524 provided for filing of participation agreement of farm operators, soil conserving uses acreage requirement, and mutual termination of agreement because of emergencies or limited supplies.

Subsec. (c)(5), (6). Pub. L. 91–524 struck out pars. (5) and (6) which related to price support for 1963 crop of corn and to eligibility for price support on 1963 crop of corn, grain sorghums, and barley.

Subsec. (d). Pub. L. 91–524 redesignated ninth sentence of former subsec. (e) as (d) and substituted ''sharing of payments under this section among producers on the farm on a fair and equitable basis'' for ''sharing of such certificates among producers on the farm on the basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable''.

Subsec. (e). Pub. L. 91–524 added subsec. (e).

Subsec. (f). Pub. L. 91–524 redesignated last sentence of former subsec. (e) as (f) and substituted ''under this section precludes the making of loans, purchases, and payments'' and ''make such loans, purchases, and payments'' for ''under this subsection (e) and subsection (e) of this section preclude the making of payments-in-kind'' and ''make such payments-in-kind''.

Subsecs. (g) to (i). Pub. L. 91–524 added subsecs. (g) to (i).

1968—Pub. L. 90–559 amended feed grains price support program for 1966 through 1969, extending such program through 1970.

Subsec. (e). Pub. L. 89–321, as amended Pub. L. 90–559, substituted ''1970'' for ''1969'' in provision of text ''1966 through 1970 crops of feed grains''.

1966—Pub. L. 89–451 amended feed grains price support program for 1966 through 1969.

Subsec. (e). Pub. L. 89–451 substituted ''planted to any other crop for which there are marketing quotas or voluntary adjustment programs in effect'' for ''planted to any other income-producing crop during such year'' in sixth sentence.

1965—Pub. L. 89–321 enacted feed grains price support program for 1966 through 1969.

Pub. L. 89–112 amended feed grains price support program for 1965.

Subsec. (d). Pub. L. 89–112 inserted eleventh sentence ''An acreage on the farm which the Secretary finds was not planted to feed grains in 1965 because of flood, drought, or other natural disaster shall be deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965.''

Subsec. (e). Pub. L. 89–321, in adding subsec. (e), enacted feed grains price support program for 1966 through 1969.

Subsec. (e) first sentence. Pub. L. 89–321 required as a condition of eligibility for price support for 1966 through 1969 crops of feed grains on crop of feed grains included in any acreage diversion program under section 590p(i) of Title 16, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1966 through 1969 crops, that feed grain base be not exceeded by producer, provided that acreage on farm diverted from production of feed grains pursuant to contract under Cropland Adjustment Program shall be deemed acreage diverted from production of feed grains for purposes of eligibility requirements, and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (e) second sentence. Pub. L. 89–321 incorporated third sentence of former subsec. (d) as second sentence of subsec. (e) and substituted ''price-support'' and ''payments-in-kind'' for ''price support'' and ''payments in kind''.

Subsec. (e) third sentence. Pub. L. 89–321 made payments-in-kind available on maximum permitted acre-

age and authorized the Secretary to make available the same total amount on a smaller acreage or acreages at a higher rate or rates.

Subsec. (e) fourth sentence. Pub. L. 89–321 incorporated fourth sentence of former subsec. (d) as fourth sentence of subsec. (e), substituted bushel determination provision calling for multiplication of that part of the actual acreage of such feed grain planted on the farm for harvest on which the Secretary made such payments available by the farm projected yield per acre for prior provision calling for such multiplication of actual acreage of such feed grain planted on the farm for harvest by the adjusted average yield per acre, and inserted proviso respecting consideration of soybean as feed grain acreage to such extent and subject to such terms and conditions as Secretary determined would not impair effective operation of price support program and proviso deeming entire feed grains acreage as so planted when 90 per centum of feed grains acreage permitted to be planted has been so planted.

Subsec. (e) fifth sentence. Pub. L. 89–321 authorized reduction of that portion of the support price which was made available through loans and purchases for the 1966 through 1969 crops below the loan level for the 1965 crop by such amounts and in such stages as might be necessary to promote increased participation in the feed grain program, taking into account increases in yields, but so as not to disrupt the feed grain and livestock economy, without modifying or affecting Secretary's discretion to maintain or increase total price support levels to cooperators.

Subsec. (e) sixth sentence. Pub. L. 89–321 incorporated eleventh sentence of former subsec. (d) as sixth sentence of subsec. (e) and substituted ''planted to feed grains'' for ''planted to feed grains in 1965'' and ''deemed to be an actual acreage of feed grains planted for harvest for purposes of such payments provided such acreage is not subsequently planted to any other income-producing crop during such year'' for ''deemed by the Secretary to be an actual acreage of feed grains planted on the farm for harvest for purposes of this subsection, provided such acreage is not subsequently devoted to any price supported crop for 1965''.

Subsec. (e) seventh sentence. Pub. L. 89–321 incorporated sixth sentence of former subsec. (d) as seventh sentence of subsec. (e).

Subsec. (e) eighth sentence. Pub. L. 89–321 incorporated seventh sentence of former subsec. (d) as eighth sentence of subsec. (e) and substituted ''Payments-in-kind'' for ''Such payments in kind'', parenthetical text ''valued by the Secretary at not less than the current support price made available through loans and purchases'' for ''valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind'', and ''in accordance with regulations prescribed by the Secretary and notwithstanding any other provision of law'' for ''and, notwithstanding any other provisions of law''.

Subsec. (e) ninth sentence. Pub. L. 89–321 incorporated ninth sentence of former subsec. (d) as ninth sentence of subsec. (e) and substituted ''basis of their respective shares in the feed grain crop produced on the farm, or the proceeds therefrom, except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable'' for ''basis of their respective shares in the crop produced on the farm with respect to which such certificates are issued, or the proceeds therefrom''.

Subsec. (e) tenth sentence. Pub. L. 89–321 incorporated tenth sentence of former subsec. (d) as tenth sentence of subsec. (e) and substituted '', in accordance with the provisions of such program,'' for ''in accordance with the provisions of such program''.

Subsec. (e) eleventh sentence. Pub. L. 89–321 authorized the Secretary, where the failure of a producer to comply with the terms and conditions of the programs formulated under subsecs. (d) and (e) of this section precluded making payments-in-kind, to make such payments-in-kind in such amounts as he determined to be equitable in relation to the seriousness of the default.

1963—Pub. L. 88–26 amended feed grains support program for 1962, and enacted feed grains support program for 1964 and 1965, as described hereunder.

Subsec. (a). Pub. L. 88–26, §2(1), inserted proviso for such corn price support level, in the case of any crop for which an acreage diversion program is in effect for feed grains, not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines necessary to achieve the acreage reduction goal established by him for the crop.

Subsec. (d). Pub. L. 88–26, §2(2), in adding subsec. (d), enacted feed grains support program for 1964 and 1965.

Subsec. (d) first sentence. Pub. L. 88–26, §2(2), made subsec. (d) applicable to 1964 and 1965 feed grains crops if an acreage diversion program was in effect under section 590p(h) of title 16.

Subsec. (d) second sentence. Pub. L. 88–26, §2(2), required as a condition of eligibility for price support on crop of feed grain included in the acreage diversion program, participation of producer in the diversion program to the extent prescribed by the Secretary, and as a condition of eligibility for such price support if a diversion program was not in effect for 1964 or 1965 crop, that feed grain base be not exceeded by producer and excepted producer of malting barley from requirement of participation in the acreage diversion program for feed grains if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest, did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960, and did not devote oats and rye acreage in 1959 and 1960 to production of wheat pursuant to section 1339c of this title.

Subsec. (d) third sentence. Pub. L. 88–26, §2(2), authorized payments in kind for such portion of support price for any feed grain included in the acreage diversion program to assure that benefits of price support and diversion programs inure primarily to those producers who cooperate in feed grains acreage reductions.

Subsec. (d) fourth sentence. Pub. L. 88–26, §2(2), provided for payments in kind on number of bushels of feed grain determined by multiplying actual acreage of feed grain planted on the farm for harvest by adjusted average yield per acre.

Subsec. (d) fifth sentence. Pub. L. 88–26, §2(2), made base period used in determining adjusted average yield the same as used for purposes of acreage diversion program under section 590p(h) of title 16.

Subsec. (d) sixth sentence. Pub. L. 88–26, §2(2), authorized 50 per centum payments to producers in advance of determination of performance.

Subsec. (d) seventh sentence. Pub. L. 88–26, §2(2), provided for payments in kind through issuance of negotiable certificates, redemption for feed grains by the CCC (such feed grains to be valued by the Secretary at not less than the current support price minus that part of the current support price made available through payments in kind, plus reasonable carrying charges), and for assistance of CCC in marketing of the certificates.

Subsec. (d) eighth sentence. Pub. L. 88–26, §2(2), provided for deduction from value of negotiable certificates, not presented for redemption within thirty days of date of issuance, or reasonable costs of storage and other carrying charges, for the period beginning thirty days after issuance and ending with date of presentation for redemption.

Subsec. (d) ninth sentence. Pub. L. 88–26, §2(2), required the Secretary to provide for sharing of negotiable certificates among producers on the farm on basis of respective shares in the crop produced on the farm with respect to which such certificates were issued, or the proceeds therefrom.

Subsec. (d) tenth sentence. Pub. L. 88–26, §2(2), conditioned availability of price support for feed grains in-

cluded in acreage diversion program, where operator of farm elected to participate in the acreage diversion program, to producers on farm diverting from feed grain production under the program an acreage on the farm equal to number of acres which operator agreed to divert, and agreement so provided.

1962—Pub. L. 87–703 enacted feed grains price support program for 1963.

Pub. L. 87–425 amended feed grains support program for 1962.

Subsec. (a). Pub. L. 87–703, § 305, substituted provisions for such corn price support level, beginning with 1964 crop, not less than 50 per centum or more than 90 per centum of the parity price therefor, as the Secretary determines will not result in increasing Commodity Credit Corporation stocks of corn for former corn price support, beginning with 1959 crop, at 90 per centum of the average price received by farmers during the three calendar years immediately preceding the calendar year in which the marketing year for such crops began, adjusted to offset the effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, provided the level of price support for any crop of corn be not less than 65 per centum of the parity price therefor.

Subsec. (c). Pub. L. 87–703, § 301, in adding pars. (5) and (6), enacted feed grains price support program for 1963, as described hereunder.

Subsec. (c)(4). Pub. L. 87–425 excepted producer of barley on a summer-fallow farm from requirement of participation in special agricultural conservation program for 1962 for barley if such producer did not devote barley farm acreage in excess of average acreage devoted to barley in 1959 and 1960 plus the acreage devoted to summer fallow in 1961 which was diverted from the production of wheat under the special 1962 wheat program and did not devote corn, grain sorghums, and barley farm acreage in excess of 80 per centum of average acreage devoted to corn, grain sorghums, and barley in 1959 and 1960.

Subsec. (c)(5). Pub. L. 87–703, § 301, required establishment of 1963 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine; provided for: payments in kind in amount of 18 cents per bushel of support price for corn, and comparable portion of support price for grain sorghums and barley; such payments on number of bushels of such feed grain determined by multiplying actual acreage of such feed grain planted on the farm for harvest in 1963 by the adjusted average yield per acre for 1959 and 1960 crop acreage of such feed grain; such payments through issuance of negotiable certificates redeemable by CCC for corn, grain sorghums, and barley (such feed grains to be valued by the Secretary at not less than support price minus that part of support price made available through payments in kind) and for CCC assistance to producer in marketing of such certificates; deduction from value of the certificate, in the case of any certificate not presented for redemption within 30 days of date of its issuance, reasonable costs of storage and other carrying charges for period beginning 30 days after its issuance and ending with the date of its presentation for redemption; and basis for sharing of such certificate among producers on the farm; and conditioned availability of price support to inclusion of prescribed acreage diversion where operator of farm elected to participate in the special agricultural conservation program for 1963, for corn, grain sorghums, and barley.

Subsec. (c)(6). Pub. L. 87–703, § 301, required as a condition of eligibility for price support on 1963 crop of corn, grain sorghums, and barley participation of producer in special agricultural conservation program for 1963 for corn, grain sorghums, and barley to the extent prescribed by the Secretary and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1963 if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1963, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1961—Pub. L. 87–128 enacted feed grains price support program for 1962.

Pub. L. 87–5 enacted special feed grains price support program for 1961.

Subsec. (c). Pub. L. 87–128, in adding pars. (3) and (4), enacted feed grains price support program for 1962.

Pub. L. 87–5, in adding pars. (1) and (2), enacted special feed grains price support program for 1961.

Subsec. (c)(1). Pub. L. 87–5 required establishment of 1961 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn and grain sorghums price support available on not to exceed the normal production of 1961 acreage of corn and grain sorghums of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(2). Pub. L. 87–5 required as a condition of eligibility for price support on 1961 crop of corn, grain sorghums, and any other feed grain designated by the Secretary, participation of producer in special agricultural conservation program for 1961 for corn and grain sorghums to the extent prescribed by the Secretary.

Subsec. (c)(3). Pub. L. 87–128 required establishment of 1962 corn crop price support at such level not less than 65 per centum of parity price as Secretary might determine and made corn, grain sorghums, and barley price support available on not to exceed the normal production of 1962 acreage of corn, grain sorghums, and barley of each eligible farm based on average yield per acre for 1959 and 1960 crop acreage.

Subsec. (c)(4). Pub. L. 87–128 required as a condition of eligibility for price support on 1962 crop of corn and grain sorghums participation of producer in special agricultural conservation program for 1962 for corn and grain sorghums to the extent prescribed by the Secretary and prohibited farm acreage devoted to barley in excess of average acreage devoted to barley in 1959 and 1960; required as a condition of eligibility for price support on 1962 crop of barley participation of producer in special agricultural conservation program for 1962 for barley to the extent prescribed by the Secretary and prohibited farm acreage devoted to corn and grain sorghums in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960; and excepted producer of malting barley from requirement of participation in special agricultural conservation program for 1962 for barley if such producer had previously produced a malting variety of barley, planted barley only of an acceptable malting variety for harvest in 1962, and did not devote barley farm acreage in excess of 110 per centum of average acreage devoted to barley in 1959 and 1960, and did not devote corn and grain sorghums farm acreage in excess of average acreage devoted to corn and grain sorghums in 1959 and 1960.

1958—Pub. L. 85–835 enacted corn and feed grains price support provisions, beginning with the 1959 crop.

Subsec. (a). Pub. L. 85–835 made corn price support available, beginning with 1959 crop, at 90 per centum of average price received by farmers during three calendar years immediately preceding calendar year in which marketing year for the crop begins, adjusted to offset effect on such price of any abnormal quantities of low-grade corn marketed during any of such year, with minimum price support level at 65 per centum of parity price for any crop of corn.

Subsec. (b). Pub. L. 85–835 made price support available, beginning with 1959 crop, for each crop of oats, rye, barley, and grain sorghums, at such level of parity price as Secretary of Agriculture determined was fair and reasonable in relation to price support level for corn, taking into consideration the feeding value of such commodity in relation to corn, and the other factors set forth in section 1421(b) of this title.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 501 of Pub. L. 91–524, as amended by section 1(18) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

Section 501(a), formerly §501, of Pub. L. 91–524, as renumbered and amended by section 1(18)(A) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of feed grains.

Section 501(b) of Pub. L. 91–524, as added by section 1(18)(B) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1974 through 1977 crops of feed grains.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 501 of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to 1971, 1972, and 1973 crops of feed grains.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(C) of this title.

Pub. L. 101–624, title IV, §402, Nov. 28, 1990, 104 Stat. 3419, provided that: ''Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains.''

Pub. L. 99–198, title IV, §402, Dec. 23, 1985, 99 Stat. 1406, provided that: ''Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1986 through 1990 crops of feed grains.''

Pub. L. 97–98, title IV, §402, Dec. 22, 1981, 95 Stat. 1234, provided that: ''Section 105 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of feed grains.''

Pub. L. 95–113, title V, §503, Sept. 29, 1977, 91 Stat. 933, provided that: ''Section 105 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of feed grains.''

Pub. L. 95–113, title V, §504, Sept. 29, 1977, 91 Stat. 933, provided that: ''Except as otherwise provided in section 501 of this Act [enacting section 1444c(a)–(c) of this title effective only for the 1977 through 1981 crops of feed grains], section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [subsecs. (a) and (b)(1) of this section as amended by Pub. L. 91–524, as amended], to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains.''

1958 REFERENDUM FOR SELECTION OF ALTERNATIVE CORN PROGRAM; OPERATIVE STATUS OF CERTAIN PROVISIONS

Corn producers voted for adoption of price support program as provided in section 1444a(b) of this title (254,262) rather than alternative corn acreage allotments and price support program (102,907), the ballot making operative sections 1329a and 1444b and repeal of section 1441(d)(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444a, 7301 of this title.

§§ 1444c, 1444d. Repealed. Pub. L. 101–624, title IV, § 401(1), Nov. 28, 1990, 104 Stat. 3400

Section 1444c, act Oct. 31, 1949, ch. 792, title I, §105A, as added Sept. 29, 1977, Pub. L. 95–113, title V, §§501, 502, 91 Stat. 928, 930; amended Mar. 18, 1980, Pub. L. 96–213, §§2, 4(c), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96–365, title II, §201(c), 94 Stat. 1320, Dec. 3, 1980, Pub. L. 96–494, title II, §202(a), 94 Stat. 2570, related to loan rates and target prices for 1977 through 1981 feed grain crops.

Section 1444d, act Oct. 31, 1949, ch. 792, title I, §105B, as added Dec. 22, 1981, Pub. L. 97–98, title IV, §401, 95 Stat. 1227; amended Sept. 8, 1982, Pub. L. 97–253, title I, §§123, 124, 96 Stat. 769; Sept. 29, 1983, Pub. L. 98–100, §1(a), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98–258, title II, §§201–203, 98 Stat. 132, 133, related to loan rates and target prices for 1982 through 1985 feed grain crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1444e. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, §105A, formerly §105C, as added Dec. 23, 1985, Pub. L. 99–198, title IV, §401, 99 Stat. 1395; amended Feb. 28, 1986, Pub. L. 99–253, §2, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99–260, §§2(b), 7(b), 100 Stat. 46, 50; May 27, 1987, Pub. L. 100–45, §3, 101 Stat. 319; Dec. 22, 1987, Pub. L. 100–203, title I, §§1101(b), 1102(b), 1103, 1107, 1113(b), 1202, 101 Stat. 1330–1 to 1330–3, 1330–5, 1330–9, 1330–11; Dec. 12, 1989, Pub. L. 101–220, §1, 103 Stat. 1876; Dec. 19, 1989, Pub. L. 101–239, title I, §§1002(b), 1003(b)(2), 103 Stat. 2107, 2108; renumbered §105A, Nov. 28, 1990, Pub. L. 101–624, title IV, §401(2), 104 Stat. 3400, related to loan rates, target prices, disaster payments, acreage limitation and set-aside programs, and land diversion. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 401 of Pub. L. 99–198 provided that this section is effective only for 1986 through 1990 crops of feed grains.

§ 1444e–1. Loans and purchases for 1986 through 1996 crops of corn

(a) Notwithstanding any other provision of law, effective only for each of the 1986 through 1996 crops of feed grains, the Secretary of Agriculture may make available loans and purchases, as provided in this section, to producers on a farm who—

(1) for silage—

(A) cut corn (including mutilated corn) that the producers have produced in such crop year; or

(B) purchase or exchange corn (including mutilated corn) that has been produced in such crop year by another producer (including a producer that is not participating in an acreage limitation or set-aside program for such crop established by the Secretary); and

(2) participate in an acreage limitation or set-aside program for such crop of corn established by the Secretary.

(b) Such loans and purchases may be made on a quantity of corn of the same crop, other than the corn obtained for silage, acquired by the producer equivalent to a quantity determined by multiplying—

(1) the acreage of corn obtained for silage; by

(2) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such silage was obtained.

(Pub. L. 99–198, title IV, §403, Dec. 23, 1985, 99 Stat. 1406; Pub. L. 101–624, title IV, §403, Nov. 28, 1990, 104 Stat. 3419.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624 substituted ''1996'' for ''1990'' in introductory provisions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

§ 1444f. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(C), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, §105B, as added Nov. 28, 1990, Pub. L. 101–624, title IV, §401(3), 104 Stat. 3401; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§1101(b), 1102(b), 1103(b), 104 Stat. 1388–1, 1388–2; Dec. 13, 1991, Pub. L. 102–237, title I, §§102(c), 103(a), 105, 106(c), 108, 113(4), (5), 114(b)(1), 105 Stat. 1822, 1823, 1825, 1828, 1837, 1839; Aug. 10, 1993, Pub. L. 103–66, title I, §1103, 107 Stat. 315; May 6, 1994, Pub. L. 103–247, §1(b), 108 Stat. 618; Oct. 13, 1994, Pub. L. 103–354, title I, §119(a)(4), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of feed grains.

§ 1444f–1. Repealed. Pub. L. 102–237, title I, § 114(b)(2), Dec. 13, 1991, 105 Stat. 1840

Section, Pub. L. 101–624, title IV, §404, Nov. 28, 1990, 104 Stat. 3419, related to price support for high moisture feed grains. See section 1444f(q) of this title.

§ 1445. Tobacco price support levels for 1960 and subsequent years

Notwithstanding any of the provisions of section 1441 of this title: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 1301(a)(1)(C) of this title, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959.

(c) If acreage poundage or poundage farm marketing quotas are in effect under section 1314c or 1314e of this title, (1) price support shall not be made available on tobacco marketed in excess of 103 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop.

(d) Notwithstanding the provisions of section 1423 of this title, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided*, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher then the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

(e) Omitted

(f) Notwithstanding the foregoing provisions of this section—

(1) For the 1984 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported.

(2) For the 1985 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (A) the support level for the 1985 crop, as determined under subsection (b) of this section, is greater or less than (B) the support level for the 1984 crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B), except that the support level for the 1985 crop shall be the level in cents per pound at which the 1982 crop was supported if the support level as determined under subsection (b) of this section for

the 1985 crop would not be more than 5 per centum greater than the support level as determined under subsection (b) of this section for the 1984 crop.

(3) For the 1984 crop of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers and for the 1985 crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary shall establish the support level at such level as will not narrow the normal price support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the support level under this paragraph for any such kind of tobacco the Secretary shall publish in the Federal Register a notice of the level the Secretary proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary shall take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.

(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

(i) the support level for the crop for which the determination is being made, as determined under subsection (b) of this section; is greater or less than

(ii) the support level for the immediately preceding crop, as determined under subsection (b) of this section,

as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (i) is greater than the support level under clause (ii).

(B) Notwithstanding subparagraph (A) and subsection (d) of this section, if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

(i) 66.7 percent of the amount by which—

(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

(B) For purposes of subparagraph (A)—

(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.

(g)(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

(2) Such producer, purchaser, and importer assessments shall be—

(A) collected in the same manner as provided for in section 1445–1(d)(2) or 1445–2(d)(3) of this title, as applicable; and

(B) enforced in the same manner as provided in section 1445–1(h) or 1445–2(j) of this title, as applicable.

(3) The Secretary may enforce this subsection in the courts of the United States.

(Oct. 31, 1949, ch. 792, title I, § 106, as added Pub. L. 86–389, § 1, Feb. 20, 1960, 74 Stat. 6; amended Pub. L. 89–12, § 3, Apr. 16, 1965, 79 Stat. 72; Pub. L. 92–10, § 3, Apr. 14, 1971, 85 Stat. 27; Pub. L. 97–218, title I, § 102, July 20, 1982, 96 Stat. 201; Pub. L. 98–59, § 1, July 25, 1983, 97 Stat. 296; Pub. L. 98–180, title II, § 202, Nov. 29, 1983, 97 Stat. 1144; Pub. L. 99–157, § 6(a), Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–272, title I, §§ 1102, 1105(b), Apr. 7, 1986, 100 Stat. 84, 90; Pub. L. 100–203, title I, § 1104(a), Dec. 22, 1987, 101 Stat. 1330–4; Pub. L. 101–508, title I, § 1105(f), Nov. 5, 1990, 104 Stat. 1388–6; Pub. L. 103–66, title I, § 1106(b)(1), Aug. 10, 1993, 107 Stat. 321; Pub. L. 103–465, title IV, § 422(b), Dec. 8, 1994, 108 Stat. 4964.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g)(1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103–465, § 422(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''Effective only for each of the 1991 through 1995 crops of tobacco for which price support is made available under this Act, producers and purchasers of such tobacco shall each remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .5 percent of the national price support level for each such crop as otherwise provided for in this section.''

Subsec. (g)(2). Pub. L. 103–465, § 422(b)(1)(B), substituted '', purchaser, and importer'' for ''assessments and purchaser''.

Subsec. (h). Pub. L. 103–465, § 422(b)(2), struck out subsec. (h) which, effective only for 1994 through 1998 crops of tobacco, required importer of tobacco produced outside United States to remit to Commodity Credit Corporation a nonrefundable marketing assessment and provided for computation and payment of assessment and for penalties for failure to comply.

1993—Subsec. (h). Pub. L. 103–66 added subsec. (h).

1990—Subsec. (g). Pub. L. 101–508 added subsec. (g).

1987—Subsec. (f)(8). Pub. L. 100–203 temporarily (see Effective and Termination Dates of 1987 Amendment note below) added par. (8) which read as follows:

''(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

''(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 1445–3 of this title.''

1986—Subsec. (c)(1). Pub. L. 99–272, § 1105(b), substituted ''103 per centum'' for ''110 per centum''.

Subsec. (f)(4) to (7). Pub. L. 99–272, § 1102(a), added pars. (4) to (7) and struck out former pars. (4) and (5) which read as follows:

''(4) For the 1985 crop of Burley tobacco and for the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported (or if the level for that crop was adjusted under subsection (g) of this section the level at which such crop would have been supported without regard to any adjustment under subsection (g) of this section), plus or minus, respectively, the amount by which (A) the support level for the crop for which the determination is being made, as determined under subsection (b) of this section, is greater or less than (B) the support level for the immediately preceding crop, as determined under subsection (b) of this section, as that difference may be adjusted by the Secretary under subsection (d) of this section if the support level under clause (A) is greater than the support level under clause (B).

''(5) For the 1985 crop of Burley tobacco, notwithstanding paragraph (4) of this section, the support level shall be $1.488 per pound.''

Subsec. (g). Pub. L. 99–272, § 1102(b), struck out subsec. (g) which related to the designation of certain grades of Flue-cured tobacco that the Secretary determined to be of such quantity or quality as to impair their marketability, and further reduction of their support rates to reflect their market value.

1985—Subsec. (f)(5). Pub. L. 99–157 added par. (5).

1983—Subsec. (e). Pub. L. 98–59 temporarily added subsec. (e). See Effective and Termination Dates of 1983 Amendments note below.

Subsecs. (f), (g). Pub. L. 98–180 added subsecs. (f) and (g).

1982—Subsec. (d). Pub. L. 97–218 added subsec. (d).

1971—Subsec. (c). Pub. L. 92–10 inserted introductory reference to section 1314e of this title relating to farm poundage quotas for burley tobacco, in item (1) struck out ''(120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section)'' after ''110 per centum'' and inserted ''(after adjustments)'' after ''marketing quota'', and in item (2) struck out ''to avoid marketings in excess of the farm marketing quota'' after ''another''.

1965—Subsec. (c). Pub. L. 89–12 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective Sept. 13, 1995, see section 422(e) of Pub. L. 103–465, set out as a note under section 1314i of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1104(a) of Pub. L. 100–203 provided that the amendment made by Pub. L. 100–203 is effective only for 1988 and 1989 crops of tobacco.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1102(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1985 and subsequent crops of tobacco.

Section 1102(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1105(b) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

Section 1112 of subtitle B (§§1101–1112) of title I of Pub. L. 99–272 provided that: ''Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle [enacting sections 1314g, 1314h, and 1445–3 of this title, amending sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 1445–1, and 1445–2 of this title, and enacting provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445–1, and 1445–2 of this title] shall become effective on the date of enactment of this subtitle [Apr. 7, 1986].''

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 202 of Pub. L. 98–180 provided that the amendment made by that section is effective for 1984 and subsequent crops of tobacco.

Section 1 of Pub. L. 98–59 provided that the amendment made by that section is effective for 1983 crop of tobacco.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 102 of Pub. L. 97–218 provided that the amendment made by that section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

Section 422(c) of Pub. L. 103–465 provided that: ''The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 323) [amending section 511r of this title] if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.''

[For effective date of section 422(c) of Pub. L. 103–465, set out above, see Effective Date of 1994 Amendment note above.]

TOBACCO PROGRAM IMPROVEMENTS: CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSES

Section 1101 of subtitle B (§§1101–1112) of title I of Pub. L. 99–272 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

''(2) the present tobacco price support program is in jeopardy and in need of reform;

''(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

''(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

''(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a 'no net cost' basis;

''(6) such increasingly large assessments are creating a severe hardship on producers;

''(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

''(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

''(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

''(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

''(A) will not disrupt the orderly marketing of new tobacco crops;

''(B) will minimize any losses to the Federal Government; and

''(C) will be fair and equitable to all tobacco producers and purchasers;

''(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

''(A) to restore the tobacco price support program to a stable condition; and

''(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

''(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

''(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

''(b) PURPOSES.—The purposes of this subtitle [see Effective Date of 1986 Amendment note above] are—

''(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

''(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

''(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

''(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

''(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.''

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

BURLEY TOBACCO IMPORTS; EFFECT ON PRICE-SUPPORT PROGRAM; REVIEW BY SECRETARY OF AGRICULTURE

Secretary of Agriculture to review the effects of imports of Burley tobacco on the Department's Burley-tobacco price-support program whenever the level of price support for any crop of Burley tobacco is increased by less than 65 per centum of the amount that it would have otherwise been increased if the level of price support would have been determined in accordance with subsec. (b) of this section, see section 625 of this title.

TOBACCO PROGRAM COST

Pub. L. 97–98, title XI, §1109, Dec. 22, 1981, 95 Stat. 1266, required Secretary of Agriculture, by January 1982, to promulgate regulations and policies necessary

to carry out intent of Congress that tobacco price support and production adjustment program result in no net cost to taxpayers other than such administrative expense as was incidental to implementation of any commodity program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 625 of this title.

§ 1445–1. Producer contributions and purchaser assessments for No Net Cost Tobacco Fund

(a) Definitions

As used in the section—

(1) the term ''association'' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

(2) the term ''Corporation'' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

(3) the term ''Fund'' means the capital account to be established within each association, which account shall be known as the ''No Net Cost Tobacco Fund'';

(4) the term ''to market'' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(5) the term ''net gains'' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

(6) the term ''purchaser'' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and

(7) the term ''quota tobacco'' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

(b) Commodity Credit Corporation loans to associations

The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

(c) Establishment of No Net Cost Tobacco Funds

Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members or paid by or on behalf of purchasers and importers as provided in subsection (d) of this section.

(d) Requirements

The Secretary shall—

(1) require—

(A) that—

(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary;

(ii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and

(iii) each importer of Flue-cured or Burley tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount that is equal to the product obtained by multiplying—

(I) the number of pounds of tobacco that is imported by the importer; by

(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); and

(B) that, upon making a contribution under subparagraph (A)—

(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of title 26, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The Secretary shall approve the amount of the contributions and assessments determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its

loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(2) require that any producer contribution or purchaser or importer assessment due under paragraph (1) shall be collected—

(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser;

(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser; and

(D) if the tobacco involved is imported by an importer, from the importer.[1]

(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation[2] under paragraph (5): *Provided*, That, notwithstanding any other provision of law, use by the association of moneys in the Fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized, and use of such moneys for any other purposes that will be mutually beneficial to producers and purchasers who contribute or pay to the Fund and to the Corporation, shall, if approved by the Secretary, be considered an appropriate use of the Fund;

(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes;

(6) effective for the 1982 through 1985 crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution; and

(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary.

(e) Failure or refusal of association to comply

If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

(f) Termination of loan agreement; dissolution or merger of association; disposition of amounts in Fund

If, under subsection (e) of this section, a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with an-

[1] So in original. The period probably should be a semicolon.

[2] So in original. Probably should be capitalized.

other association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) of this section shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

(g) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(h) Failure to collect contribution or assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) of this section and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, §106A, as added Pub. L. 97–218, title I, §101, July 20, 1982, 96 Stat. 197; amended Pub. L. 98–180, title II, §203, Nov. 29, 1983, 97 Stat. 1145; Pub. L. 99–272, title I, §1108(a), (d), Apr. 7, 1986, 100 Stat. 92, 95; Pub. L. 99–500, §101(a) [title VI, §637], Oct. 18, 1986, 100 Stat. 1783, 1783–34, and Pub. L. 99–591, §101(a) [title VI, §637], Oct. 30, 1986, 100 Stat. 3341, 3341–34; Pub. L. 103–66, title I, §1106(b)(2), Aug. 10, 1993, 107 Stat. 321.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (e), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–66, §1106(b)(2)(A), inserted ''and importers'' after ''purchasers''.

Subsec. (d)(1)(A)(iii). Pub. L. 103–66, §1106(b)(2)(B), added cl. (iii).

Subsec. (d)(2). Pub. L. 103–66, §1106(b)(2)(C), inserted ''or importer'' after ''or purchaser'' in introductory provisions and added subpar. (D).

Subsec. (h)(1)(B) to (D). Pub. L. 103–66, §1106(b)(2)(D), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(6), (7). Pub. L. 99–272, §1108(a)(1), added par. (6) and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 99–272, §1108(a)(2), inserted ''or paid by or on behalf of purchasers'' in second sentence.

Subsec. (d)(1). Pub. L. 99–272, §1108(a)(3)(C), (D), in provisions following subpar. (B), inserted provisions relating to the determination of the amount of producer contributions and purchaser assessments so as to share equally in maintaining the Fund of the association, with only the 1985 and subsequent crops of Flue-cured and Burley quota tobacco being taken into account, and inserted ''and assessments'' after ''contributions''.

Subsec. (d)(1)(A)(i). Pub. L. 99–500 and Pub. L. 99–591 struck out exception for Burley quota tobacco for 1983 and subsequent crop years.

Subsec. (d)(1)(A)(ii), (iii). Pub. L. 99–500 and Pub. L. 99–591 redesignated cl. (iii) as (ii) and struck out former cl. (ii) setting forth conditions of eligibility for any marketing year of any three-year period for which marketing quotas are in effect.

Pub. L. 99–272, §1108(a)(3)(A), (B), added cl. (iii).

Subsec. (d)(2). Pub. L. 99–272, §1108(a)(3)(E), added par. (2) and struck out former par. (2) which read as follows: ''effective for the 1983 crop only, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital

certificate having a par value or face amount, respectively, equal to the contribution;''.

Subsec. (d)(3). Pub. L. 99–272, § 1108(a)(3)(F), substituted ''producers and purchasers who contribute or pay'' for ''producers who contribute''.

Subsec. (d)(6). Pub. L. 99–272, § 1108(a)(3)(H), inserted ''effective for the 1982 through 1985 crops of quota tobacco,''.

Subsec. (d)(7). Pub. L. 99–272, § 1108(a)(3)(G), (I), (L), added par. (7).

Subsec. (h). Pub. L. 99–272, § 1108(a)(4), added subsec. (h).

1983—Subsec. (d)(2). Pub. L. 98–180, § 203(1), substituted ''1983 crop only'' for ''1983 and subsequent crops''.

Subsec. (d)(3). Pub. L. 98–180, § 203(2), inserted proviso authorizing use by the association of moneys in the Fund for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(a) of Pub. L. 99–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 101 of Pub. L. 97–218 provided that this section is effective for 1982 and subsequent crops of tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103–465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE FOR NO NET COST TOBACCO PROGRAM ACT OF 1982

Section 2 of Pub. L. 97–218 provided that: ''Congress finds that—

''(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981 [see Short Title of 1981 Amendment note set out under section 1281 of this title], that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

''(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

''(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445, 1445–2 of this title.

§ 1445–2. Marketing assessments to No Net Cost Tobacco Account

(a) Definitions

As used in this section—

(1) the term ''association'' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco;

(2) the term ''Account'' means an account established by and in the Corporation for an association, which account shall be known as the ''No Net Cost Tobacco Account'';

(3) the term ''to market'' means to dispose of tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(4) the term ''net gains'' means the amount by which total proceeds obtained from the sale by an association of a crop of a kind of tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

(5) the term ''tobacco'' means any kind of tobacco, as defined in section 1301(b)(15) of this title, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term ''area'', when used in connection with an association, means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary;

(7) the term ''Corporation'' shall have the meaning given to it in section 1445–1(a)(2) of this title; and

(8) the term ''purchaser'' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.

(b) Continued availability of price support; establishment of No Net Cost Tobacco Account

Notwithstanding section 1445–1 of this title, the Secretary shall, upon the request of any association, and may, if the Secretary determines, after consultation with such association, that the accumulation of the No Net Cost Tobacco Fund for such association under section 1445–1 of this title is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such association—

(1) continue to make price support available to producers through such association in accordance with loan agreements entered into between the Corporation and such association; and

(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for such association in lieu of the No Net Cost Tobacco Fund established within such association under section 1445–1 of this title.

(c) Establishment of No Net Cost Tobacco Account within Commodity Credit Corporation; disposition of amounts in No Net Cost Tobacco Fund

(1) Any Account established for an association under subsection (b)(2) of this section shall be established within the Corporation and shall be comprised of amounts paid by producers, purchasers, and importers under subsection (d) of this section.

(2) Upon the establishment of an Account for an association, any amount in the No Net Cost Tobacco Fund established within such association under section 1445–1 of this title shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

(d) Payment of assessments to Corporation for deposit into Account; determination and adjustment of amounts; collection

(1)(A) If an Account is established for an association under subsection (b)(2) of this section, then the Secretary shall require (in lieu of any requirement under section 1445–1(d)(1) of this title) that each producer of the kind of tobacco involved whose farm is within such association's area shall, as a condition of eligibility for price support, agree, with respect to all of such kind of tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such association's Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

(B) The Secretary shall also require (in lieu of any requirement under section 1445–1(d)(1) of this title) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).

(C) The Secretary shall also require (in lieu of any requirement under section 1445–1(d)(1) of this title) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kinds of tobacco imported by the importer.

(2)(A) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such association, the amount of the marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of the kind of tobacco involved marketed by a producer from a farm within such association's area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment shall be equal to an amount which, when collected, will result in an accumulation of an Account for such association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such association, based on reasonable estimates of the amounts which the Corporation will lend to such association under such agreements and the proceeds which will be realized from the sales of the kind of tobacco involved which are pledged to the Corporation by such association as security for loans. Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco.

(B) With respect to the 1985 crop of Burley tobacco, for the purposes of paragraph (1), the marketing assessment shall not be more than 4 cents per pound.

(C) The amount of the assessment to be paid by importers shall be an amount that is equal to the product obtained by multiplying—

(i) the number of pounds of tobacco that is imported by the importer; by

(ii) the sum of the amount of per pound producer and purchaser assessments that are payable by domestic producers and purchasers of the respective kind of tobacco under this paragraph.

(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser.

(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) of this section shall be collected from the importer.

(e) Deposits into Account; insurance against net losses

Amounts deposited in an Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h) of this section.

(f) Suspension of payment and collection of marketing assessments

The Secretary shall provide, in any loan agreement between the Corporation and an association for which an Account has been established under subsection (b)(2) of this section, that if the Secretary determines that the amount in such Account or the net gains referred to in subsection (h) of this section exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

(g) Disposition of amounts in Account in the event of termination of loan agreement or account or dissolution or merger of association

With respect to any association for which an Account is established under subsection (b)(2) of this section, if a loan agreement between the Corporation and such association is terminated, if such association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved, or if such Account terminates by operation of law, then amounts in such Account and the net gains referred to in subsection (h) of this section shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

(h) Net gains

The provisions of section 1445–1(d)(5) of this title relating to net gains shall apply to any loan agreement between an association and the Corporation entered into upon or after the establishment of an Account for such association under subsection (b)(2) of this section.

(i) Regulations

The Secretary shall issue regulations necessary to carry out the provisions of this section.

(j) Failure to collect assessment; marketing penalty; civil action for review of penalty

(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) of this section and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) of this section at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(C) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

(D) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.

(Oct. 31, 1949, ch. 792, title I, §106B, as added Pub. L. 97–218, title III, §301, July 20, 1982, 96 Stat. 207; amended Pub. L. 98–180, title II, §204, Nov. 29, 1983, 97 Stat. 1145; Pub. L. 99–157, §6(b), Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–272, title I, §1108(b), Apr. 7, 1986, 100 Stat. 94; Pub. L. 103–66, title I, §1106(b)(3), Aug. 10, 1993, 107 Stat. 322.)

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, §1106(b)(3)(A), substituted ‘‘, purchasers, and importers’’ for ‘‘and purchasers’’.

Subsec. (d). Pub. L. 103–66, §1106(b)(3)(B)–(D), in par. (1) designated first and second sentences as subpars. (A) and (B), respectively, and added subpar. (C), in par. (2) added subpar. (C), and in par. (3) added subpar. (D).

Subsec. (j)(1)(B) to (D). Pub. L. 103–66, §1106(b)(3)(E), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

1986—Subsec. (a)(8). Pub. L. 99–272, §1108(b)(1), added par. (8).

Subsec. (c)(1). Pub. L. 99–272, §1108(b)(2), inserted ‘‘and purchasers’’ after ‘‘producers’’.

Subsec. (d)(1). Pub. L. 99–272, §1108(b)(3)(A), inserted provision relating to an assessment, in lieu of any requirement under section 1445–1 of this title, to be deposited in the Account of such association, with respect to purchases of all such kind of tobacco marketed by a producer from a farm, including purchases of such to-

bacco from the 1986 and subsequent crops from the association.

Subsec. (d)(2)(A). Pub. L. 99–272, § 1108(b)(3)(B), (C), substituted ''area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment'' for ''area. Such amount'', and inserted provision that amount of assessment for 1986 and subsequent crops of Burley tobacco be determined without regard to any net losses sustained under the loan agreements of the Corporation with such association with respect to the 1983 crop.

Subsec. (d)(3). Pub. L. 99–272, § 1108(b)(3)(D), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such tobacco is marketed by sale.

''(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.''

Subsec. (j). Pub. L. 99–272, § 1108(b)(4), added subsec. (j).

1985—Subsec. (d)(2). Pub. L. 99–157 designated existing provisions as subpar. (A) and added subpar. (B).

1983—Subsec. (a)(1). Pub. L. 98–180, § 204(1), struck out '', except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco'' after ''kind of tobacco''.

Subsec. (a)(5). Pub. L. 98–180, § 204(2), struck out ''except Flue-cured tobacco'' after ''kind of tobacco''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1108(b) of Pub. L. 98–272 provided that the amendment made by that section is effective for 1986 and subsequent crops of tobacco.

EFFECTIVE DATE

Section 301 of Pub. L. 97–218 provided that this section is effective for the 1982 and subsequent crops of all kinds of tobacco, except Flue-cured tobacco.

WAIVER AUTHORITY OF PRESIDENT

For authority of President to waive application of this section to imported tobacco if President determines that waiver is necessary or appropriate pursuant to an international agreement entered into by United States, see section 422(c) of Pub. L. 103–465, set out as a note under section 1445 of this title.

RULEMAKING PROCEDURES

Secretary of Agriculture to implement amendments by Pub. L. 99–272 without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 1314h, 1445 of this title.

§ 1445–3. Purchase of inventory stock

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

(a) Sale of inventory stock

(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after April 7, 1986, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) Sale prices

(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of April 7, 1986.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carry-

ing charges that have accrued to such tobacco from April 7, 1986, to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) of this section has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) Terms of agreements

(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after April 7, 1986, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A) of this section, such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from April 7, 1986;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from April 7, 1986; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B) of this section.

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports (''Manufacturer of Tobacco Products—Monthly Reports'') submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) ''Net cigarettes manufactured for use'' shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 (''Reduction to tobacco''); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form (''Manufactured'').

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on April 7, 1986; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (April 7, 1986, and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on April 7, 1986;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on April 7, 1986; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.[1]

(d) Approval of agreements

(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle;[1] and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) Disclosure

The limitations on disclosure set forth in subsections (c) and (d) of section 1314g of this title shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 1314g(c)(4) of this title.

(Pub. L. 99–272, title I, § 1109, Apr. 7, 1986, 100 Stat. 95.)

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (c)(3) and (d)(2)(A)(ii), is subtitle B (§§ 1101–1112) of title I of Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 83, which enacted sections 1314g, 1314h, and 1445–3 of this title, amended sections 511d, 1301, 1312, 1314c, 1314e, 1372, 1445, 1445–1, and 1445–2 of this title, and enacted provisions set out as notes under sections 1301, 1314c, 1314e, 1314g, 1314h, 1372, 1445, 1445–1, and 1445–2 of this title. For complete classification of this subtitle to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

RULEMAKING PROCEDURES

For implementation of this section by the Secretary of Agriculture without regard to provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of Title 5, Government Organization and Employees, or in any other directive of the Secretary, see section 1108(c) of Pub. L. 99–272, set out as a note under section 1301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445 of this title.

[1] See References in Text note below.

§ 1445a. Wheat price support levels; "cooperator" defined

Notwithstanding the provisions of section 1441 of this title, beginning with the 1964 crop—

(1) Price support for wheat accompanied by domestic certificates shall be at such level not less than 65 per centum or more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(2) Price support for wheat accompanied by export certificates shall be at such level not more than 90 per centum of the parity price therefor as the Secretary determines appropriate, taking into consideration the factors specified in section 1421(b) of this title.

(3) Price support for wheat not accompanied by marketing certificates shall be at such level, not in excess of 90 per centum of the parity price therefor, as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains.

(4) Price support shall be made available only to cooperators: and, if a commercial wheat-producing area is established for such crop, price support shall be made available only in the commercial wheat-producing area.

(5) Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, the level of price support for any crop of wheat for which a national marketing quota is not proclaimed or for which marketing quotas have been disapproved by producers shall be as provided in section 1441 of this title.

(6) A ''cooperator'' with respect to any crop of wheat produced on a farm shall be a producer who (i) does not knowingly exceed (A) the farm acreage allotment for wheat on the farm or (B) except as the Secretary may by regulation prescribe, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat, and (ii) complies with the land-use requirements of section 1339 of this title, to the extent prescribed by the Secretary. Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year, if marketing quotas are not in effect for the crop of wheat, a ''cooperator'' with respect to any crop of wheat produced on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, but the producer shall not be eligible to receive price support

on such marketing excess. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm, if such farm is exempt from the farm marketing quota for such crop under section 1335 of this title. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to the provisions of section 1379c(b) of this title, but the producer shall not be eligible to receive price support on the wheat so stored.

(Oct. 31, 1949, ch. 792, title I, §107, as added Pub. L. 87–703, title III, §325(1), Sept. 27, 1962, 76 Stat. 630; amended Pub. L. 88–297, title II, §203, Apr. 11, 1964, 78 Stat. 182; Pub. L. 89–321, title V, §506, Nov. 3, 1965, 79 Stat. 1203; Pub. L. 90–559, §1(1), Oct. 11, 1968, 82 Stat. 996; Pub. L. 91–524, title IV, §401, Nov. 30, 1970, 84 Stat. 1362; Pub. L. 93–86, §1(8), Aug. 10, 1973, 87 Stat. 224; Pub. L. 93–125, §1(b), Oct. 18, 1973, 87 Stat. 450; Pub. L. 93–228, §1(a), Dec. 29, 1973, 87 Stat. 944.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–86, §1(8)(A), temporarily amended subsec. (a) generally, substituting ''$1.37 per bushel'' for ''$1.25 per bushel''. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (b). Pub. L. 93–86, §1(8)(B), temporarily substituted ''payments'' for ''certificates''. See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

Subsec. (c). Pub. L. 93–228 substituted ''(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)'' for ''(or other nonconserving crop planted instead of wheat)'', in two places.

Pub. L. 93–125 substituted ''prevented from planting any portion'' for ''prevented from planting, any portion''.

Pub. L. 93–86, §1(8)(C), (D), temporarily added subsec. (c). See Effective and Termination Dates of 1970 and 1973 Amendment notes below.

1970—Pub. L. 91–524 temporarily revised section into subsecs. (a) and (b) which provided for loans on wheat at such levels not in excess of the parity price as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains, provided that, if a set-aside program is in effect, program benefits would be made available only to producers who comply with such set-aside program, and placed a floor on the loan of $1.25 per bushel. See Effective and Termination Dates of 1970 Amendment note below.

1968—Subsec. (2). Pub. L. 90–559 provided for a one year extension through 1970.

1965—Pub. L. 89–321 temporarily raised the wheat support level to 100 per centum of parity or as near to 100 per centum as the Secretary determines to be practicable, placed a floor of 100 per centum of parity for wheat accompanied by marketing certificates and $1.25 for wheat not so accompanied under the 1966 crop, guaranteed to cooperators for 1967 through 1969 crops a total average rate of return per bushel of not less than the total average rate of return per bushel made available to cooperators through loans and domestic marketing certificates for the 1966 crop where the diversion factor is not less than 10 per centum, and eliminated reference to classification as cooperators of producers who do not knowingly exceed the farm acreage allotment for wheat in cases where marketing quotas are not in effect. See Effective and Termination Dates of 1965 Amendment note below.

1964—Subsec. (1). Pub. L. 88–297 substituted ''domestic certificates'' for ''marketing certificates''.

Subsec. (2). Pub. L. 88–297 added subsec. (2). Former subsec. (2) redesignated (3).

Subsec. (3). Pub. L. 88–297 redesignated former subsec. (2) as (3), struck out introductory clause ''if marketing quotas are in effect for wheat'', and inserted ''not in excess of 90 per centum of the parity price therefor.'' Former subsec. (3) redesignated (4).

Subsec. (4). Pub. L. 88–297 redesignated former subsec. (3) as (4). Former subsec. (4) redesignated (5).

Subsec. (5). Pub. L. 88–297 redesignated former subsec. (4) as (5) and inserted introductory phrase ''Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,''. Former subsec. (5) redesignated (6).

Subsec. (6). Pub. L. 88–297 redesignated former subsec. (5) as (6), struck out introductory clause ''if marketing quotas are in effect for the crop of wheat'', struck out from cl. (i)(A) ''or any other commodity'' after ''wheat'', substituted in cl. (i)(B) ''the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat'' for ''the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer'', inserted ''Effective with respect to crops planted for harvest in the calendar year 1966 and any subsequent year,'' before ''if marketing quotas'', and inserted provision for deeming a producer as not having exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to section 1379c(b) of this title, but making the producer ineligible to receive price support on the wheat so stored.

EFFECTIVE AND TERMINATION DATES OF 1973 AMENDMENT

Section 1(8) of Pub. L. 93–86 provided that the amendment made by that section is effective beginning with 1974 crop.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 401 of Pub. L. 91–524, as amended by section 1(8) of Pub. L. 93–86, provided that the amendment made by that section is effective only with respect to 1971 through 1977 crops of wheat.

EFFECTIVE AND TERMINATION DATES OF 1965 AMENDMENT

Section 506 of Pub. L. 89–321, as amended by Pub. L. 90–559, §1(1), Oct. 11, 1968, 82 Stat. 996, provided that the amendment made by that section is effective only with respect to 1966 through 1970 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(D) of this title.

Pub. L. 101–624, title III, §305, Nov. 28, 1990, 104 Stat. 3400, provided that: ''Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.''

Pub. L. 99–198, title III, §312, Dec. 23, 1985, 99 Stat. 1395, provided that: ''Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1986 through 1990 crops of wheat.''

Pub. L. 97–98, title III, §305, Dec. 22, 1981, 95 Stat. 1227, provided that: ''Section 107 of the Agricultural Act of 1949 [this section] shall not be applicable to the 1982 through 1985 crops of wheat.''

Pub. L. 95–113, title IV, §409, Sept. 29, 1977, 91 Stat. 928, provided that: ''Section 107 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of wheat.''

Pub. L. 95–113, title IV, §410, Sept. 29, 1977, 91 Stat. 928, provided that: ''Except as otherwise provided in section 401 of this Act [enacting section 1445b(a)–(c) of this title effective only for the 1977 through 1981 crops of wheat], section 107 of the Agricultural Act of 1949, as

added by the Agricultural Act of 1970, as amended [this section as amended by Pub. L. 91–524, as amended], to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379c, 7301 of this title.

§§ 1445b, 1445b–1. Repealed. Pub. L. 101–624, title III, § 301(1), Nov. 28, 1990, 104 Stat. 3382

Section 1445b, act Oct. 31, 1949, ch. 792, title I, § 107A, as added Sept. 29, 1977, Pub. L. 95–113, title IV, §§ 401, 402, 91 Stat. 921, 924; amended Mar. 18, 1980, Pub. L. 96–213, §§ 3, 4(d), 94 Stat. 119, 120; Sept. 26, 1980, Pub. L. 96–365, title II, § 201(d), 94 Stat. 1320; Dec. 3, 1980, Pub. L. 96–494, title II, § 202(b), 94 Stat. 2570, related to loan rates and target prices for the 1977 through 1981 crops of wheat.

Section 1445b–1, act Oct. 31, 1949, ch. 792, title I, § 107B, as added Dec. 22, 1981, Pub. L. 97–98, title III, § 301, 95 Stat. 1221; Sept. 8, 1982, Pub. L. 97–253, title I, §§ 121, 122, 96 Stat. 768; amended Sept. 29, 1983, Pub. L. 98–100, § 1(b), 97 Stat. 718; Apr. 10, 1984, Pub. L. 98–258, title I, §§ 101–103, 98 Stat. 130, 131, related to loan rates and target prices for 1982 through 1985 wheat crops.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1445b–2. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107C, as added Sept. 8, 1982, Pub. L. 97–253, title I, § 120, 96 Stat. 766, and amended, which related to advance deficiency and diversion payments, was renumbered section 114 of act Oct. 31, 1949, by Pub. L. 101–624, title XI, § 1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445j of this title.

§ 1445b–3. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107A, formerly § 107D, as added Dec. 23, 1985, Pub. L. 99–198, title III, § 308, 99 Stat. 1383; amended Feb. 28, 1986, Pub. L. 99–253, § 1, 100 Stat. 36; Mar. 20, 1986, Pub. L. 99–260, §§ 2(a), 7(a), 100 Stat. 45, 50; Oct. 18, 1986, Pub. L. 99–500, § 152, 100 Stat. 1783–352, and Oct. 30, 1986, Pub. L. 99–591, § 152, 100 Stat. 3341–355; Nov. 10, 1986, Pub. L. 99–641, title II, § 202, 100 Stat. 3563; May 27, 1987, Pub. L. 100–45, § 2, 101 Stat. 318; Dec. 22, 1987, Pub. L. 100–203, title I, §§ 1101(a), 1102(a), 1111, 1113(a), 1201, 101 Stat. 1330–1, 1330–2, 1330–7, 1330–8, 1330–10; renumbered § 107A, Nov. 28, 1990, Pub. L. 101–624, title III, § 301(2), 104 Stat. 3382, related to loan rates and target prices. See Effective and Termination Dates note below.

A prior section 107A of act Oct. 31, 1949, ch. 792, title I, as added Sept. 29, 1977, Pub. L. 95–113, title IV, §§ 401, 402, 91 Stat. 921, 924, was classified to section 1445b of this title, prior to repeal by section 301(1) of Pub. L. 101–624.

EFFECTIVE AND TERMINATION DATES

Section 308 of Pub. L. 99–198 provided that this section is effective only for the 1986 through 1990 crops of wheat.

§ 1445b–3a. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(D), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 107B, as added Nov. 28, 1990, Pub. L. 101–624, title III, § 301(3), 104 Stat. 3382; amended Nov. 5, 1990, Pub. L. 101–508, title I, §§ 1101(a), 1102(a), 104 Stat. 1388–1; Dec. 13, 1991, Pub. L. 102–237, title I, §§ 102(d), 103(b), 106(d), 113(6), 105 Stat. 1822, 1823, 1826, 1837; Aug. 10, 1993, Pub. L. 103–66, title I, § 1102, 107 Stat. 314; Oct. 13, 1994, Pub. L. 103–354, title I, § 119(a)(5), 108 Stat. 3207, related to loans, payments, and acreage reduction programs for 1991 through 1995 crops of wheat.

§ 1445b–4. Transferred

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 107E, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1005, 99 Stat. 1448, and amended, which related to payments in commodities, was renumbered section 115 of act Oct. 31, 1949, by Pub. L. 101–624, title XI, § 1161(a)(1), Nov. 28, 1990, 104 Stat. 3520, and transferred to section 1445k of this title.

§ 1445b–5. Repealed. Pub. L. 101–624, title XI, § 1161(a)(2), Nov. 28, 1990, 104 Stat. 3520

Section, act Oct. 31, 1949, ch. 792, title I, § 107F, as added Dec. 23, 1985, Pub. L. 99–198, title X, § 1006, 99 Stat. 1448, related to export certificate programs for 1986 through 1990 crops of wheat and feed grains.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§§ 1445c, 1445c–1. Repealed. Pub. L. 101–624, title VIII, § 806(1), Nov. 28, 1990, 104 Stat. 3475

Section 1445c, act Oct. 31, 1949, ch. 792, title I, § 108, as added Sept. 29, 1977, Pub. L. 95–113, title VIII, § 807, 91 Stat. 947, related to price support program for 1978 through 1981 crops of peanuts.

Section 1445c–1, act Oct. 31, 1949, ch. 792, title I, § 108A, as added Dec. 22, 1981, Pub. L. 97–98, title VII, § 705, 95 Stat. 1254, related to price support program for 1982 through 1985 crops of peanuts.

EFFECTIVE DATE OF REPEAL

Repeal effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

§ 1445c–2. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title I, § 108A, formerly § 108B, as added Dec. 23, 1985, Pub. L. 99–198, title VII, § 705, 99 Stat. 1439; amended Oct. 18, 1986, Pub. L. 99–500, § 101(a) [title VI, § 639], 100 Stat. 1783, 1783–35, and Oct. 30, 1986, Pub. L. 99–591, § 101(a) [title VI, § 639], 100 Stat. 3341, 3341–35; Nov. 10, 1986, Pub. L. 99–641, title II, § 203, 100 Stat. 3563; Dec. 22, 1987, Pub. L. 100–203, title I, § 1104(b), 101 Stat. 1330–4; renumbered § 108A, Nov. 28, 1990, Pub. L. 101–624, title VIII, § 806(2), 104 Stat. 3475; Dec. 13, 1991, Pub. L. 102–237, title I, § 117(b)(1)(A), 105 Stat. 1841, related to price support, loans, purchases, and other operations, and national average quota support rate. See Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section 705 of Pub. L. 99–198 provided that this section is effective only for the 1986 through 1990 crops of peanuts.

§ 1445c–3. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(E), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 108B, as added Nov. 28, 1990, Pub. L. 101–624, title VIII, § 806(3),

104 Stat. 3475; amended Nov. 5, 1990, Pub. L. 101–508, title I, §1105(b), 104 Stat. 1388–3; Dec. 13, 1991, Pub. L. 102–237, title I, §117(b)(1)(B), 105 Stat. 1841; Aug. 10, 1993, Pub. L. 103–66, title I, §1109(a), 107 Stat. 325, related to price support program for 1991 through 1997 crops of peanuts.

§ 1445d. Special wheat acreage grazing and hay program for 1978 through 1990 crop years

Notwithstanding any other provision of law—

(a) Authorization for program; acreage designation; payment

The Secretary is authorized to administer a special wheat acreage grazing and hay program (hereinafter in this section referred to as the ''special program'') in each of the crop years 1978 through 1990. If a special program is implemented, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

(b) Specific farm acreage

Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

(c) Determination of payment

The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

(d) Other acreage set-aside programs

Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside, reduced acreage, or land diversion program otherwise provided for by law.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the special program through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, §109, as added Pub. L. 95–113, title X, §1004, Sept. 29, 1977, 91 Stat. 950; amended Pub. L. 97–98, title XI, §1110, Dec. 22, 1981, 95 Stat. 1267; Pub. L. 99–198, title X, §1015, Dec. 23, 1985, 99 Stat. 1457.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsec. (a). Pub. L. 97–98, §1110(1), (2), substituted ''1985'' for ''1981'' and ''If a special program is implemented'' for ''Under the special program''.

Subsec. (d). Pub. L. 97–98, §1110(3), inserted '', reduced acreage, or land diversion''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445e. Farmer owned reserve program

(a) In general

The Secretary shall formulate and administer a farmer owned reserve program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities.

(b) Terms of program

(1) Price support loans

In carrying out this program, the Secretary shall provide extended price support loans for wheat and feed grains. An extended loan shall only be made to a producer after the expiration of a 9-month price support loan (hereafter in this section referred to as the ''original loan'') made in accordance with this subchapter.

(2) Level of loans

Loans made under this section shall not be less than the then current level of support under the wheat and feed grain programs established under this subchapter.

(3) Other terms and conditions

The Secretary shall provide for—

(A) repayment of the extended price support loan 27 months from the date on which the original loan expired unless, at the discretion of the Secretary, the loan has been extended for one 6-month period;

(B) a rate of interest as provided under subsection (c) of this section; and

(C) payments to producers for storage as provided in subsection (d) of this section.

(4) Regional differences

The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

(c) Interest charges

(1) Levying of interest

The Secretary may charge interest on loans under this section whenever the price of wheat

or feed grains is equal to or exceeds 105 percent of the then current established price for the commodity.

(2) 90-day period

If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of 105 percent of the established price for the commodities.

(3) Rate of interest

The rate of interest charged participants in this program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

(d) Storage payments

(1) In general

The Secretary shall provide storage payments to producers for storage of wheat or feed grains under the program established in this section in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program.

(2) Timing

The Secretary shall make storage payments available to participants in this program at the end of each quarter.

(3) Duration

The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

(e) Emergencies

Notwithstanding any other provision of law, the Secretary may require producers to repay loans made under this section, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

(f) Quantity of commodities in program

The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under this program as follows:

(1) The maximum quantities of wheat may not be established at less than 300 million bushels, nor more than 450 million bushels.

(2) The maximum quantities of feed grains may not be established at less than 600 million bushels, nor more than 900 million bushels.

(g) Announcement of program

(1) Time of announcement

The Secretary shall announce the terms and conditions of the producer storage program for a crop of wheat and feed grains by—

(A) in the case of wheat, December 15 of the year in which the crop of wheat was harvested; and

(B) in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

(2) Discretionary entry

The Secretary may make extended loans available to producers of wheat or feed grains if—

(A) the Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to the dates specified in paragraph (1) is less than 120 percent of the current loan rate for wheat or corn, respectively; or

(B) as of the appropriate date specified in paragraph (1), the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be—

(i) in the case of wheat, more than 37.5 percent; and

(ii) in the case of corn, more than 22.5 percent.

(3) Mandatory entry

The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (2) are met for wheat or feed grains, respectively.

(4) Content of announcement

In the announcement, the Secretary shall specify the maximum quantity of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

(h) Discretionary exit

A producer may repay a loan extended under this section at any time.

(i) Reconcentration of grain

The Secretary may, with the concurrence of the owner of grain stored under this program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

(j) Management of grain

Whenever grain is stored under this section, the Secretary may buy and sell at an equivalent

price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(k) Use of Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(*l*) Use of commodity certificates

Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

(m) Additional authority

The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

(n) Regulations

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this section not later than 60 days after November 28, 1990.

(*o*) Review

In announcing the terms and conditions of the producer storage program under this section, the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain.

(p) Crops

Notwithstanding any other provision of law, this section shall become effective December 1, 1990.

(Oct. 31, 1949, ch. 792, title I, §110, as added Pub. L. 95–113, title XI, §1101, Sept. 29, 1977, 91 Stat. 951; amended Pub. L. 96–234, §§1, 2, Apr. 11, 1980, 94 Stat. 333; Pub. L. 96–494, title II, §§203(a), 204, 205, Dec. 3, 1980, 94 Stat. 2571, 2572; Pub. L. 97–24, §2, July 23, 1981, 95 Stat. 143; Pub. L. 97–98, title X, §1001, Dec. 22, 1981, 95 Stat. 1257; Pub. L. 99–198, title X, §1012(a), Dec. 23, 1985, 99 Stat. 1455; Pub. L. 100–203, title I, §1108, Dec. 22, 1987, 101 Stat. 1330–6; Pub. L. 100–387, title III, §303(b), Aug. 11, 1988, 102 Stat. 947; Pub. L. 101–624, title XI, §1123, title XX, §2010, Nov. 28, 1990, 104 Stat. 3503, 3932; Pub. L. 102–237, title I, §113(7), Dec. 13, 1991, 105 Stat. 1837.)

AMENDMENTS

1991—Subsec. (k). Pub. L. 102–237, §113(7)(C)(i), redesignated subsec. (k), relating to review, as (*o*).

Subsec. (n). Pub. L. 102–237, §113(7)(A), substituted ''November 28, 1990'' for ''the date of enactment of this section''.

Subsec. (*o*). Pub. L. 102–237, §113(7)(C), redesignated subsec. (k), relating to review, as (*o*), inserted heading, and substituted ''this section'' for ''subsection (e)(1)''.

Pub. L. 102–237, §113(7)(B), redesignated subsec. (*o*) as (p).

Subsec. (p). Pub. L. 102–237, §113(7)(B), redesignated subsec. (*o*) as (p).

1990—Pub. L. 101–624, §1123, amended section generally, substituting provisions relating to the farmer owned reserve program for provisions relating to the establishment and maintenance of the producer reserve program for wheat and feed grains.

Subsec. (k). Pub. L. 101–624, §2010, added subsec. (k) relating to review.

1988—Subsec. (j). Pub. L. 100–387 temporarily added subsec. (j). See Effective and Termination Dates of 1988 Amendment note.

1987—Subsec. (b)(A)(i). Pub. L. 100–203, §1108(1), substituted ''300 million bushels'' for ''17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary''.

Subsec. (b)(A)(ii). Pub. L. 100–203, §1108(2), substituted ''450 million bushels'' for ''7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary''.

1985—Subsec. (a). Pub. L. 99–198 in first sentence substituted ''abudnant supply, extend'' for ''abundant supply and extend'' and inserted '', and provide for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities'' after ''for their orderly marketing''.

Subsec. (b). Pub. L. 99–198 in third sentence substituted '', with extensions as warranted by market conditions'' for ''nor more than five years'' in cl. (1), substituted ''when the total amount of wheat or feed grains in storage under programs under this section is below the upper limits for such storage as set forth in clauses (A) and (B) of subsection (e)(2) of this section and the market price for wheat or feed grains is below'' for ''before the market price for wheat or feed grains has reached'' in cl. (4), substituted ''the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for such commodity, as determined under this subchapter'' for ''a specified level, as determined by the Secretary'' in cl. (5), and at end inserted provisions requiring Secretary to encourage participation in the programs authorized under this section by offering producers increased storage payments and loan levels, interest waivers, or such other incentives as the Secretary determines necessary to maintain total amount of storage at specified levels, whenever the total quantity of wheat and feed grains stored under this section is less than 17 and 7 percent, respectively, of the estimated total usage thereof during the then current marketing year, and the marketing price does not exceed 140 percent of the nonrecourse loan rate for the commodity, and inserted provision requiring Secretary to ensure than producers are afforded a fair and equitable opportunity to participate in each producer storage program.

Subsec. (e). Pub. L. 99–198 designated existing provisions as par. (1), inserted '', subject to the upper limits on the total quantity of wheat and feed grains that may be stored under storage programs established

under this section set out in paragraph (2)'' in second sentence, struck out third sentence which authorized the Secretary to place an upper limit of not less than seven hundred million bushels for wheat and one billion bushels for feed grains placed in the reserve, and added par. (2).

1981—Subsec. (a). Pub. L. 97–98 struck out discretionary authority of Secretary with regard to permitting producers of feed grains to store wheat and feed grains.

Subsec. (b). Pub. L. 97–98 substituted ''Secretary shall provide'' for ''Secretary may provide'', struck out ''at the same level of support as provided by this Act'' after ''loans for wheat and feed grains'', and substituted provisions that loans be made at such levels of support as Secretary determines appropriate, except that the loan rate not be less than the then current level of support under the wheat and feed grains programs established under this subchapter for provisions relating to the level of price support loans to be made available to producers for the 1980 and 1981 crops of wheat and feed grains necessary to mitigate the adverse effects of the restrictions on the export of agricultural products to the Union of Soviet Socialist Republics and providing that the level of price support loans for the 1980 and 1981 crops of wheat and feed grains not be used in determining the levels at which producers repay loans and redeem commodities prior to the maturity dates of the loans or levels at which Secretary may call for the repayment of loans prior to their maturity dates and ''program may provide'' for ''program shall provide''.

Subsec. (b)(2). Pub. L. 97–98 substituted ''for storage in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program'' for ''of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program''.

Subsec. (b)(3). Pub. L. 97–98 substituted ''as determined under subsection (c) of this section'' for ''determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest''.

Pub. L. 97–24 struck out '', and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains'' after ''a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest''.

Subsec. (b)(4). Pub. L. 97–98 substituted ''if such loans'' for ''in the event such loans'' and ''determined under clause (5) of this sentence'' for ''specified in clause (5) of this subsection''.

Subsec. (b)(6). Pub. L. 97–98 struck out cl. (6) which authorized the program to contain conditions prescribed by Secretary under which Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever Secretary determines that the market price for the commodity is not less than such appropriate level, as determined by Secretary.

Subsec. (c). Pub. L. 97–98 substituted provision prescribing rate of interest charged to participants in the program authorized by this section for provision authorizing payments to producers of the 1979 crops of corn and wheat who did not comply with the 1979 program requirements.

Subsec. (d). Pub. L. 97–98 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e). Pub. L. 97–98 redesignated former subsec. (d) as (e) and substituted provision authorizing Secretary to place an upper limit on the amount of wheat and feed grains placed in the reserve, with such upper limit not less than seven hundred million bushels for wheat and one billion bushels for feed grains, for provision authorizing the maximum amount of wheat stored as not less than three hundred million bushels nor more than seven hundred million bushels, with authority for Secretary to adjust this amount as necessary to meet commitments by the United States pursuant to international agreements. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97–98 redesignated former subsec. (e) as (f) and substituted in provision preceding par. (1) ''the program authorized'' for ''the extended loan program authorized'', ''110 per centum'' for ''105 per centum'', ''Secretary may encourage repayment'' for ''Secretary may call for repayment'', and ''clause (5) of the third sentence of subsection (b) of this section. The foregoing restriction'' for ''clause (6) of the second sentence of subsection (b) of this section: *Provided*, That such restriction'' and in provision following par. (3) ''clause (5) of the third sentence'' for ''clause (5) of the second sentence''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 97–98 redesignated former subsec. (f) as (g) and substituted ''by the producer's or warehouseman's commitment'' for ''by his commitment''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 97–98 redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 97–98 redesignated former subsec. (h) as (i) and substituted ''To the maximum extent'' for ''In addition, to the maximum extent''.

1980—Subsec. (b). Pub. L. 96–494, § 203(a)(1), inserted two provisos in provisions permitting Secretary to provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act, in carrying out the producer storage program, under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time to promote orderly marketing when wheat or feed grains are in abundant supply.

Subsec. (b)(3). Pub. L. 96–494, § 203(a)(2), inserted provisions requiring Secretary to waive interest on loans made on the 1980 and 1981 crops of wheat and feed grains.

Subsec. (b)(5). Pub. L. 96–494, § 204, substituted ''for the commodity has attained a specified level'' for ''of wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains''.

Subsec. (b)(6). Pub. L. 96–494, § 204, substituted ''such appropriate level, as determined by the Secretary'' for ''175 per centum of the then current level of the price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act''.

Subsecs. (c), (d). Pub. L. 96–234, § 1, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e). Pub. L. 96–494, § 205(1), (2), substituted ''except as otherwise provided under section 1736f–1 of this title and section 4001 of this title, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section'' for ''whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 percentum of the then current level of price support for such commodity''.

Pub. L. 96–234, § 1(1), (2), redesignated former subsec. (d) as (e) and added cl. (3). Former subsec. (e) redesignated (f).

Subsec. (e)(3). Pub. L. 96–494, § 205(3), in provisions preceding subpar. (A), substituted ''sales of corn'' for ''sales of corn when sold at not less than the release level under the extended loan program'', and inserted ''when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined

under clause (5) of the second sentence of subsection (b) of this section, or, whenever the fuel conversion price (as defined in section 4005 of this title) for corn exceeds such price, at not less than the fuel conversion price''.

Subsecs. (f) to (h). Pub. L. 96–234, § 1(1), redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1123 of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 303(b) of Pub. L. 100–387 provided that the amendment made by that section is effective only for 1988 marketing year for wheat and feed grains.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1012(a) of Pub. L. 99–198 provided that, except as provided in section 1012(b) of Pub. L. 99–198 [set out below], the amendments by section 1012(a) are effective beginning with 1986 crops.

Section 1012(b) of Pub. L. 99–198 provided that: ''The amendment made by subsection (a)(2)(B) of this section [amending this section] shall take effect with respect to any loan made under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) the date for repayment of which occurs after the date of enactment of this Act [Dec. 23, 1985].''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1001 of Pub. L. 97–98 provided that the amendment made by that section is effective beginning with 1982 crops.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 203(b) of Pub. L. 96–494 provided that: ''Subsection (a) of this section [amending this section] shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as [see Short Title note set out under section 1421 of this title] amended prior to the enactment of this Act [see Short Title note set out under section 4001 of this title], may elect after September 30, 1980, to receive loans as authorized under subsection (a) of this section.''

Amendment by sections 204 and 205 of Pub. L. 96–494 effective Dec. 3, 1980, see section 213 of Pub. L. 96–494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(E) of this title.

COMPARABILITY OF STORAGE PAYMENTS

Section 1124 of Pub. L. 101–624, as amended by Pub. L. 102–237, title I, § 114(a)(1), Dec. 13, 1991, 105 Stat. 1838, provided that: ''In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehousemen in accordance with the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehousemen shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehousemen as a result of the adjustment of storage rates under this section.''

REPAYMENT OF LOANS WITHOUT PENALTY

Section 303(a) of Pub. L. 100–387 provided that: ''Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such commodity during the remainder of such marketing year without the payment of a penalty, regardless of the then current market price.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308a, 1427, 1445k, 4001, 4002, 7301 of this title.

§ 1445f. International Emergency Food Reserve

The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.

(Oct. 31, 1949, ch. 792, title I, § 111, as added Pub. L. 95–113, title XI, § 1102, Sept. 29, 1977, 91 Stat. 953.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445g. Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date

Notwithstanding any other provision of this Act—

(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this subchapter to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set-aside or diversion of acreage under this subchapter, the Secretary may formulate and ad-

minister a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(5) The provisions of this subsection shall become effective October 1, 1978.

(Oct. 31, 1949, ch. 792, title I, § 112, as added Pub. L. 95–279, title II, § 201, May 15, 1978, 92 Stat. 241.)

REFERENCES IN TEXT

This Act, referred to in provision preceding subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(F) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

§ 1445h. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(F), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, § 113, as added Dec. 3, 1980, Pub. L. 96–494, title II, § 207, 94 Stat. 2572; amended Dec. 22, 1981, Pub. L. 97–98, title XI, § 1105, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99–198, title X, § 1011, 99 Stat. 1454; Nov. 28, 1990, Pub. L. 101–624, title XI, § 1125, 104 Stat. 3506, authorized Secretary to announce and provide for supplemental set-aside and acreage limitation program.

§ 1445i. Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice

Notwithstanding any other provision of law:

(1) The Secretary of Agriculture may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster, as determined by the President, if the Secretary finds there is a need for such grazing as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local laws and regulations governing noxious weed control.

(2) The Secretary shall provide cost-sharing incentives to farm operators for the establishment of vegetative cover, whenever a multiyear set-aside contract is entered into under this section.

(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Pub. L. 99–198, title X, § 1010, Dec. 23, 1985, 99 Stat. 1454.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1445j. Deficiency and land diversion payments

(a) Deficiency payments

(1) In general

If the Secretary establishes an acreage limitation program for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for the commodity for the crop, the Secretary shall make advance deficiency payments available to producers for each of the crops.

(2) Terms and conditions

Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

(A) Form

Such payments may be made available in the form of—

(i) cash;

(ii) commodities owned by the Commodity Credit Corporation and certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of the payments may be made in commodities or the certificates in the case of any producer; or

(iii) any combination of clauses (i) and (ii).

(B) Commodities and certificates

If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

(i) such commodities; or

(ii) such certificates.

(C) Maturity

Such a certificate shall be redeemable for a period not to exceed 3 years from the date the certificate is issued.

(D) Storage

The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

(E) Timing

The payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

(F) Amounts

The payments shall be made available in such amounts as the Secretary determines appropriate to encourage adequate participation in the program, except that the amount may not exceed an amount determined by multiplying—

(i) the estimated payment acreage for the crop; by

(ii) the farm program payment yield for the crop; by

(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,

as determined by the Secretary.

(G) Repayment

If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment for the crop under this subsection, the producer shall repay an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

(H) Repayment requirement

If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received the advance payments shall repay the payments.

(I) Deadline

Any repayment required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which the payments were made.

(J) Noncompliance

If a producer fails to comply with requirements established under the acreage limitation program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation.

(3) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(5) Additional authority

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(b), (c) Repealed. Pub. L. 104–127, title I, § 171(b)(2)(G), Apr. 4, 1996, 110 Stat. 938

(Oct. 31, 1949, ch. 792, title I, § 114, formerly § 107C, as added Pub. L. 97–253, title I, § 120, Sept. 8, 1982, 96 Stat. 766; amended Pub. L. 99–198, title X, § 1002, Dec. 23, 1985, 99 Stat. 1446; Pub. L. 100–203, title I, § 1110, Dec. 22, 1987, 101 Stat. 1330–6; Pub. L. 101–239, title I, § 1003(b)(1), Dec. 19, 1989, 103 Stat. 2108; Pub. L. 101–508, title I, § 1102(d), Nov. 5, 1990, 104 Stat. 1388–2; renumbered § 114 and amended Pub. L. 101–624, title XI, §§ 1121(a), (c), 1161(a)(1), Nov. 28, 1990, 104 Stat. 3500, 3503, 3520; Pub. L. 102–237, title I, § 109, Dec. 13, 1991, 105 Stat. 1828; Pub. L. 103–66, title I, § 1101(b)(1), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104–127, title I, § 171(b)(2)(G), Apr. 4, 1996, 110 Stat. 938.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2)(G), (H), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was classified to section 1445b–2 of this title prior to its renumbering by Pub. L. 101–624.

AMENDMENTS

1996—Subsecs. (b), (c). Pub. L. 104–127 struck out subsecs. (b) and (c) which, in subsec. (b), related to land diversion payments to assist in adjusting total national acreage of any of 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice to desirable levels, and, in subsec. (c), related to timing of deficiency payments made available to producers for any of 1991 through 1997 crops of wheat and feed grains.

1993—Subsecs. (a)(1), (c). Pub. L. 103–66 substituted ''1997'' for ''1995''.

1991—Subsec. (c). Pub. L. 102–237, § 109(1), substituted ''section'' for ''sections'' in introductory provisions.

Subsec. (c)(2). Pub. L. 102–237, § 109(3), added par. (2) and struck out former par. (2) which read as follows:

''Seventy-five percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.''

Subsec. (c)(3), (4). Pub. L. 102–237, §109(2), (3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–624, §1121(a), amended section generally, substituting provisions relating to deficiency and land diversion payments for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice for provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

Pub. L. 101–624, §1121(c), amended Pub. L. 99–198. See 1985 Amendment note below.

Subsec. (c). Pub. L. 101–508 substituted ''wheat and feed grains which payments are calculated as provided in sections 1445b–3a(c)(1)(B)(ii), 1445b–3a(p), or 1444f(c)(1)(B)(ii) of this title'' for ''wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market price (or, in the case of rice, the national average market price) for the marketing year for the crop''.

1989—Subsec. (a)(2)(G). Pub. L. 101–239 temporarily inserted ''(taking into consideration any reduction in the payment made under section 1433d of this title)'' and substituted ''amount finally'' for ''amount finallly''. See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (a)(1). Pub. L. 100–203, §1110(1), temporarily added par. (1) and struck out former par. (1) which read as follows: ''If the Secretary establishes an acreage limitation or set-aside program for any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

''(A) shall make advance deficiency payments available to producres [sic] who agree to participate in such program for the 1986 crop; and

''(B) may make such payments available to such producers for each of the 1987 through 1990 crops.''

See Effective and Termination Dates of 1987 Amendment note below.

Subsec. (a)(2)(F)(iii). Pub. L. 100–203, §1110(2), temporarily added cl. (iii) and struck out former cl. (iii) which read as follows: ''50 percent of the projected payment rate,''. See Effective and Termination Dates of 1987 Amendment note below.

1985—Pub. L. 99–198, as amended by Pub. L. 101–624, §1121(c), amended section generally, substituting provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton and rice for provisions relating to advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton and rice.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1003(b)(1) of Pub. L. 101–239 provided that the amendment made by that section is effective only for 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1110 of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

That portion of section 1002 of Pub. L. 99–198 which provided that the amendment made by that section was effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, was struck out by section 1121(c) of Pub. L. 101–624.

EFFECTIVE AND TERMINATION DATES

Section 120 of Pub. L. 97–253 provided that this section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

CALCULATION OF REFUNDS OF ADVANCE ESTABLISHED PRICE PAYMENTS BY PRODUCERS OF 1988 OR 1989 CROPS OF FEED BARLEY

Section 405 of Pub. L. 101–624 provided that:

''(a) MANDATORY CALCULATION OF REFUND.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall calculate, for informational purposes only (except as provided in the discretionary authority under subsection (b)), the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 Federal barley price support program would be required to make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) (as it existed immediately before the date of enactment of this Act) based on a formula which excludes malting barley from the market price calculations of barley used to determine the amount of refund of the advance deficiency payment required of the producer.

''(2) DISCLOSURE.—

''(A) TO THE PUBLIC.—The Secretary shall publish in the Federal Register—

''(i) the formula used to perform the calculations described in paragraph (1);

''(ii) the aggregate results that the use of the calculation would have pursuant to subsection (b), in terms of—

''(I) the total reduction in the amount of refunds;

''(II) the number of producers affected; and

''(III) any other information the Secretary determines appropriate;

''(iii) a declaration of the Secretary's decision whether to use the calculation to recalculate barley producer's refunds pursuant to subsection (b); and

''(iv) a statement of the Secretary's reasons for the decision described in clause (iii).

''(B) TO PRODUCERS.—The Secretary shall make available to each producer of 1988 or 1989 crop barley, on request, a statement detailing the effect of the calculation of refunds described in paragraph (1) on the producer's 1988 or 1989 refund.

''(b) DISCRETIONARY USE OF CALCULATION.—

''(1) IN GENERAL.—The Secretary may use the calculation described in subsection (a) to determine whether or not to reduce the total refund owed by a producer of 1988 or 1989 crop barley under section 107C of the Agricultural Act of 1949 [7 U.S.C. 1445b–2] (as it existed immediately before the date of enactment of this Act [Nov. 28, 1990]).

''(2) PROCEDURE FOR USE OF CALCULATION.—If the Secretary decides to use the calculation described in subsection (a) as provided under paragraph (1), in the case of a producer of 1988 or 1989 crop barley who paid the refund of the advance deficiency payment for the crop calculated prior to the date of enactment of this Act (or any amount of refund in excess of the amount of the refund determined in accordance with paragraph (1)), the Secretary—

''(i) shall, before May 31, 1991, reimburse the producer the amount of refund paid by the producer in excess of the refund determined in accordance with this section;

''(ii) shall have the option to make the reimbursement in a lump sum or in installments;

''(iii) shall, not later than 90 days after the date of enactment of this Act, notify producers who are eligible to receive the reimbursement of their 1988 or 1989 advance deficiency payment refund under this section—

''(I) of the timing of the payment of the reimbursement (either in lump sum or in installments);

''(II) that the amount of the reimbursement shall not bear interest if paid before February 15, 1991; and

''(III) that the amount of the reimbursement paid after February 15, 1991, shall bear interest at a rate of at least 7 percent per annum; and

''(iv) may elect to pay the reimbursement in a lump sum with generic certificates redeemable for commodities owned by the Commodity Credit Corporation if the reimbursement is paid in full not later than 60 days after the date of enactment of this Act.''

REPAYMENT REQUIREMENTS

Section 1121(b) of Pub. L. 101–624 provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers who are suffering financial hardship, as determined by the Secretary, on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

''(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

''(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

''(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.) [§ 107 of Pub. L. 101–82, 7 U.S.C. 1421 note].

''(2) APPLICATION.—This subparagraph shall apply if—

''(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b–2(a));

''(B) the producers are required to provide a refund of at least $1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

''(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

''(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.''

ADVANCE DEFICIENCY PAYMENTS

Pub. L. 99–509, title I, § 1021, Oct. 21, 1986, 100 Stat. 1877, required Secretary of Agriculture to make advance deficiency payments available for 1987 crops of wheat, feed grains, upland cotton, and rice, and provided that percentage of projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7213, 7214, 7301 of this title.

§ 1445k. Payments in commodities

(a) In-kind payments by Secretary

In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice), the Secretary may—

(1) acquire and use like commodities that have been pledged to the Commodity Credit Corporation as security for price support loans, including loans made to producers under section 1445e of this title; and

(2) use other like commodities owned by the Commodity Credit Corporation.

(b) Methods of payments

The Secretary may make in-kind payments—

(1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for a commodity in accordance with regulations prescribed by the Secretary; or

(4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

(c) Commodity certificates

The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. This subsection shall not apply with respect to commodity certificates issued in connection with the export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978.

(Oct. 31, 1949, ch. 792, title I, § 115, formerly § 107E, as added Pub. L. 99–198, title X, § 1005, Dec. 23, 1985, 99 Stat. 1448; renumbered § 115 and amended Pub. L. 101–624, title XI, §§ 1122(a), 1161(a)(1), Nov. 28, 1990, 104 Stat. 3503, 3520.)

REFERENCES IN TEXT

The Agricultural Trade Act of 1978, referred to in subsec. (c), is Pub. L. 95–501, Oct. 21, 1978, 92 Stat. 1685, as amended generally by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668, which is classified generally to chapter 87 (§ 5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

CODIFICATION

Section was classified to section 1445b–4 of this title prior to its renumbering by Pub. L. 101–624.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–624, § 1122(a), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(G) of this title.

REDEMPTION OF COMMODITY CERTIFICATES

Section 1122(b) of Pub. L. 101–624 provided that:

''(1) IN GENERAL.—A subsequent holder of a commodity certificate issued by the Commodity Credit Corporation shall be allowed to exchange the expired commodity certificate under the same rules that apply to an original holder of the certificate.

''(2) APPLICATION AND REDEMPTION LIMITATIONS.—This subsection shall only apply during the 180-day period beginning on the date of enactment of this Act [Nov. 28, 1990]. No person may redeem more than $1,000 worth of certificates under this subsection.

''(3) REDEMPTION LIMITATIONS.—In no event shall a person receive a payment from the Commodity Credit Corporation for a certificate that is redeemed under this subsection in an amount greater than the price paid for the certificate by the person. No expired certificate shall be exchanged under this section if the owner purchased the certificate after January 1, 1990.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7301 of this title.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities

(a) The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine), sunflower seeds, honey, milk, sugar beets, and sugarcane in accordance with this subchapter.

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) Except as provided in section 1446e[1] of this title, the price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Such price support shall be provided through the purchase of milk and the products of milk.

(d) Notwithstanding any other provision of law—

(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk shall be supported as provided in this subsection.

(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to $11.60 per hundredweight for milk containing 3.67 percent milkfat.

(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to $11.35 per hundredweight for milk containing 3.67 percent milkfat.

(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.

(D)(i) Subject to clause (ii), if for each of the calendar years 1988 and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

(ii) The rate of price support for milk may not be reduced under clause (i) unless—

(I) the milk production termination program under paragraph (3) achieved a reduction in the production of milk by participants in the program of at least 12,000,000,000 pounds during the 18 months of the program; or

(II) the Secretary submits to Congress a certification, including a statement of facts in support of the certification of the Secretary, that reasonable contract offers were extended by the Secretary under such program but such offers were not accepted by a sufficient number of producers making reasonable bids for contracts to achieve such a reduction in production.

(E) If for any of the calendar years 1988, 1989, and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will not exceed 2,500,000,000 pounds (milk equivalent), the Secretary shall increase by 50 cents the rate of price support for milk in effect on such date.

(F) The price of milk shall be supported through the purchase of milk and the products of milk.

[1] See References in Text note below.

(2)(A) Beginning after March 31, 1986, the Secretary shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(B) Except as provided in subparagraphs (E) and (F), the amount of the reduction under subparagraph (A) in the price received by producers shall be—

(i) the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents per hundredweight of milk marketed; and

(ii) during the first 9 months of 1987, 25 cents per hundredweight of milk marketed.

(C) The funds represented by the reduction in price, required under this paragraph to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from such producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to the Corporation by such producer.

(D) The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(E)(i) In lieu of any reductions in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, required under the order issued by the President on February 1, 1986, under section 252[1] of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) [2 U.S.C. 902], the Secretary shall increase the amount of the reduction required under subparagraph (A) during the period beginning April 1, 1986, and ending September 30, 1986, as the sole means of meeting any reductions required under the order in payments made by the Secretary for the purchase of milk and the products of milk under this subsection.

(ii) The aggregate amount of any increased reduction under clause (i) shall be equal, to the extent practicable, to the aggregate amount of the reduction that would otherwise be required under the order referred to in clause (i) in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, except that the amount of any increased reduction under clause (i) may not exceed 12 cents per hundredweight of milk marketed.

(F)(i) The Secretary—

(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252[1] of such Act [2 U.S.C. 902] for a fiscal year; and

(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.

(F)[2] During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

(3)(A)(i) The Secretary shall establish and carry out under this paragraph a milk production termination program for the 18-month period beginning April 1, 1986.

(ii) Under the milk production termination program required under this subparagraph, the Secretary, at the request of any producer of milk in the United States who submits to the Secretary a bid, may offer to enter into a contract with the producer for the purpose of terminating the production of milk by the producer in return for a payment to be made by the Secretary.

(iii) For the 18-month period for which the milk production termination program under this subparagraph is in effect, the Secretary shall—

(I) as soon as practicable, determine the total number of dairy cattle the Secretary estimates will be marketed for slaughter as a result of such program; and

(II) by regulation specify marketing procedures to ensure that greater numbers of dairy cattle slaughtered as a result of the production termination program provided for in this section shall be slaughtered in each of the periods of April through August 1986, and March through August 1987 than for the other months of the program. Such procedures also shall ensure that such sales of dairy cattle for slaughter shall occur on a basis estimated by the Secretary that maintains historical seasonal marketing patterns. During such 18-month period, the Secretary shall limit the total number of dairy

[2] So in original. Probably should be ''(G)''.

cattle marketed for slaughter under the program in excess of the historical dairy herd culling rate to no more than 7 percent of the national dairy herd per calendar year.

(iv) Each contract made under this subparagraph shall provide that—

(I) the producer shall sell for slaughter or for export all the dairy cattle in which such producer owns an interest;

(II) during a period of 3, 4, or 5 years, as specified by the Secretary in each producer contract and beginning on the day the producer completes compliance with subclause (I), the producer neither shall acquire any interest in dairy cattle or in the production of milk nor acquire, or make available to any person, any milk production capacity of a facility that becomes available because of compliance by a producer with such subclause unless the Secretary shall by regulation otherwise permit; and

(III) if the producer fails to comply with such contract, the producer shall repay to the Secretary the entire payment received under the contract, including simple interest payable at a rate prescribed by the Secretary, which shall, to the extent practicable, reflect the cost to the Corporation of its borrowings from the Treasury of the United States, commencing on the date payment is first received under such contract.

(v) Any producer of milk who seeks to enter into a contract for payments under this paragraph shall provide the Secretary with (I) evidence of such producer's marketing history; (II) the size and composition of the producer's dairy herd during the period the marketing history is determined; and (III) the size and composition of the producer's dairy herd at the time the bid is submitted, as the Secretary deems necessary and appropriate.

(vi) Except as provided in subparagraph (D), no producer who commenced marketing of milk in the 15-month period ending March 31, 1986, shall be eligible to enter into a contract for payments under this subparagraph.

(vii) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned by the estate of such producer.

(B) The Secretary may establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989, and 1990 as necessary to avoid the creation of burdensome excess supplies of milk or milk products.

(C) In setting the terms and conditions of any milk diversion or milk production termination under this paragraph and of each contract made under this subparagraph, the Secretary shall take into account any adverse effect of such program or contracts on beef, pork, and poultry producers in the United States and shall take all feasible steps to minimize such effect.

(D) A producer who commenced marketing milk after December 31, 1984, shall be eligible to enter into a contract for payments under this subparagraph if such producer's entire milk production facility and entire dairy herd were transferred to the producer by reason of a gift from, or the death of, a member or members of the family of the producer. The term ''member of the family of the producer'' means (i) an ancestor of the producer, (ii) the spouse of the producer, (iii) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer, or (iv) the spouse of any such lineal descendant.

(E) Application for payment shall be made by producers through the county committees established under section 590h(b) of title 16.

(F) to (J) Repealed. Pub. L. 99–198, title I, § 101(b)(1), (2), Dec. 23, 1985, 99 Stat. 1363, 1365.

(K) Redesignated (E).

(L) Repealed. Pub. L. 99–198, title I, § 101(b)(2), Dec. 23, 1985, 99 Stat. 1365.

(M) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned, in accordance with subparagraph (L), by the estate of such producer.

(N) If the provisions for reductions in the price received for milk marketed for commercial use as provided for in paragraph (2) are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments under this paragraph for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.

(4) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the

court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(5)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. The Secretary is not required, however, to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

(B)(i) Each person as to whom there is a failure to make a reduction in the price of milk received by such person as required by paragraph (2) or who fails to remit to the Corporation the funds required to be collected and remitted by paragraph (2)(B) shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned. Each person who knowingly violates any other provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation. Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.

(ii) Each person who buys, from a producer with respect to whom there is in effect at the time of such sale a contract entered into under paragraph (3), one or more dairy cattle sold for slaughter or export, who knows that such cattle are sold for slaughter or export, and who fails to cause the slaughter or export of such cattle within a reasonable time after receiving such cattle shall be liable for a civil penalty of not more than $5,000 with respect to each of such cattle.

(iii) Each person who retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this paragraph shall be liable, in addition to any amount due under paragraph (3)(A)(iv), to a marketing penalty on the quantity of milk produced during the period in which such ownership is prohibited under the contract. Such penalty shall be computed at the rate or rates of the support price for milk in effect during the period in which the milk production occurred.

(iv) Each person who makes a false statement in a bid submitted under paragraph (3) as to (I) the marketings of milk for commercial use by the producer, or (II) the size or composition of the dairy herd that produced such marketings, or (III) the size or composition of the dairy herd at the time the bid is submitted shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of $5,000 for each head of cattle to which such statement applied.

(v) Each person who makes a false statement as to the number of dairy cattle that was sold for slaughter or export under a contract under paragraph (3)(A) shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of not more than $5,000 for each head of cattle to which such statement applied.

(C) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than thirty days after such penalty is imposed. The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).

(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, other remedies that may be available.

(F) In carrying out this subsection, the Secretary may, as the Secretary deems appropriate—

(i) use the services of State and county committees established under section 590h(b) of title 16; and

(ii) enter into agreements to use, on a reimbursable or nonreimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

(6) The term ''United States'' as used in paragraphs (2) and (3) of this subsection means the forty-eight contiguous States in the continental United States.

(7) The Secretary shall carry out this subsection through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title II, §201, 63 Stat. 1052; Aug. 28, 1954, ch. 1041, title II, §§203(a), 204(b), title VII, §709, 68 Stat. 899, 912; Apr. 2, 1956, ch. 159, §1, 70 Stat. 86; July 20, 1956, ch. 661, 70 Stat. 596; Pub. L. 85–835, title V, §503, Aug. 28, 1958, 72 Stat. 996; Pub. L. 86–799, Sept. 16, 1960, 74 Stat. 1054; Pub. L. 91–524, title II, §202, Nov. 30, 1970, 84 Stat. 1361; Pub. L. 93–86, §1(3), Aug. 10, 1973, 87 Stat. 222; Pub. L. 93–225, Dec. 29, 1973, 87 Stat. 942; Pub. L. 95–113, title II, §203, title IX, §§901, 902, Sept. 29, 1977, 91 Stat. 920, 949; Pub. L. 96–127, §1, Nov. 28, 1979, 93 Stat. 981; Pub. L. 96–494, title II, §202(c), Dec. 3, 1980, 94 Stat. 2570; Pub. L. 97–6, Mar. 31, 1981, 95 Stat. 8; Pub. L. 97–35, title I, §150, Aug. 13, 1981, 95 Stat. 369; Pub. L. 97–98, title I, §103, title VIII, §801, title IX, §901, Dec. 22, 1981, 95 Stat. 1219, 1256, 1257; Pub. L. 97–253, title I, §101, Sept. 8, 1982, 96 Stat. 763; Pub. L.

98–180, title I, §102(a), Nov. 29, 1983, 97 Stat. 1128; Pub. L. 99–114, §1, Oct. 1, 1985, 99 Stat. 488; Pub. L. 99–157, §1, Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–182, §1, Dec. 13, 1985, 99 Stat. 1173; Pub. L. 99–198, title I, §101(a)–(e), title VIII, §801, title IX, §901, title X, §§1008, 1041, Dec. 23, 1985, 99 Stat. 1362–1365, 1441, 1443, 1452, 1464; Pub. L. 99–260, §10, Mar. 20, 1986, 100 Stat. 52; Pub. L. 100–45, §15(a), May 27, 1987, 101 Stat. 325; Pub. L. 100–202, §101(k) [title VI, §638], Dec. 22, 1987, 101 Stat. 1329–322, 1329–357; Pub. L. 100–203, title I, §1104(c)–(e), Dec. 22, 1987, 101 Stat. 1330–4; Pub. L. 100–387, title I, §102(a), Aug. 11, 1988, 102 Stat. 932; Pub. L. 101–239, title I, §1007, Dec. 19, 1989, 103 Stat. 2110; Pub. L. 101–624, title VII, §701(1), title IX, §901(1), title XI, §1161(b), title XXII, §2236(a), Nov. 28, 1990, 104 Stat. 3457, 3478, 3520, 3961; Pub. L. 102–237, title I, §113(8), Dec. 13, 1991, 105 Stat. 1838.)

REFERENCES IN TEXT

Section 1446e of this title, referred to in subsec. (c), was repealed by Pub. L. 104–127, title I, §141(g), Apr. 4, 1996, 110 Stat. 915.

The Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, referred to in subsec. (d)(2)(D), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The order issued by the President on February 1, 1986, referred to in subsec. (d)(2)(E)(i), is set out as a note under section 902 of Title 2, The Congress.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(E)(i), (F)(i)(I), is classified to section 902 of Title 2, The Congress, and was amended generally by Pub. L. 101–508, title XIII, §13101(a), Nov. 5, 1990, 104 Stat. 1388–581. Provisions relating to Presidential orders are contained in section 904(f)(5) of Title 2.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (d)(2)(F)(i)(I), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 901 of Title 2 and Tables.

AMENDMENTS

1991—Subsecs. (b), (c). Pub. L. 102–237 redesignated subsec. (b), relating to price supports for milk, as (c).

1990—Subsec. (a). Pub. L. 101–624, §§701(1), 901(1), 1161(b)(1), designated opening paragraph as subsec. (a) and substituted ''oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine),'' for ''tung nuts,'', ''honey, milk, sugar beets, and sugarcane'' for ''honey, and milk'', and ''in accordance with this subchapter.'' for ''as follows:''.

Subsecs. (b), (c). Pub. L. 101–624, §1161(b)(2), (3), redesignated subsec. (c) as (b) and substituted reference to section 1446e of this title for reference to subsection (d) of this section.

Subsec. (k)(2). Pub. L. 101–624, §2236(a), temporarily designated existing text as subpar. (A) and added subpar. (B). See Effective and Termination Dates of 1990 Amendment note below.

1989—Subsec. (d)(1)(C)(ii), (iii). Pub. L. 101–239, §1007(1), temporarily inserted in cl. (ii) ''clause (iii) and'' after ''Except as provided in'' and added cl. (iii). See Effective and Termination Dates of 1989 Amendment note below.

Subsec. (d)(1)(D)(i). Pub. L. 101–239, §1007(2), temporarily substituted ''calendar year 1990'' for ''each of the calendar years 1988 and 1990'' and ''may reduce by not more than'' for ''shall reduce by''. See Effective and Termination Dates of 1989 Amendment note below.

1988—Subsec. (d)(1)(D). Pub. L. 100–387 substituted ''if for each of the calendar years 1988 and 1990'' for ''if for any of the calendar years 1988, 1989, and 1990''.

1987—Pub. L. 100–45, §15(a)(1), temporarily inserted ''sunflower seeds,'' after ''soybeans,'' in first sentence. See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (b)(1)(D). Pub. L. 100–203, §1104(c), temporarily added subpar. (D). See Effective and Termination Dates of 1987 Amendments note below.

Subsec. (d)(2)(A). Pub. L. 100–202, §101(k) [title VI, §638(1)], substituted ''Beginning after March 31, 1986,'' for ''During the period beginning on April 1, 1986, and ending on September 30, 1987,''.

Subsec. (d)(2)(B). Pub. L. 100–202, §101(k) [title VI, §638(2)], substituted ''subparagraphs (E) and (F)'' for ''subparagraph (E)''.

Subsec. (d)(2)(C). Pub. L. 100–203, §1104(d)(1), substituted ''this paragraph'' for ''subparagraph (A)''.

Subsec. (d)(2)(F). Pub. L. 100–203, §1104(d)(2), added subpar. (F) directing Secretary to provide for reduction of 2½ cents per hundredweight in price received by producers during calendar year 1988.

Pub. L. 100–202, §101(k) [title VI, §638(3)], added subpar. (F) directing Secretary to provide for reduction under subpar. (A) as the sole means of achieving any reduction in budget outlays in milk price-support system under Presidential budget-cutting orders.

Subsec. (j)(7). Pub. L. 100–203, §1104(e), added par. (7).

Subsec. (*l*). Pub. L. 100–45, §15(a)(2), temporarily added subsec. (*l*). See Effective and Termination Dates of 1987 Amendments note below.

1986—Subsec. (d)(2)(B). Pub. L. 99–260, §10(1), substituted ''Except as provided in subparagraph (E), the'' for ''The''.

Subsec. (d)(2)(E). Pub. L. 99–260, §10(2), added subpar. (E).

1985—Pub. L. 99–198, §§801(1), 901(1), in provisions preceding subsec. (a), temporarily reenacted without change the amendments made in 1977 by sections 901(1) and 902(1) of Pub. L. 95–113 and in 1981 by sections 801(1) and 901(1) of Pub. L. 97–98, which inserted references to soybeans, sugar beets, and sugar cane. See Effective and Termination Dates of Amendments notes for 1985, 1981, and 1977, respectively, set out below.

Subsec. (b). Pub. L. 99–198, §1041, amended subsec. (b) generally, temporarily substituting provisions for loans, purchases and other price supports for the 1986 through 1990 crops of honey, and repayment of loans under this subsection, as well as penalties for pledging adulterated or imported honey as collateral to secure such loans, for provisions for support of the price of honey through loans, purchases or other operations, without any crop year restrictions, at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof, and struck out provisions for price support for tung nuts through the 1976 crop year. See Effective and Termination Dates of 1985 Amendments note below.

Subsec. (c). Pub. L. 99–198, §101(d), substituted ''Except as provided in subsection (d) of this section, the price'' for ''The price''.

Subsec. (d)(1). Pub. L. 99–198, §101(a), in amending par. (1) generally, substituted provisions adjusting milk price support levels for calendar years 1986 through 1990 by gradually reducing the price support from $11.60 per hundredweight to $11.10 per hundredweight, providing for adjustments of 50 cents per hundredweight in the support level for calendar years 1988 through 1990 depending on projected sales levels for provisions setting price support levels for calendar years 1983 through 1985 by gradually reducing the price

support from $13.10 per hundredweight to $12.60 per hundredweight, and providing for adjustments of 50 cents per hundredweight in the support level for twelve month periods beginning on April 1, 1985 and/or July 1, 1985, depending on projected sales levels.

Subsec. (d)(1)(B). Pub. L. 99–182 substituted ''December 31, 1985'' for ''December 13, 1985''.

Pub. L. 99–157 substituted ''December 13, 1985'' for ''November 15, 1985''.

Pub. L. 99–114 substituted ''November 15, 1985'' for ''September 30, 1985''.

Subsec. (d)(2). Pub. L. 99–198, §101(a), in amending par. (2) generally, substituted provisions for a reduction in the price received by producers for all milk produced in the United States and marketed for commercial use in an amount of 40 cents per hundredweight for the period between Apr. 1, 1986, and Dec. 31, 1986, and 25 cents per hundredweight during the first 9 months of 1987 for provisions for a reduction of 50 cents per hundredweight in such price effective for the period beginning with the first day of the first calendar month following Nov. 29, 1983, and ending on Mar. 31, 1985, and struck out provisions relating to the continued applicability of pars. (2) to (7) of this subsection between Nov. 29, 1983, and the last day of November, 1983, and the inapplicability of sections 4501 to 4513 of this title to prior deductions or collections under this subsection, and provisions that to the extent that funds collected under this paragraph were inadequate to make payments to producers under par. (3), such payments had to be made using otherwise available funds.

Subsec. (d)(3)(A). Pub. L. 99–198, §101(b)(1), in amending subpar. (A) generally, substituted provisions for a milk production termination program for the 18-month period beginning Apr. 1, 1986, for provisions for a milk diversion program under which Secretary had to offer to enter into a contract, at any time up to Feb. 1, 1984, with any producer of milk in the United States to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(B). Pub. L. 99–198, §101(b)(1), in amending subpar. (B) generally, substituted provisions authorizing Secretary to establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989 and 1990 for provisions which had enumerated the requirements for contracts between Secretary and any domestic producer of milk to reduce the quantity of commercially marketed milk during the 15-month period beginning Jan. 1, 1984.

Subsec. (d)(3)(C). Pub. L. 99–198, §101(b)(1), in amending subpar. (C) generally, substituted provisions requiring Secretary to take into account any adverse effect of any milk diversion or milk production program or contracts on beef, pork and poultry producers in the United States and to take all feasible steps to minimize such effect for provisions requiring Secretary to pay to producers complying with such contracts an amount equal to the product of $10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed by such producer for commercial use during the period specified in such contract was less than the quantity of milk marketed by such producer for commercial use during the marketing history period.

Subsec. (d)(3)(D). Pub. L. 99–198, §101(b)(1), in amending subpar. (D) generally, substituted provisions establishing eligibility of producers who have acquired their entire milk production facility and dairy herd by gift or inheritance from family member or members for provisions prohibiting payments to producers with respect to whom any reduction in the quantity of milk did not meet specified percentage guidelines.

Subsec. (d)(3)(E). Pub. L. 99–198, §101(b)(1), (3), struck out subpar. (E) which specified conditions under which Secretary could modify contracts entered into under this paragraph, and redesignated subpar. (K) as (E).

Subsec. (d)(3)(F). Pub. L. 99–198, §101(b)(1), struck out subpar. (F) which required domestic producers of milk seeking to enter into contracts for diversion payments to provide Secretary with evidence of such producer's marketing history, as defined by this subparagraph, which Secretary could adjust to take into account natural disasters or other conditions and factors where necessary.

Subsec. (d)(3)(G). Pub. L. 99–198, §101(b)(1), struck out subpar. (G) which provided that no marketing history could be assigned to any producer who commenced marketing milk after Dec. 31, 1982, except as provided in subpar. (H).

Subsec. (d)(3)(H). Pub. L. 99–198, §101(b)(2), struck out subpar. (H) which provided that a producer's marketing history could not be transferred to another person unless the producer's entire milk production facility and dairy herd were transferred by reason of the death of the producer, a gift by the producer, or to a member or members of the family of the producer.

Subsec. (d)(3)(I). Pub. L. 99–198, §101(b)(2), struck out subpar. (I) which provided that eligibility for diversion payments would be determined on the basis of the marketing history provided for under subpar. (F).

Subsec. (d)(3)(J). Pub. L. 99–198, §101(b)(2), struck out subpar. (J) which provided for quarterly diversion payments to eligible producers who were able to demonstrate compliance with terms of contract with Secretary for reduction in commercial marketing of milk.

Subsec. (d)(3)(K). Pub. L. 99–198, §101(b)(3), redesignated subpar. (K) as (E).

Subsec. (d)(3)(L). Pub. L. 99–198, §101(b)(2), struck out subpar. (L) which provided conditions under which a producer could assign a contract entered into under this paragraph.

Subsec. (d)(3)(O). Pub. L. 99–198, §101(b)(2), struck out subpar. (O) which authorized Secretary to adjust the producer's diversion payments to reflect the composition of milk marketed during the marketing history period, in the event of substantial deviation in the composition of milk marketed after that period.

Subsec. (d)(5)(B)(i). Pub. L. 99–198, §101(c), designated existing provisions as cl. (i), struck out ''(i)'' after ''Each person'', substituted ''or who fails to remit'' for '', (ii) who fails to remit'', struck out '', or (iii) who fails to make the reduction in marketings required by a contract under paragraph (3)'' before ''shall be liable'', and added cls. (ii) to (v).

Subsec. (d)(7). Pub. L. 99–198, §101(e), added par. (7).

Subsecs. (i) to (k). Pub. L. 99–198, §§801(2), 901(2), 1008, temporarily added subsecs. (i) to (k). See Effective and Termination Dates of 1985 Amendment note below.

1983—Subsec. (d). Pub. L. 98–180 amended subsec. (d) generally, substituting provision designed to adjust milk production to levels consistent with the national demand for milk and milk products by reducing the price support to $12.60 per hundredweight, with provision for further increase or decrease depending on volume, providing a 50 cents reduction per hundredweight in the price on all milk produced in the United States and marketed by producers for commercial use, and establishing a milk diversion program to reduce milk production for provision which kept the price support at $13.10 per hundredweight and authorized Secretary to collect $1.00 from farmers for every hundredweight of production sold, with the first 50 cents, payable beginning Oct. 1, 1982, to be nonrefundable, and the second 50 cents, payable beginning Apr. 1, 1983, refundable if the farmer could demonstrate reduced commercial marketings from such marketings during a defined base period.

1982—Subsec. (c). Pub. L. 97–253, §101(1), struck out provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with authority for Secretary to set milk price supports if he estimated that for such a fiscal year the net cost of Government price support purchases would be less than $1,000,000,000 for that fiscal year or if he estimated that the net Government price support purchases would be less than a specified poundage per fiscal year.

Subsec. (d). Pub. L. 97–253, §101(2), added subsec. (d).

1981—Pub. L. 97–98, §§801(1), 901(1), temporarily inserted reference in provision preceding subsec. (a) to

soybeans, sugar beets, and sugarcane. See Effective and Termination Dates of 1981 Amendment note below.

Subsec. (c). Pub. L. 97–98, §103(1), substituted provision specifying milk price supports for the period beginning Dec. 22, 1981, and ending Sept. 30, 1982, and for fiscal years ending Sept. 30, 1983, 1984, and 1985, with authority for Secretary to set milk price supports if he estimates that for such a fiscal year the net cost of Government price support purchases will be less than $1,000,000,000 for that fiscal year or if he estimates that the net Government price support purchases will be less than a specified poundage per fiscal year for provision specifying the procedure and setting a schedule to be used to determine milk price supports for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985.

Pub. L. 97–35, §150(1), substituted provisions setting forth price support levels for the period beginning Oct. 1, 1981, and ending Sept. 30, 1985, for provisions setting forth price support levels for the period beginning Oct. 1, 1977, and ending Sept. 30, 1981.

Subsec. (d). Pub. L. 97–98, §103(2), struck out subsec. (d) which provided that, effective for the period beginning Oct. 1, 1982, and ending Sept. 30, 1985, the support price of milk be adjusted by the Secretary at the beginning of each semiannual period to reflect the estimated change in the parity index during such semiannual period.

Pub. L. 97–35, §150(2), added subsec. (d).

Pub. L. 97–6 struck out subsec. (d) which required that, for the period Oct. 1, 1977, to Sept. 30, 1981, the support price of milk be adjusted semiannually.

Subsecs. (g), (h). Pub. L. 97–98, §§801(2), 901(2), temporarily added subsecs. (g) and (h). See Effective and Termination Dates of 1981 Amendments note below.

1980—Subsec. (e). Pub. L. 96–494 inserted proviso that 1981 crop of soybeans shall be supported through loans and purchases at not less than $5.02 per bushel.

1979—Subsec. (c). Pub. L. 96–127, §1(a), substituted Sept. 30, 1981, for Mar. 31, 1979.

Subsec. (d). Pub. L. 96–127, §1(b), substituted Sept. 30, 1981, for Mar. 31, 1981.

1977—Pub. L. 95–113, §§901(1), 902(1), temporarily inserted references to soybeans, sugar beets, and sugar cane in provisions preceding subsec. (a). See Effective and Termination Dates of 1977 Amendment note below.

Subsec. (c). Pub. L. 95–113, §203(1), substituted the period Oct. 1, 1977, through Mar. 31, 1979, for the period Aug. 10, 1973, through Mar. 31, 1975, as the period during which the price of milk shall be supported at not less than 80 per centum of parity.

Subsec. (d). Pub. L. 95–113, §203(2), added subsec. (d).

Subsecs. (e), (f). Pub. L. 95–113, §§901(2), 902(2), temporarily added subsecs. (e) and (f). See Effective and Termination Dates of 1977 Amendment note below.

1973—Subsec. (b). Pub. L. 93–225 limited tung nuts price support level provisions to tung nuts through the 1976 crop year. Prior provisions were applicable to tung nuts without any crop year restriction.

Subsec. (c). Pub. L. 93–86 inserted ''of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'' after ''necessary in order to assure an adequate supply'' and inserted provision that for the period August 10, 1973, through March 31, 1975, the price of milk shall be supported at not less than 80 per centum of the parity price therefor.

1970—Pub. L. 91–524 substituted ''and milk'' for ''milk, butterfat, and products of milk and butterfat'' in provisions preceding subsec. (a) and struck out provisions for butterfat price supports in subsec. (c).

1960—Subsec. (c). Pub. L. 86–799 inserted ''Notwithstanding the foregoing provisions, for the period beginning with September 16, 1960, and ending March 31, 1961, the price of milk for manufacturing purposes and the price of butterfat shall be supported at not less than $3.22 per hundredweight and 59.6 cents per pound, respectively.''

1958—Subsec. (b). Pub. L. 85–835 required minimum support level of tung oil to be 65 per centum of parity whenever domestic production is less than anticipated domestic demand.

1956—Subsec. (c). Act July 20, 1956, struck out ''as are'' before ''devoted,'' and substituted ''children'' for ''underprivileged children on a public welfare or charitable basis''.

Act Apr. 2, 1956 increased amount authorized for fiscal year 1956 from $50,000,000 to $60,000,000, to authorize $75,000,000 for each of fiscal years 1957 and 1958, and permitted certain institutions devoted to care and training of underprivileged children on a public welfare or charitable basis to share in the program.

1954—Act Aug. 28, 1954, §§203(a), 709, removed Irish potatoes and wool (including mohair) from price support list in provisions preceding subsec. (a).

Subsec. (a). Act Aug. 28, 1954, §709, struck out subsec. (a) relating to support of wool and mohair.

Subsec. (b). Act Aug. 28, 1954, §203(a), struck out reference to Irish potatoes.

Subsec. (c). Act Aug. 28, 1954, §204(b), provided for disposal of surplus dairy stocks owned by CCC.

EFFECTIVE AND TERMINATION DATES OF 1990 AMENDMENT

Amendment by sections 701(1), 901(1), and 1161(b) of Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

Section 2236(a) of Pub. L. 101–624 provided that the amendment by that section is effective only for 1990 crop of sugarcane.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1007 of Pub. L. 101–239 provided that the amendment made by that section is effective only for calendar year 1990.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENTS

Section 1104(c) of Pub. L. 100–203 provided that the amendment made by that section is effective only for 1987 through 1990 crops of honey.

Section 15(a) of Pub. L. 100–45 provided that the amendment made by that section is effective for 1987 through 1990 crops of sunflowers.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 10 of Pub. L. 99–260 provided that the amendment made by that section is effective Mar. 1, 1986.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Section 101(f) of Pub. L. 99–198 provided that: ''The provisions of this section [amending this section] shall become effective January 1, 1986.''

Section 801 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of soybeans.

Section 901 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of sugar beets and sugarcane.

Section 1008 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1985 through 1990 crops of peanuts, soybeans, sugar beets, and sugarcane.

Section 1041 of Pub. L. 99–198 provided that the amendment made by that section is effective only for 1986 through 1990 crops of honey.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 101(1) of Pub. L. 97–253 provided that the amendment made by that section is effective Oct. 1, 1982.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 801 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crop of soybeans.

Section 901 of Pub. L. 97–98 provided that the amendment made by that section is effective only for 1982 through 1985 crop of sugar beets and sugarcane.

Amendment by section 103 of Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

Section 150 of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–494 effective Dec. 3, 1980, see section 213 of Pub. L. 96–494, set out as an Effective Date note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 901 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops of soybeans.

Section 902 of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1977 and 1978 crops of sugar beets and sugar cane.

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, except as otherwise specifically provided, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 1(3)(B) of Pub. L. 93–86 provided that the amendment made by that section is effective Apr. 1, 1974.

EFFECTIVE AND TERMINATION DATES OF 1970 AMENDMENT

Section 202 of Pub. L. 91–524 provided that the amendment made by that section is effective only with respect to the period beginning Apr. 1, 1971, and ending Mar. 31, 1974. Pub. L. 93–86, §1(3)(A), Aug. 10, 1973, 87 Stat. 222, amended section 202 of Pub. L. 91–524 by striking out provision making amendments by section 202 effective for the period Apr. 1, 1971, to Mar. 31, 1974.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 709 of act Aug. 28, 1954, which provided that the amendment of this section by act Aug. 28, 1954, was effective Apr. 1, 1955, was repealed by Pub. L. 103–130, §3(a), Nov. 1, 1993, 107 Stat. 1369, eff. Dec. 31, 1995.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(H) of this title.

APPLICATION OF 1990 AMENDMENTS

Section 107 of title I of Pub. L. 101–624 provided that: ''The amendments made by this title [enacting section 1446e of this title, amending sections 450*l*, 608c, and 1446a of this title and section 713a–14 of Title 15, Commerce and Trade, and amending provisions set out as notes under sections 608c and 1731 of this title] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Nov. 28, 1990].''

MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM

Section 128 of Pub. L. 102–237 provided that if, with respect to any natural disaster occurring during period beginning on Oct. 1, 1990, and ending on Feb. 1, 1991, the Secretary of Agriculture determines that natural disaster renders unusable land or milk production facilities of producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to farm idled under milk production termination program established under subsec. (d)(3) of this section, without penalty, if the producers on the farm agree to comply with all terms and conditions of program contract for remainder of contract period.

TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT

Pub. L. 100–418, title IV, §4301, Aug. 23, 1988, 102 Stat. 1395, directed President, if, before Jan. 1, 1990, law had not been enacted in accordance with 19 U.S.C. 2191 implementing agreement negotiated under Uruguay round of multilateral trade negotiations conducted under General Agreement on Tariffs and Trade concerning agricultural trade, to submit, not later than 45 days after such date, report to Congress describing status of GATT negotiations concerning agricultural trade, and to certify to Congress whether significant progress had been made in negotiations, and provided authority for a marketing loan program if President did not so certify, and authority for an export enhancement program, if President waived or discontinued marketing loan program, prior to repeal by Pub. L. 104–127, title II, §263(b), (c), Apr. 4, 1996, 110 Stat. 974, effective beginning with 1996 crops of wheat, feed grains, upland cotton, and rice.

PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED

Pub. L. 100–418, title IV, §4302, Aug. 23, 1988, 102 Stat. 1397, directed Secretary to support price of 1990 crop of sunflower seeds and cottonseed if producers were permitted to repay loans for 1990 crop of soybeans under subsec. (i) of this section at level that was less than full amount of loan pursuant to section 4301 of Pub. L. 100–418 (formerly set out as a note above), and provided that, if marketing loan program for 1990 crop of soybeans was discontinued under section 4301(b)(3) of Pub. L. 100–418, Secretary was to discontinue such price support programs for sunflower seeds and cottonseed.

TEMPORARY INCREASE IN PRICE SUPPORT FOR MILK; IMPLEMENTATION

Pub. L. 101–7, §1, Mar. 29, 1989, 103 Stat. 9, provided for allocation of price support increases and decreases between non-fat dry milk and butter with respect to purchases of butter and non-fat dry milk made under subsec. (d) of this section, in carrying out temporary $0.50 per hundredweight increase in rate of price support for milk provided for in section 102(b) of Pub. L. 100–387 (formerly set out below) and in implementing $0.50 per hundredweight decrease in rate of price support for milk scheduled to occur on July 1, 1989, as provided in such section 102(b).

Section 102(b) of Pub. L. 100–387 provided that notwithstanding subsec. (d)(1) of this section, the rate of price support for milk in effect under such subsection immediately before Apr. 1, 1989, shall be increased by 50 cents throughout the period beginning on Apr. 1, 1989, and ending on June 30, 1989.

REPORT TO COMMITTEES OF CONGRESS

Section 301(a)(2) of Pub. L. 100–387, directed Secretary of Agriculture, not earlier than Feb. 1, 1989, and not later than Mar. 1, 1989, with respect to 1989 crop of soybeans, and not later than Sept. 1, 1989, with respect to 1990 crop of soybeans, to submit to Congress statement setting forth reasons for implementing or not implementing soybean marketing loan program authorized under subsec. (i)(3) of this section.

SENSE OF CONGRESS

Section 15(b) of Pub. L. 100–45 stated sense of Congress that, if producers were permitted to repay loans for a crop of soybeans under subsec. (i) of this section at a level that is less than the full amount of the loan, the Secretary should make loans and purchases available for such crop of sunflowers in accordance with subsec. (*l*)(1) of this section and permit producers to repay such loans in accordance with subsec. (*l*)(2) of this section.

APPLICATION OF SUPPORT PRICE FOR MILK

Section 103 of Pub. L. 99–198 provided that for purposes of supporting price of milk under subsec. (d) of this section, the Secretary of Agriculture was not to take into consideration any market value of whey.

AVOIDANCE OF ADVERSE EFFECT OF MILK PRODUCTION TERMINATION PROGRAM ON BEEF, PORK, AND LAMB PRODUCERS

Section 104 of Pub. L. 99–198, directed Secretary of Agriculture, in order to minimize adverse effect of milk production termination program on beef, pork, and lamb producers during 18-month period for which such program was in effect under subsec. (d) of this section, to use funds available under specific programs of Department of Agriculture to purchase and distribute quantities of red meat in addition to those quantities normally purchased and distributed by Secretary, directed Secretary of Defense and other Federal agencies to use increased quantities of red meat to meet food needs of programs they administered, encouraged State agencies to cooperate in such effort, and directed Secretary of Agriculture to encourage consumption of red meat by the public.

CIRCUMVENTION OF HISTORICAL DISTRIBUTION OF MILK

Section 107 of Pub. L. 99–198 directed Secretary of Agriculture to monitor Commodity Credit Corporation purchases of milk products during 1986 and 1987 and report to Congress, on a quarterly basis, on disruptions of, or attempts by handlers or cooperative marketing associations to circumvent, historical distribution of milk among processors during the milk production termination program.

APPLICATION OF 1985 AMENDMENTS

Section 108 of subtitle A (§§101–108) of title I of Pub. L. 99–198 provided that: ''The amendments made by this subtitle [enacting section 1446c–2 of this title, amending this section, and enacting provisions set out as notes above] shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act [Dec. 23, 1985].''

NATIONAL COMMISSION ON DAIRY POLICY

Subtitle D (§§141–146) of title I of Pub. L. 99–198, as amended by Pub. L. 100–28, §1, Apr. 24, 1987, 101 Stat. 291, established a National Commission on Dairy Policy to study and make recommendations concerning future operation of the Federal program established to support price of milk marketed by producers in the United States, directed Commission to submit to Secretary of Agriculture and Congress, not later than Mar. 31, 1988, a report containing results of its study and its recommendations, and provided for termination of Commission 30 days after submitting its report.

APPLICABILITY OF SUBSECTION (d)(2), (3) TO 48 CONTIGUOUS STATES, DECEMBER 1983, THROUGH MAY 1984

Pub. L. 98–213, §14, Dec. 8, 1983, 97 Stat. 1462, provided that effective with respect to milk marketed for commercial use during period beginning on Dec. 1, 1983 and ending on May 31, 1984, subsec. (d)(2) and (3) of this section was to apply only to milk produced in the forty-eight contiguous States.

IMPLEMENTATION OF SUBSECTION (d) WITHOUT REGARD TO PUBLIC PARTICIPATION IN RULEMAKING

Section 102 of Pub. L. 99–198 provided that 5 U.S.C. 553 was not to apply with respect to implementation of subsec. (d) of this section by the Secretary of Agriculture.

Section 102(b) of Pub. L. 98–180 directed Secretary of Agriculture to implement provisions of subsec. (d) of this section, as amended by section 102(a) of Pub. L. 98–180, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553.

AVOIDANCE OF ADVERSE IMPACT OF DAIRY DIVERSION PROGRAM ON BEEF AND PORK PRODUCERS

Section 103 of Pub. L. 98–180 provided that in order to minimize adverse impact of the dairy diversion program on beef and pork producers, Secretary of Agriculture was to use funds available for purposes of 7 U.S.C. 612c(2) and other funds available under commodity distribution and other nutrition programs of Department of Agriculture to increase use of beef and pork for such purposes, Secretary of Defense and other Federal and State agencies were encouraged to use increased quantities of beef and pork to meet food needs of programs which they administered, and Secretary of Agriculture was to take appropriate action to encourage consumption of beef and pork by members of public.

PRICE SUPPORT OF MILK FOR PERIOD BEGINNING OCTOBER 1, 1981, AND ENDING NO LATER THAN DECEMBER 31, 1981

Pub. L. 97–67, §1, Oct. 20, 1981, 95 Stat. 1039, as amended by Pub. L. 97–77, §2(a), Nov. 13, 1981, 95 Stat. 1069, provided that notwithstanding provisions of subsec. (c) of this section, the price of milk was to be supported at the level of $13.10 per hundredweight for milk containing 3.67 per centum butterfat for the period beginning Oct. 1, 1981, and ending Dec. 22, 1981.

CONTINUATION OF SPECIAL MILK PROGRAM FOR CHILDREN

Pub. L. 85–478, July 1, 1958, 72 Stat. 276, as amended by Pub. L. 86–10, Apr. 3, 1959, 73 Stat. 15; Pub. L. 86–163, Aug. 18, 1959, 73 Stat. 363; Pub. L. 86–446, §§1, 2, Apr. 29, 1960, 74 Stat. 84; Pub. L. 87–67, June 30, 1961, 75 Stat. 147; Pub. L. 87–128, title IV, §402, Aug. 8, 1961, 75 Stat. 319, authorized, for the fiscal years 1960–1962, the use of the funds of the Commodity Credit Corporation to increase the consumption of fluid milk by children (1) in nonprofit schools of high-school grade and under; and (2) in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. Appropriations were further authorized for fiscal years 1963–1967 for the same purposes.

STUDY OF PRODUCTION CONTROL AND PRICE SUPPORTS; REPORT OF CONGRESS

Section 204(f) of act Aug. 28, 1954, directed Secretary of Agriculture to make a study of various methods of production control and of various methods of price support which could be made applicable to milk and butterfat and their products, including programs to be operated and financed by dairymen; and to submit to Congress on or before the 3d day of January 1955 a detailed report thereof showing among other things the probable costs and effects of each type of operation studied and the legislation, if any, needed to put it into effect.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612c, 1447, 4514, 7301 of this title; title 2 section 906.

§ 1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk) upon the certification by the Secretary of Veterans Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Secretary of Veterans Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of Veterans Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of Veterans Affairs certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Secretary of Veterans Affairs shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1995, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(c) Costs

Dairy products made available under this section shall be made available without charge, except that the Secretary of the Army or the Secretary of Veterans Affairs shall pay the Commodity Credit Corporation the costs of packaging incurred in making such products so available.

(d) Dairy products available

The obligation of the Commodity Credit Corporation to make dairy products available pursuant to the above shall be limited to dairy products acquired by the Corporation through price-support operations and not disposed of under provisions (1) and (2) of section 1431[1] of this title.

(Oct. 31, 1949, ch. 792, title II, §202, as added Aug. 28, 1954, ch. 1041, title II, §204(d), 68 Stat. 900; amended Apr. 2, 1956, ch. 159, §3, 70 Stat. 87; Pub. L. 85–835, title V, §504, Aug. 28, 1958, 72 Stat. 996; Pub. L. 87–128, title IV, §403, Aug. 8, 1961, 75 Stat. 319; Pub. L. 87–495, June 25, 1962, 76 Stat. 109; Pub. L. 88–529, Aug. 31, 1964, 78 Stat. 736; Pub. L. 90–140, Nov. 16, 1967, 81 Stat. 464; Pub. L. 91–524, title II, §203, Nov. 30, 1970, 84 Stat. 1361; Pub. L. 93–86, §1(4), Aug. 10, 1973, 87 Stat. 223; Pub. L. 95–113, title II, §204, Sept. 29, 1977, 91 Stat. 920; Pub. L. 97–98, title I, §104, Dec. 22, 1981, 95 Stat. 1220; Pub. L. 99–198, title I, §151, Dec. 23, 1985, 99 Stat. 1377; Pub. L. 101–624, title I, §109, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 102–54, §13(c), June 13, 1991, 105 Stat. 274; Pub. L. 102–237, title I, §113(9), Dec. 13, 1991, 105 Stat. 1838; Pub. L. 103–437, §4(b), Nov. 2, 1994, 108 Stat. 4582.)

[1] See References in Text note below.

REFERENCES IN TEXT

Provisions (1) and (2) of section 1431 of this title, referred to in subsec. (d), were redesignated as subsec. (a)(1) and (2) of section 1431 of this title by Pub. L. 98–258, title V, §502(1), Apr. 10, 1984, 98 Stat. 137.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437, §4(b)(1), substituted ''Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House'' for ''Committees on Agriculture of the Senate and House''.

Subsec. (b). Pub. L. 103–437, §4(b)(2), substituted ''Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House'' for ''Committees on Agriculture of the Senate and the House''.

1991—Pub. L. 102–54 and Pub. L. 102–237, §113(9)(A), amended introductory provisions identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

Subsec. (a). Pub. L. 102–237, §113(9)(B), substituted ''Secretary of Veterans Affairs'' for ''Administrator'' before ''certifies'' and ''shall report''.

Pub. L. 102–54 and Pub. L. 102–237, §113(9)(A), amended subsec. (a) identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' before ''at warehouses''.

Subsec. (c). Pub. L. 102–54 and Pub. L. 102–237, §113(9)(A), amended subsec. (c) identically, substituting ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1990—Subsecs. (a), (b). Pub. L. 101–624 substituted ''1995'' for ''1990''.

1985—Subsecs. (a), (b). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsecs. (a), (b). Pub. L. 97–98 substituted ''1985'' for ''1981''.

1977—Subsecs. (a), (b). Pub. L. 95–113 substituted ''1981'' for ''1977''.

1973—Subsecs. (a), (b). Pub. L. 93–86 substituted ''1977'' for ''1973''.

1970—Subsecs. (a), (b). Pub. L. 91–524 substituted ''1973'' for ''1970''.

1967—Subsecs. (a), (b). Pub. L. 90–140 substituted ''1970'' for ''1967''.

1964—Subsecs. (a), (b). Pub. L. 88–529 substituted ''1967'' for ''1964''.

1962—Subsec. (a). Pub. L. 87–495 changed requirement of a monthly report to one every six months.

1961—Subsecs. (a), (b). Pub. L. 87–128 substituted ''1964'' for ''1961''.

1958—Subsecs. (a), (b). Pub. L. 85–835 substituted ''1961'' for ''1958'' and provided for receipt of surplus dairy products by Coast Guard and United States Merchant Marine Academy.

1956—Subsecs. (a), (b). Act Apr. 2, 1956, substituted ''1958'' for ''1956''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1446a–1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(Pub. L. 89–321, title VII, § 709, Nov. 3, 1965, 79 Stat. 1212; Pub. L. 89–808, § 3(b), Nov. 11, 1966, 80 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Food and Agriculture Act of 1965, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1966—Pub. L. 89–808 struck out ''foreign distribution,'' after ''community action,'', thus deleting that part authorizing purchase of dairy products for foreign donation, such authority now being included in the general authority provided for by section 1721 et seq. of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(b) of Pub. L. 89–808 provided that the amendment made by that section is effective Jan. 1, 1967.

COMMODITY DISTRIBUTION PROGRAM; PROHIBITION ON FURNISHING COMMODITIES TO SUMMER CAMPS

Prohibition on furnishing commodities under authority of this section to summer camps where number of adults participating in activities of camp exceeds one for each five children under 18 years of age participating in such activities, see section 4(b) of Pub. L. 93–86, Aug. 10, 1973, 87 Stat. 249, set out as a note under section 612c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1777, 4004 of this title; title 42 sections 1761, 3030a, 3045f.

§ 1446b. Policy with regard to dairy products

The production and use of abundant supplies of high quality milk and dairy products are essential to the health and general welfare of the Nation: a dependable domestic source of supply of these foods in the form of high grade dairy herds and modern, sanitary dairy equipment is important to the national defense; and an economically sound dairy industry affects beneficially the economy of the country as a whole. It is the policy of Congress to assure a stabilized annual production of adequate supplies of milk and dairy products; to promote the increased use of these essential foods; to improve the domestic source of supply of milk and butterfat by encouraging dairy farmers to develop efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment; and to stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy.

(Aug. 28, 1954, ch. 1041, title II, § 204(a), 68 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1446c. Domestic disposal programs for dairy products

In order to prevent the accumulation of excessive inventories of dairy products the Secretary of Agriculture shall undertake domestic disposal programs under authorities granted in the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] and the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], or as otherwise authorized by law.

(Aug. 28, 1954, ch. 1041, title II, § 204(c), 68 Stat. 900.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1954, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

REPORT OF DAIRY PRODUCT PURCHASES

Pub. L. 101–624, title I, § 105, Nov. 28, 1990, 104 Stat. 3379, provided that: ''The Secretary of Agriculture shall make available to the public quarterly evaluations of the acquisition and disposal of Commodity Credit Corporation purchases of dairy products.''

§ 1446c–1. Reduction of dairy product inventories

The Secretary of Agriculture shall utilize, to the fullest extent practicable, the authorities under the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] (including exportation of dairy products at not less than prevailing world market prices), the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], and other authorities available to the Secretary to reduce inventories of dairy

products held by the Commodity Credit Corporation so as to reduce net Commodity Credit Corporation expenditures to the estimated outlays for the milk price support program used in developing budget outlays under the Congressional Budget Act of 1974 for the appropriate fiscal year.

(Pub. L. 97–98, title I, §106, Dec. 22, 1981, 95 Stat. 1220.)

REFERENCES IN TEXT

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Congressional Budget Act of 1974, referred to in text, is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 298, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

DAIRY PROGRAM OPERATION REPORT

Section 107 of Pub. L. 97–98 provided that, not later than Dec. 31, 1982, the Secretary of Agriculture shall submit to Congress a report describing the strengths and weaknesses of existing Federal programs, and the consequences of possible new programs, for controlling or minimizing surpluses of fluid milk and the products thereof.

§ 1446c–2. Domestic casein industry

(a) Annual availability of surplus stocks of nonfat dry milk; bid basis

The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than 1,000,000 pounds annually to individuals or entities on a bid basis.

(b) Acceptance of bids at lower than resale price

The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law, in order to promote the strengthening of the domestic casein industry.

(c) Nonfat dry milk sold to be used only for manufacture of casein

The Commodity Credit Corporation shall take appropriate action to ensure that the nonfat dry milk sold by the Corporation under this section is used only for the manufacture of casein.

(Pub. L. 99–198, title I, §105, Dec. 23, 1985, 99 Stat. 1367.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

APPLICATION OF SECTION

This section not to affect any liability of any person under section 1446 of this title as in effect before Dec. 23, 1985, see section 108 of Pub. L. 99–198, set out as an Application of 1985 Amendments note under section 1446 of this title.

§ 1446d. Omitted

CODIFICATION

Section, act Oct. 31, 1949, ch. 792, title II, §203, as added May 28, 1956, ch. 327, title VI, §601(a), 70 Stat. 212; amended Nov. 28, 1990, Pub. L. 101–624, title V, §507, 104 Stat. 3441, related to cottonseed and cottonseed oil price support program for 1991 through 1995 crops of upland cotton.

§ 1446e. Repealed. Pub. L. 104–127, title I, § 141(g), Apr. 4, 1996, 110 Stat. 915

Section, act Oct. 31, 1949, ch. 792, title II, §204, as added Nov. 28, 1990, Pub. L. 101–624, title I, §101(a), 104 Stat. 3374; amended Nov. 5, 1990, Pub. L. 101–508, title I, §1105(g), 104 Stat. 1388–6; Dec. 13, 1991, Pub. L. 102–237, title I, §§113(10), 127(a), 105 Stat. 1838, 1846; Aug. 10, 1993, Pub. L. 103–66, title I, §1105(a), 107 Stat. 316; May 6, 1994, Pub. L. 103–247, §1(c), 108 Stat. 618, related to milk price support and milk inventory management program for calendar years 1991 through 1996.

EFFECTIVE DATE OF REPEAL

Section 141(g) of Pub. L. 104–127 provided that the repeal of this section is effective on the first day of the first month beginning after Apr. 4, 1996.

§ 1446e–1. Repealed. Pub. L. 104–127, title I, § 145(e), Apr. 4, 1996, 110 Stat. 918

Section, Pub. L. 101–624, title I, §102, Nov. 28, 1990, 104 Stat. 3378; Pub. L. 102–237, title I, §118(e), Dec. 13, 1991, 105 Stat. 1842, related to milk manufacturing marketing adjustment.

EFFECTIVE DATE OF REPEAL

Section 145(e) of Pub. L. 104–127 provided that the repeal of this section is effective on the first day of the first month beginning after Apr. 4, 1996.

§§ 1446f to 1446h. Repealed. Pub. L. 104–127, title I, § 171(b)(2)(H), Apr. 4, 1996, 110 Stat. 938

Section 1446f, act Oct. 31, 1949, ch. 792, title II, §205, as added Nov. 28, 1990, Pub. L. 101–624, title VII, §701(2), 104 Stat. 3457; amended Nov. 5, 1990, Pub. L. 101–508, title I, §1105(a), 104 Stat. 1388–3; Dec. 13, 1991, Pub. L. 102–237, title I, §110, 105 Stat. 1829; Aug. 10, 1993, Pub. L. 103–66, title I, §1108, 107 Stat. 325, related to loans and payments for oilseeds for 1991 through 1995 marketing years.

Section 1446g, act Oct. 31, 1949, ch. 792, title II, §206, as added Nov. 28, 1990, Pub. L. 101–624, title IX, §901(2), 104 Stat. 3478; amended Nov. 5, 1990, Pub. L. 101–508, title I, §1105(c), 104 Stat. 1388–5; Dec. 13, 1991, Pub. L. 102–237, title I, §111(a), 105 Stat. 1829; Aug. 10, 1993, Pub. L. 103–66, title I, §1107(a), 107 Stat. 324, related to sugar price support for 1991 through 1997 crops.

Section 1446h, act Oct. 31, 1949, ch. 792, title II, §207, as added Nov. 28, 1990, Pub. L. 101–624, title X, §1001, 104 Stat. 3488; amended Nov. 5, 1990, Pub. L. 101–508, title I, §1105(d), 104 Stat. 1388–5; Aug. 10, 1993, Pub. L. 103–66, title I, §1110, 107 Stat. 326, related to honey price support for the 1991 through 1998 crops of honey.

§ 1446i. Repealed. Pub. L. 103–354, title I, § 119(a)(6), Oct. 13, 1994, 108 Stat. 3208

Section, act Oct. 31, 1949, ch. 792, title II, § 208, as added Nov. 28, 1990, Pub. L. 101–624, title XI, § 1126, 104 Stat. 3507, related to disaster payments for 1991 through 1995 crops of peanuts, soybeans, sugar beets, and sugarcane.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in sections 1446, 1446a, and 1446d[1] of this title at a level not in excess of 90 per centum of the parity price for the commodity.

(Oct. 31, 1949, ch. 792, title III, § 301, 63 Stat. 1053; Pub. L. 95–113, title X, § 1003(a), Sept. 29, 1977, 91 Stat. 950.)

REFERENCES IN TEXT

Section 1446d of this title, referred to in text, was omitted from the Code.

AMENDMENTS

1977—Pub. L. 95–113 temporarily inserted provisions authorizing Secretary to make price support available for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and, in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for other nonbasic undesignated commodities. See Effective and Termination Dates of 1977 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1003(a) of Pub. L. 95–113 provided that the amendment made by that section is effective only with respect to 1978 through 1981 crops.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

ELIMINATION OF WOOL AND MOHAIR PROGRAMS

Pub. L. 103–130, § 3(c), Nov. 1, 1993, 107 Stat. 1369, provided that: ''Effective beginning December 31, 1995, the Secretary of Agriculture may not provide loans or payments for wool or mohair by using the funds of the Commodity Credit Corporation or under the authority of any law.''

OTHER PRICE SUPPORT PROGRAMS IN EFFECT ON SEPTEMBER 29, 1977

Section 1003(b) of Pub. L. 95–113 provided that: ''The amendment made by this section [amending this section] to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act [Sept. 29, 1977].''

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449, 7301 of this title.

§ 1448. Price support levels for storable nonbasic agricultural commodities

Without restricting price support to those commodities for which a marketing quota or marketing agreement or order program is in effect, price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a program is in effect and who are complying with such program. The level of such support shall not be in excess of 90 per centum of the parity price of such commodity nor less than the level provided in the following table:

If the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

Provided, That the level of price support may be less than the minimum level provided in the foregoing table if the Secretary, after examination of the availability of funds for mandatory price support programs and consideration of the other factors specified in section 1421(b) of this title, determines that such lower level is desirable and proper.

(Oct. 31, 1949, ch. 792, title III, § 302, 63 Stat. 1053.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1449, 7301 of this title.

§ 1449. Determination of price support level

In determining the level of price support for any nonbasic agricultural commodity under sections 1447 to 1449 of this title, particular consideration shall be given to the levels at which the prices of competing agricultural commodities are being supported.

(Oct. 31, 1949, ch. 792, title III, § 303, 63 Stat. 1053.)

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(I) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 7301 of this title.

§ 1450. Repealed. Aug. 28, 1954, ch. 1041, title II, § 203(b), 68 Stat. 899

Section, acts Mar. 31, 1950, ch. 81, § 5, 64 Stat. 42; Jan. 30, 1954, ch. 2, § 5(a), 68 Stat. 7, provided that for the crop year of 1951 and thereafter, no price support would be available for Irish potatoes unless marketing quotas were in effect.

SUBCHAPTER IV—ACREAGE BASE AND YIELD SYSTEM

§§ 1461 to 1469. Omitted

CODIFICATION

Sections 1461 to 1469 were omitted pursuant to section 1469 which provided that this subchapter was to be effective only for the 1991 through 1997 program crops.

Section 1461, act Oct. 31, 1949, ch. 792, title V, § 501, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1460; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3491, related to purpose of subchapter to prescribe system for establishing crop acreage bases and program payment yields for wheat, feed grains, upland cotton, and rice programs.

A prior section 1461, act Oct. 31, 1949, ch. 792, title V, § 501, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Mar. 16, 1954, ch. 98, 68 Stat. 28, provided for powers, duties, and guaranties of Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1462, act Oct. 31, 1949, ch. 792, title V, § 502, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1461; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3491, defined terms for this subchapter.

A prior section 1462, act Oct. 31, 1949, ch. 792, title V, § 502, as added July 12, 1951, ch. 223, 65 Stat. 119; amended Aug. 9, 1955, ch. 679, § 2, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 1, 75 Stat. 761, related to liabilities and guaranties of employers as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1463, act Oct. 31, 1949, ch. 792, title V, § 503, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1461; amended Pub. L. 100–387, title III, § 302(a), Aug. 11, 1988, 102 Stat. 947; Pub. L. 101–81, § 2, Aug. 14, 1989, 103 Stat. 563; Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3491; Pub. L. 102–237, title I, § 112(a), (b), Dec. 13, 1991, 105 Stat. 1836; Pub. L. 103–66, title I, § 1101(b)(2)(A), Aug. 10, 1993, 107 Stat. 314, established crop acreage bases for each program crop.

A prior section 1463, act Oct. 31, 1949, ch. 792, title V, § 503, as added July 12, 1951, ch. 223, 65 Stat. 120; amended Aug. 9, 1955, ch. 679, § 3, 69 Stat. 615; Oct. 3, 1961, Pub. L. 87–345, § 2, 75 Stat. 761, related to certification of need for workers, consultation with employers and workers, and posting of information as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1463a, act Oct. 31, 1949, ch. 792, title V, § 504, as added Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, restricted duration and nature of employment as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1464, act Oct. 31, 1949, ch. 792, title V, § 504, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1461; amended Pub. L. 99–253, § 4, Feb. 28, 1986, 100 Stat. 37; Pub. L. 99–260, § 8, Mar. 20, 1986, 100 Stat. 51; Pub. L. 100–387, title III, § 301(a)(1), Aug. 11, 1988, 102 Stat. 945; Pub. L. 101–81, § 1, Aug. 14, 1989, 103 Stat. 563; Pub. L. 101–82, title VI, § 603(a), Aug. 14, 1989, 103 Stat. 587; Pub. L. 101–239, title I, § 1002(a), Dec. 19, 1989, 103 Stat. 2106; Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3494; Pub. L. 102–237, title I, § 112(c), Dec. 13, 1991, 105 Stat. 1837, provided for planting flexibility.

A prior section 1464, act Oct. 31, 1949, ch. 792, title V, § 505, formerly § 504, as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to workers subject to immigration laws, dispensed with need of penalty bond, and provided for effect of use of ''wetback'' labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1465, act Oct. 31, 1949, ch. 792, title V, § 505, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1462; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3495; Pub. L. 103–66, title I, § 1101(b)(2)(B), Aug. 10, 1993, 107 Stat. 314, provided for farm program payment yields.

A prior section 1465, act Oct. 31, 1949, ch. 792, title V, § 506(c), formerly § 505(c), as added July 12, 1951, ch. 223, 65 Stat. 121, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, provided for an exemption from a head tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

A prior section 1465a, act Oct. 31, 1949, ch. 792, title V, § 506(d), as added Oct. 3, 1961, Pub. L. 87–345, § 4, 75 Stat. 761, provided for illness or disability tax as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1466, act Oct. 31, 1949, ch. 792, title V, § 506, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1463; amended Pub. L. 99–260, § 3, Mar. 20, 1986, 100 Stat. 48; Pub. L. 100–203, title I, § 1109, Dec. 22, 1987, 101 Stat. 1330–6; Pub. L. 101–220, § 11(a), Dec. 12, 1989, 103 Stat. 1882; Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3497, provided for planting and production history of farms.

A prior section 1466, act Oct. 31, 1949, ch. 792, title V, § 507, formerly § 506, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 507, Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to utilization of Federal and State agencies by Secretary of Labor as part of a program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1467, act Oct. 31, 1949, ch. 792, title V, § 507, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1463; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3497, provided for establishment of bases and yields by county committees.

A prior section 1467, act Oct. 31, 1949, ch. 792, title V, § 508, formerly § 507, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 508 and amended Oct. 3, 1961, Pub. L. 87–345, §§ 3, 5, 75 Stat. 761, defined ''agricultural employment'' and ''employer'' for purposes of the program for recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1468, act Oct. 31, 1949, ch. 792, title V, § 508, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1464; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3497, provided for administrative appeals procedure.

A prior section 1468, act Oct. 31, 1949, ch. 792, title V, § 509, formerly § 508, as added July 12, 1951, ch. 223, 65 Stat. 121; renumbered § 509, Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761, related to importation of workers from other foreign countries with regard to a program of recruiting agricultural workers from Mexico for employment up to December 31, 1964.

Section 1469, act Oct. 31, 1949, ch. 792, title V, § 509, as added Pub. L. 99–198, title X, § 1031, Dec. 23, 1985, 99 Stat. 1464; amended Pub. L. 101–624, title XI, § 1101, Nov. 28, 1990, 104 Stat. 3497; Pub. L. 103–66, title I, § 1101(b)(2)(C), Aug. 10, 1993, 107 Stat. 314, provided that subchapter was to be effective only for the 1991 through 1997 program crops.

A prior section 509, formerly 508, of act Oct. 31, 1949, was formerly classified to section 1468 of this title. See Prior Provisions note set out under section 1468 of this title.

SUBCHAPTER V—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1427, 7301 of this title.

§ 1471. Definitions

As used in this subchapter:

(1) The term ''livestock producer'' means—

(A) a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary, that is—

(i) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

(ii) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production; or

(B) Any[1] of the following entities that is actively engaged in livestock production or husbandry, or dairy production—

(i) any Indian tribe (as defined in section 450b(b) of title 25);[2]

(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.), commonly known as the ''Indian Reorganization Act'';

(iii) any tribal organization (as defined in section 450b(c) of title 25);[2] or

(iv) any economic enterprise (as defined in section 1452(e) of title 25);

(2) The term ''livestock'' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

(B) are purchased as part of a normal operation and not to obtain additional benefits under this subchapter.

(3) The term ''State'' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

(4) The term ''feed'', for the purposes of emergency feed assistance, means any type of feed (including feed grain, oilseed meal, premix or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

(A) best suits the livestock producer's operation; and

(B) is consistent with acceptable feed practices.

(5) The term ''area'' includes any Indian reservation (as defined in section 1985(e)(1)(D)(ii)[2] of this title).

(Oct. 31, 1949, ch. 792, title VI, § 602, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 926.)

REFERENCES IN TEXT

Section 450b of title 25, referred to in par. (1)(B)(i), (iii), has been amended, and subsecs. (b) and (c) of section 450b no longer define the terms ''Indian tribe'' and ''tribal organization''. However, such terms are defined elsewhere in that section.

Act of June 18, 1934, referred to in par. (1)(B)(ii), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which enacted sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

Section 1985(e)(1)(D)(ii) of this title, referred to in par. (5), was redesignated section 1985(e)(1)(A)(ii) of this title by Pub. L. 104–127, title VI, § 638(3)(A)(ii), Apr. 4, 1996, 110 Stat. 1096.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

SHORT TITLE

For short title of title VI of act Oct. 31, 1949, ch. 792, which enacted this subchapter, as the ''Emergency Livestock Feed Assistance Act of 1988'', see Short Title of 1988 Amendment note set out under section 1421 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5602 of this title.

§ 1471a. Emergency livestock assistance

(a) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists.

(b)(1) The Secretary shall provide emergency feed assistance under this subchapter for the preservation and maintenance of livestock, to livestock producers that—

(A) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has determined, under subsection (a) of this section, that a livestock emergency exists, and

(B) are otherwise eligible for assistance under this subchapter.

(2) The Secretary shall accept applications for assistance under this subsection from producers that are affected by the livestock emergency at any time during the eight-month period beginning on the date on which the Secretary deter-

[1] So in original. Probably should not be capitalized.

[2] See References in Text note below.

mines that such emergency exists in the other county.

(Oct. 31, 1949, ch. 792, title VI, § 603, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 927.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1471c of this title.

§ 1471b. Determination of need for assistance

(a) Determination and request by Governor or county committee

(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 590h(b) of title 16 determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this subchapter.

(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

(b) Consideration for assistance without request

The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this subchapter whether or not a request for assistance is submitted, as described in subsection (a) of this section.

(c) Prompt action by Secretary

The Secretary shall act on requests for determinations under subsection (a) of this section and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

(d) Eligibility under prior programs; availability of other programs

Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this subchapter shall continue to be eligible for such programs and may be eligible for other programs under this subchapter for such drought or related condition. As soon as practicable after the effective date of this subchapter, the Secretary shall determine whether any of the programs described in section 1471d of this title, other than the emergency feed program under section 1471d(a)(4) of this title and the emergency feed assistance program under section 1471d(a)(2) of this title, or in section 1471e of this title should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

(Oct. 31, 1949, ch. 792, title VI, § 604, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 927.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (d), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100–387. See section 101(c) of Pub. L. 100–387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471c, 1471i of this title.

§ 1471c. Eligible producers

(a) Qualifying livestock producers

(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, qualifying livestock producers located in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, shall be eligible (under application procedures established by the Secretary) for emergency feed assistance under this subchapter in accordance with this subsection.

(2) For the purposes of this subsection, a ''qualifying livestock producer'' is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 1471b of this title) for the estimated duration of the emergency.

(3) Each qualifying livestock producer shall be eligible for emergency feed assistance under the programs specified in section 1471d(a) of this title that is made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's

livestock normally fed with feed produced by the producer.

(b) Availability of additional assistance

Each livestock producer in such State, county, or area, or in a contiguous county as provided for in section 1471a(b) of this title, regardless of whether the producer qualifies for assistance under subsection (a) of this section, shall be eligible for emergency assistance under the programs specified in section 1471e of this title that are made available where the producer is located.

(c) Program participation option

Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this subchapter, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) of this section or, at the producer's option, for assistance under such pre-existing programs.

(Oct. 31, 1949, ch. 792, title VI, § 605, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 928.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (c), is 15 days after Aug. 11, 1988, the effective date of section 101(a) of Pub. L. 100–387. See section 101(c) of Pub. L. 100–387, set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsec. (c) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471d, 1471i of this title.

§ 1471d. Assistance programs

(a) Available programs

In accordance with section 1471c(a) of this title, the Secretary shall make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area, if the Secretary determines that the livestock emergency in such State, county or area requires the implementation of such program:

(1) The donation of feed grain owned by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

(2) The sale of feed grain owned by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

(A) with respect to such assistance provided for any livestock emergency determined to exist prior to January 1, 1989, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

(B) with respect to such assistance provided for any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2).

(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations:

(A) The transportation assistance may not exceed $50 per ton of eligible hay or forage ($12.50 for silage).

(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

(i) 20 pounds per day per eligible animal unit; or

(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of—

(A) $24 per head of a producer's eligible livestock; or

(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

(b) Feed grain through dealer or manufacturer; reimbursement; feed grain stored on farm of producer

If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary—

(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or

(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.

(c) Payments or reimbursements through issuance of negotiable certificates

In providing assistance under paragraph (2) or (4) of subsection (a) of this section, the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

(d) Approved application prerequisite to benefits

No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

(e) Time for application

A person eligible to receive a payment or benefit under this section with respect to a livestock emergency determined to exist prior to January 1, 1989, shall make application for such payment or benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(f) Livestock transportation assistance

The Secretary may make available at least $25,000,000 to provide livestock transportation assistance under subsection (a)(6) of this section for livestock emergencies in 1989.

(Oct. 31, 1949, ch. 792, title VI, §606, as added Pub. L. 100–387, title I, §101(a), Aug. 11, 1988, 102 Stat. 928; amended Pub. L. 101–82, title II, §§201, 202, Aug. 14, 1989, 103 Stat. 581.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2)(A) and (b)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–82, §201, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a) of this section, the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation.''

Subsec. (f). Pub. L. 101–82, §202, added subsec. (f).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (a)(2)(A) and (e) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

EMERGENCY FORAGE PROGRAM

Section 103 of Pub. L. 100–387 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may be provided to such owners and operators only when—

''(1) the forage crop will not regenerate naturally;

''(2) reseeding is the most cost-effective method to reestablish the forage crop; and

''(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

''(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

''(c) LIMITATIONS.—(1) The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be $3,500.

''(2) The Secretary may cost-share for reseeding under this section only if the reseeding is to nonannual crops planted for pasture purposes.

''(d) FUNDING.—(1) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(2) Not more than $50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

''(3) To ensure the equitable award of funds under agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate proration of, funds made available under this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c, 1471e of this title.

§ 1471e. Additional assistance

(a) Determination by Secretary

In addition to the assistance provided under section 1471d of this title, if the Secretary determines that the livestock emergency also requires the implementation of one or more of the assistance programs described in subsection (b) of this section, the Secretary shall implement such programs.

(b) Programs authorized

Special assistance under this section includes—

(1) the donation of feed owned by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, may prescribe;

(2) reimbursement of not to exceed 50 percent of the cost of—

(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

(B) construction or deepening of wells or ponds for livestock water; or

(C) developing springs or seeps for livestock water,

as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

(3) reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

(4) making commodities owned by the Commodity Credit Corporation available to livestock producers through the use of a catalog that specifies lots of a size that are economically feasible for a small producer to obtain by means of certificate exchanges.

(c) Water development projects for 1988 and 1989 emergencies

The Secretary may make available at least $25,000,000 to provide special assistance under subsection (b)(2) of this section for livestock emergencies in 1988 and 1989.

(Oct. 31, 1949, ch. 792, title VI, § 607, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 930; amended Pub. L. 101–82, title I, § 142, title II, § 203, Aug. 14, 1989, 103 Stat. 579, 581.)

AMENDMENTS

1989—Subsec. (b)(2)(B). Pub. L. 101–82, § 142, inserted ''or ponds''.

Subsec. (c). Pub. L. 101–82, § 203, added subsec. (c).

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471b, 1471c of this title.

§ 1471f. Use of Commodity Credit Corporation

The Secretary shall carry out this subchapter through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title VI, § 608, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 930.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471g. Benefits limitation

(a) Total amount of benefits

The total amount of benefits that a person shall be entitled to receive annually under one or more of the programs established under this subchapter may not exceed $50,000.

(b) Issuance of regulations

The Secretary shall issue regulations—

(1) defining the term ''person'', which shall conform, to the extent practicable, to the regulations defining the term ''person'' issued under section 1308 of this title, or successor statute;

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section; and

(3) providing that the term ''person'' shall include, in the case of any cooperative association of producers, each member of the association with respect to benefits due to such member of the association.

(c) Receipt of other disaster payments

No person may receive benefits under this subchapter attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment under the Disaster Assistance Act of 1988 on such lost production.

(d) Total combined payment and benefits limitation

Each person otherwise eligible for a livestock emergency benefit under this subchapter in 1988 shall be subject to the combined payment and benefits limitation established under section 211(c) of the Disaster Assistance Act of 1988.

(Oct. 31, 1949, ch. 792, title VI, § 609, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 930.)

REFERENCES IN TEXT

The Disaster Assistance Act of 1988, referred to in subsecs. (c) and (d), is Pub. L. 100–387, Aug. 11, 1988, 102 Stat. 924. Section 211(c) of that act is set out as a note under section 1421 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1421 of this title and Tables.

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, with subsecs. (c) and (d) of this section applicable only with respect to any livestock emergency in 1988, see section 101(c) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471h. Ineligibility

(a) Any person that has qualifying gross revenues in excess of $2,500,000 annually, as determined by the Secretary, shall not be eligible to receive any livestock emergency benefits under this subchapter.

(b) For purposes of this section, the term ''qualifying gross revenue'' means—

(1) if a majority of the person's annual income is received from farming and ranching operations, the gross revenue from the person's farming and ranching operations; and

(2) if less than a majority of the person's annual income is received from farming and ranching operations, the person's gross revenue from all sources.

(Oct. 31, 1949, ch. 792, title VI, § 610, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective

and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471i. Administration

(a) Regulations

The Commodity Credit Corporation shall issue regulations to carry out this subchapter.

(b) Processing and decisions to be made as quickly as practicable

Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 1471b of this title, and individual applications of livestock producers under section 1471c of this title for assistance, are processed and decisions thereon are made as quickly as practicable.

(c) Indigenous plants not considered feed on hand

For purposes of this subchapter, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

(Oct. 31, 1949, ch. 792, title VI, § 611, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

§ 1471j. Penalties

A person that disposes of any feed made available to a livestock producer under this subchapter other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both.

(Oct. 31, 1949, ch. 792, title VI, § 612, as added Pub. L. 100–387, title I, § 101(a), Aug. 11, 1988, 102 Stat. 931.)

EFFECTIVE DATE

Section effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

INAPPLICABILITY OF SECTION

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(L) of this title.

CHAPTER 36—CROP INSURANCE

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This chapter is referred to in sections 1301, 1391, 6933 of this title; title 12 section 1150a; title 21 section 889; title 26 section 6109; title 42 section 405.

§ 1501. Short title; application of other laws

This chapter may be cited as the ''Federal Crop Insurance Act''. Except as otherwise expressly provided the provisions in titles I to IV, inclusive, shall not apply with respect to this chapter, and the term ''Act'' wherever it appears in such titles shall not be construed to include this chapter.

(Feb. 16, 1938, ch. 30, title V, § 501, 52 Stat. 72.)

REFERENCES IN TEXT

''Titles I to IV, inclusive,'' and ''such titles'', referred to in text, are references to titles I to IV of act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–354, title I, § 101(a), Oct. 13, 1994, 108 Stat. 3179, provided that: ''This title [enacting sections 1433f, 1515, 1521, and 2008f of this title, amending sections 1441–2, 1444–2, 1444f, 1445b–3a, 1502 to 1509, 1511, 1513, 1516, and 1518 to 1520 of this title, sections 901 and 902 of Title 2, The Congress, and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1446i and 1508a of this title, enacting provisions set out as notes under sections 1502, 1506, and 1508 of this title and sections 901 and 902 of Title 2, and repealing provisions set out as a note under section 1421 of this title] may be cited as the 'Federal Crop Insurance Reform Act of 1994'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–365, § 1, Sept. 26, 1980, 94 Stat. 1312, provided: ''That this Act [amending sections 1441, 1444, 1444c, 1445b, 1504, 1505, 1506, 1507, 1508, 1516, and 1518 and repealing section 1515 of this title and enacting provisions set out as notes under sections 1504, 1508, and 1516 of this title] may be cited as the 'Federal Crop Insurance Act of 1980'.''

§ 1502. Purpose and definitions

(a) Purpose

It is the purpose of this chapter to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance.

(b) Definitions

As used in this chapter:

(1) Additional coverage

The term ''additional coverage'' means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

(2) Approved insurance provider

The term ''approved insurance provider'' means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this chapter.

(3) Board

The term ''Board'' means the Board of Directors of the Corporation established under section 1505(a) of this title.

(4) Corporation

The term ''Corporation'' means the Federal Crop Insurance Corporation established under section 1503 of this title.

(5) Department

The term ''Department'' means the United States Department of Agriculture.

(6) Loss ratio

The term ''loss ratio'' means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

(7) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(8) Transitional yield

The term ''transitional yield'' means the maximum average production per acre or equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.

(Feb. 16, 1938, ch. 30, title V, § 502, 52 Stat. 72; June 21, 1941, ch. 214, § 1, 55 Stat. 255; Aug. 1, 1947, ch. 440, § 4, 61 Stat. 719; Pub. L. 103–354, title I, § 102(a), Oct. 13, 1994, 108 Stat. 3180.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Purpose and definitions'' for ''Declaration of purpose'' in section catchline, designated existing text as subsec. (a) and added heading, and added subsec. (b).

1947—Act Aug. 1, 1947, amended section generally, restating purpose of chapter to improve all agriculture by crop insurance instead of being limited only to wheat.

1941—Act June 21, 1941, substituted ''crop'' for ''wheat-crop'' and ''agricultural commodities'' for ''wheat''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 120 of title I of Pub. L. 103–354 provided that: ''Except as otherwise provided in this title, this title [enacting sections 1433f, 1515, 1521, and 2008f of this title, amending this section and sections 1441–2, 1444–2, 1444f, 1445b–3a, 1503 to 1509, 1511, 1513, 1516, and 1518 to 1520 of this title, sections 901 and 902 of Title 2, The Congress, and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1446i and 1508a of this title, enacting provisions set out as notes under sections 1501, 1506, and 1508 of this title and sections 901 and 902 of Title 2, and repealing provisions set out as a note under section 1421 of this title] and the amendments made by this title shall become effective on the date of enactment of this Act [Oct. 13, 1994] and shall apply to the provision of crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with the 1995 crop year. With respect to the 1994 crop year, the Federal Crop Insurance Act (as in effect on the day before the date of enactment of this Act) shall continue to apply.''

§ 1503. Federal Crop Insurance Corporation; creation; offices

To carry out the purposes of this chapter, there is hereby created as an agency of and within the Department a body corporate with the name ''Federal Crop Insurance Corporation''. The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Board.

(Feb. 16, 1938, ch. 30, title V, § 503, 52 Stat. 72; Pub. L. 103–354, title I, § 102(b)(1), (4)(A), (B), Oct. 13, 1994, 108 Stat. 3180, 3181.)

AMENDMENTS

1994—Pub. L. 103–354 in first sentence struck out ''of Agriculture'' after ''Department'' and ''(herein called the Corporation)'' before period at end, and in second sentence struck out ''of Directors'' after ''Board''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

Under authority of Ex. Ord. No. 9577, June 29, 1945, Secretary of Agriculture consolidated administration of program of Federal Crop Insurance Corporation in Production and Marketing Administration by Memorandum 1118, Aug. 18, 1945. 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, transferred administration of program of Federal Crop Insurance Corporation to Secretary of Agriculture. In his letter to Congress President stated that purpose of this transfer was to permit Secretary of Agriculture to continue consolidation already effected in Production and Marketing Administration.

Federal Crop Insurance Corporation consolidated with other agencies into Agricultural Conservation and Adjustment Administration for duration of war, see Ex. Ord. No. 9069.

CROSS REFERENCES

Financial control of Corporation, see section 9101 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§ 1504. Capital stock of Corporation

(a) Subscription by United States

The Corporation shall have a capital stock of $500,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary, be subject to call in whole or in part by the Board.

(b) Appropriations

There is authorized to be appropriated such sums as are necessary for the purpose of subscribing to the capital stock of the Corporation.

(c) Issuance of stock to Secretary of the Treasury

Receipts for payments by the United States of America for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership by the United States of America.

(d) Cancellation of receipts; nonliability of Corporation

Within thirty days after September 26, 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Corporation outstanding on September 26, 1980, and such receipts shall cease to be liabilities of the Corporation.

(Feb. 16, 1938, ch. 30, title V, § 504, 52 Stat. 72; Aug. 25, 1949, ch. 512, §§ 4, 6, 63 Stat. 665; Pub. L. 95–47, June 16, 1977, 91 Stat. 228; Pub. L. 95–181, § 1, Nov. 15, 1977, 91 Stat. 1373; Pub. L. 96–365, title I, § 101, Sept. 26, 1980, 94 Stat. 1312; Pub. L. 103–354, title I, § 102(b)(2), (4)(C), Oct. 13, 1994, 108 Stat. 3180, 3181.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–354, § 102(b)(2)(A), (4)(C), struck out ''of Agriculture'' after ''Secretary'' and ''of Directors of the Corporation'' after ''Board''.

Subsec. (d). Pub. L. 103–354, § 102(b)(2)(B), struck out ''Federal Crop Insurance'' before ''Corporation outstanding''.

1980—Subsec. (a). Pub. L. 96–365, § 101(a), substituted ''$500,000,000'' for ''$200,000,000''.

Subsec. (d). Pub. L. 96–365, § 101(b), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–181 substituted ''$200,000,000'' for ''$150,000,000''.

Pub. L. 95–47 substituted ''$150,000,000'' for ''$100,000,000''.

1949—Subsec. (a). Act Aug. 25, 1949, § 4, struck out second sentence relating to restoration of impairment of capital stock.

Subsec. (b). Act Aug. 25, 1949, § 6, authorized appropriations for subscribing to corporation's capital stock in order to offset losses suffered prior to time program was placed on an experimental basis in 1947.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 112 of Pub. L. 96–365 provided that: ''Except as otherwise provided in this Act, the provisions of this Act amending the Federal Crop Insurance Act [amending sections 1504, 1505 to 1507, 1508, and 1518 of this title and repealing section 1515 of this title] shall become effective on the date of enactment of this Act [Sept. 26, 1980].''

Section 101(a) of Pub. L. 96–365 provided that the amendment made by that section is effective Oct. 1, 1980.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

CANCELLATION OF OUTSTANDING RECEIPTS FOR STOCK IN EXCESS OF $27,000,000

Section 5 of act Aug. 25, 1949, provided that: ''The Secretary of the Treasury is authorized and directed to cancel, without consideration, outstanding receipts for payments for or on account of the stock of the Corporation in excess of $27,000,000.''

INSTITUTION OF EXPANDED PROGRAM; PAYMENT OF COST FOR FISCAL YEAR 1950

Section 11 of act Aug. 25, 1949, provided that: ''The expanded program authorized herein [sections 1504, 1505, 1506, 1507, and 1508 of this title] shall be instituted beginning with the 1950 crop year, the additional cost for fiscal year 1950 to be financed, pending the appropriation of supplemental funds, from any appropriation available for operating and administrative expenses of the Corporation for such fiscal year.''

§ 1504a. Capitalization of Corporation

The payment for capital stock in the Federal Crop Insurance Corporation shall be effected by transfer of funds on the books of the Treasury Department to the credit of the Corporation.

(June 27, 1940, ch. 437, title I, 54 Stat. 640.)

CODIFICATION

Section was not enacted as part of the Federal Crop Insurance Act which comprises this chapter.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1505. Management of Corporation

(a) Establishment, composition, and appointment of Board

The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary. The Board shall consist of the manager of the Corporation, the Under Secretary of Agriculture responsible for the Federal crop insurance program, one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture), one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government. The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board. The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.

(b) Vacancies

Vacancies in the Board so long as there shall be four members in office shall not impair the powers of the Board to execute the functions of the Corporation, and four of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) Compensation

The Directors of the Corporation who are employed in the Department shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The Directors of the Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

(d) Manager of Corporation

The manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board. The manager shall be appointed by, and hold office at the pleasure of, the Secretary.

(Feb. 16, 1938, ch. 30, title V, § 505, 52 Stat. 72; Aug. 1, 1947, ch. 440, § 8, 61 Stat. 719; Aug. 25, 1949, ch. 512, § 7, 63 Stat. 665; Pub. L. 96–365, title I, § 102, Sept. 26, 1980, 94 Stat. 1312; Pub. L. 103–354, title I, §§ 102(b)(3), (4), 103, 115(a), Oct. 13, 1994, 108 Stat. 3181, 3204.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–354, § 102(b)(3), (4)(A), (C), in first sentence struck out ''of Directors (herein-

after called the 'Board')'' after ''Board'' and ''of Agriculture'' after ''Secretary''.

Pub. L. 103–354, §103, in second sentence struck out ''or Assistant Secretary'' after ''Corporation, the Under Secretary'' and substituted ''one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture)'' for ''the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture''.

Pub. L. 103–354, §115(a)(1), substituted ''The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board.'' for former third sentence which read as follows: ''The Board shall be appointed by, and hold office at the pleasure of the Secretary, who shall not, himself, be a member of the Board.''

Pub. L. 103–354, §102(b)(4)(C), in third sentence struck out ''of Agriculture'' before '', who shall not''.

Subsec. (c). Pub. L. 103–354, §102(b)(4)(B), (C), struck out ''of Agriculture'' after ''Department'' in first sentence and after ''Secretary'' in second sentence.

Subsec. (d). Pub. L. 103–354, §§102(b)(4)(C), 115(a)(2), in first sentence struck out ''upon him'' before ''by the Board'', and in second sentence substituted ''The manager shall'' for ''He shall'' and struck out ''of Agriculture'' after ''Secretary''.

1980—Subsec. (a). Pub. L. 96–365, §102(a), increased Board membership to seven from five persons; substituted provisions including on the Board the Under Secretaries or Assistant Secretaries of Agriculture for crop insurance and farm credit programs and one person experienced in crop insurance business for former provisions including on the Board two other Agriculture Department employees and two persons with insurance business experience; authorized appointment of three active farmers not otherwise Federal employees; and required farmer appointees to be policyholders and representative of agricultural interests of different geographic areas.

Subsec. (b). Pub. L. 96–365, §102(b), substituted ''four'' for ''three'' in two places.

Subsec. (c). Pub. L. 96–365, §102(c), substituted as limitation on compensation of Directors of the Corporation not employed by the Federal Government the daily equivalent of rate prescribed for grade GS–18 under section 5332 of title 5 when actually employed, and actual necessary traveling and subsistence expenses, or the per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business for former limitation of $50 per day when actually employed and transportation expenses plus not to exceed $10 per diem in lieu of subsistence expenses when on business of the Corporation away from their homes or regular places of business.

1949—Subsec. (c). Act Aug. 25, 1949, reduced compensation of members of Board of Directors who are not Government employees from ''not to exceed $100 per day'' to ''not to exceed $50 per day'', and changed from ''subsistence expenses'' to ''transportation expenses and not to exceed $10 per diem''.

1947—Act Aug. 1, 1947, amended section generally and, among other changes, increased membership of Board from three to five, provided for two members with insurance experience, not Government employees, increased from two to three the number of members necessary to carry on functions and to constitute a quorum, provided for compensation and expenses of Board members not otherwise Government employed, and for appointment of manager of corporation by the Secretary of Agriculture instead of being selected by the Board.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–365 effective Sept. 26, 1980, see section 112 of Pub. L. 96–365, set out as a note under section 1504 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1502 of this title.

§ 1506. General powers

(a) Succession

The Corporation shall have succession in its corporate name.

(b) Corporate seal

The Corporation may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) Property

The Corporation may purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of such property held by it upon such terms as it deems appropriate.

(d) Suit

The Corporation, subject to the provisions of section 1508(j) of this title, may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business.

(e) Bylaws and regulations

The Corporation may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed.

(f) Mails

The Corporation shall be entitled to the use of the United States mails in the same manner as the other executive agencies of the Government.

(g) Assistance

The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this chapter.

(h) Data collection

The Corporation shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities.

(i) Expenditures

The Corporation shall determine the character and necessity for its expenditures under this chapter and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government.

(j) Settling claims

The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.

(k) Other powers

The Corporation shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(*l*) Contracts

The Corporation may enter into and carry out contracts or agreements, and issue regulations, necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts, agreements, or regulations of the Corporation or the parties thereto to the extent that such contracts, agreements, or regulations provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts, agreements, or regulations.

(m) Submission of certain information

(1) Social security account and employer identification numbers

The Corporation shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, submission of social security account numbers, subject to the requirements of section 405(c)(2)(C)(iii)[1] of title 42, and employer identification numbers, subject to the requirements of section 6109(f) of title 26.

(2) Notification by policyholders

Each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such policyholder of the requirements and limitations under this chapter.

(3) Identification of holders of substantial interests

The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the name of each individual that holds or acquires a substantial beneficial interest in the policyholder.

(4) "Substantial beneficial interest" defined

For purposes of this subsection, the term ''substantial beneficial interest'' means not less than 5 percent of all beneficial interests in the policyholder.

(n) Penalties

(1) False information

If a person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this chapter, the Corporation may, after notice and an opportunity for a hearing on the record—

(A) impose a civil fine of not to exceed $10,000 on the person; and

(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this chapter for a period of not to exceed 10 years.

(2) Assessment of penalty

In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation.

(*o*) Actuarial soundness

(1) Projected loss ratio as of October 1, 1995

The Corporation shall take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance coverage made available under this chapter to achieve, on and after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

(A) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would prevent beginning farmers (as defined by the Secretary) from obtaining Federal crop insurance;

(B) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

(C) establishing a database that contains the social security account and employee identification numbers of participating producers, agents, and loss adjusters and using the numbers to identify insured producers,

[1] See References in Text note below.

agents, and loss adjusters who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

(D) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for agricultural producers.

(2) Projected loss ratio as of October 1, 1998

The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this chapter to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

(3) Nonstandard classification system

To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner.

(p) Regulations

The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this chapter.

(q) Program compliance

(1) Timeliness

The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as the issues develop.

(2) Notification of compliance problems

The Corporation shall notify in writing any approved insurance provider with whom the Corporation has an agreement under this chapter of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation. The notice shall be given within 3 years of the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limit shall not apply with respect to errors, omissions, or procedural violations that are willful or intentional. The failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

(r) Purchase of American-made equipment and products

(1) Sense of Congress

It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

(2) Notice requirement

In providing financial assistance to, or entering into any contract with, any entity for the purchase of equipment and products to carry out this chapter, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).

(s) Procedures for responding to certain inquiries

(1) Procedures required

The Corporation shall establish procedures under which the Corporation will provide a final agency determination in response to an inquiry regarding the interpretation by the Corporation of this chapter or any regulation issued under this chapter.

(2) Implementation

Not later than 180 days after June 23, 1998, the Corporation shall issue regulations to implement this subsection. At a minimum, the regulations shall establish—

(A) the manner in which inquiries described in paragraph (1) are required to be submitted to the Corporation; and

(B) a reasonable maximum number of days within which the Corporation will respond to all inquiries.

(3) Effect of failure to timely respond

If the Corporation fails to respond to an inquiry in accordance with the procedures established pursuant to this subsection, the person requesting the interpretation of this chapter or regulation may assume the interpretation is correct for the applicable reinsurance year.

(Feb. 16, 1938, ch. 30, title V, §506, 52 Stat. 73; June 21, 1941, ch. 214, §2, 55 Stat. 255; Aug. 1, 1947, ch. 440, §7, 61 Stat. 719; Aug. 25, 1949, ch. 512, §8, 63 Stat. 665; Pub. L. 96–365, title I, §§103, 107(a), Sept. 26, 1980, 94 Stat. 1313, 1317; Pub. L. 101–624, title XXII, §§2201(a), 2202, Nov. 28, 1990, 104 Stat. 3951, 3954; Pub. L. 102–237, title VI, §601(1), (2), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103–66, title XIV, §1403(a), Aug. 10, 1993, 107 Stat. 333; Pub. L. 103–354, title I, §§104, 119(f)(1), Oct. 13, 1994, 108 Stat. 3181, 3208; Pub. L. 105–185, title V, §533, June 23, 1998, 112 Stat. 583.)

REFERENCES IN TEXT

Section 405(c)(2)(C)(iii) of title 42, referred to in subsec. (m)(1), was redesignated section 405(c)(2)(C)(iv) of title 42 by Pub. L. 103–296, title III, §321(a)(9)(B), Aug. 15, 1994, 108 Stat. 1536.

AMENDMENTS

1998—Subsec. (s). Pub. L. 105–185 added subsec. (s).

1994—Subsec. (d). Pub. L. 103–354, §119(f)(1), substituted ''1508(j)'' for ''1508(f)'' in first sentence.

Subsec. (j). Pub. L. 103–354, §104(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 103–354, §104(1), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 103–354, §104(1), (3), redesignated subsec. (k) as (*l*), in first sentence inserted '', and issue regulations,'' after ''agreements'', and in second sentence substituted ''contracts, agreements, or regulations'' for ''contracts or agreements'' wherever appearing. Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 103–354, §104(1), redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Subsec. (n). Pub. L. 103–354, §104(1), redesignated subsec. (m) as (n). Former subsec. (n) redesignated (*o*).

Subsec. (n)(1)(B). Pub. L. 103–354, §104(4), added subpar. (B) and struck out former subpar. (B) which read as follows: ''disqualify the person from receiving any

benefit under this chapter for a period of not to exceed 10 years.''

Subsec. (*o*). Pub. L. 103–354, §104(1), (5)(B), redesignated subsec. (n) as (*o*) and reenacted heading without change.

Subsec. (*o*)(1). Pub. L. 103–354, §104(5)(B), designated existing provisions as par. (1) and inserted heading. Former par. (1) redesignated subpar. (A).

Subsec. (*o*)(1)(A). Pub. L. 103–354, §104(5)(A), (C), redesignated former par. (1) as subpar. (A) and substituted ''(as defined by the Secretary) from obtaining Federal crop insurance'' for ''from obtaining adequate Federal crop insurance, as determined by the Corporation''.

Subsec. (*o*)(1)(B). Pub. L. 103–354, §104(5)(A), redesignated former par. (2) as subpar. (B).

Subsec. (*o*)(1)(C). Pub. L. 103–354, §104(5)(A), (D), redesignated former par. (3) as subpar. (C) and inserted '', agents, and loss adjusters'' after ''participating producers'' and after ''identify insured producers''.

Subsec. (*o*)(1)(D). Pub. L. 103–354, §104(5)(A), redesignated former par. (4) as subpar. (D).

Subsec. (*o*)(2) to (4). Pub. L. 103–354, §104(5)(A), (E), added pars. (2) and (3) and redesignated former pars. (2) to (4) as subpars. (B) to (D), respectively, of par. (1) and realigned their margins.

Subsecs. (p) to (r). Pub. L. 103–354, §104(6), added subsecs. (p) to (r).

1993—Subsec. (n). Pub. L. 103–66 added subsec. (n).

1991—Subsec. (d). Pub. L. 102–237, §601(1), substituted ''section 1508(f)'' for ''section 1508(c)'' and a period for semicolon at end.

Subsec. (m)(1). Pub. L. 102–237, §601(2), in introductory provisions substituted ''willfully'' for ''wilfully'' and in subpar. (A) struck out ''to'' after ''exceed''.

1990—Pub. L. 101–624, §2202(b)(1), substituted ''General powers'' for ''General powers of Corporation'' as section catchline and struck out ''The Corporation—'' before subsec. (a).

Subsec. (a). Pub. L. 101–624, §2202(b)(2), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (b). Pub. L. 101–624, §2202(b)(3), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (c). Pub. L. 101–624, §2202(b)(4), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (d). Pub. L. 101–624, §2202(b)(5), inserted heading and ''The Corporation,''.

Subsec. (e). Pub. L. 101–624, §2202(b)(6), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (f). Pub. L. 101–624, §2202(b)(7), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (g). Pub. L. 101–624, §2202(b)(8), (13), inserted heading and ''The Corporation,'' and substituted period for semicolon at end.

Subsec. (h). Pub. L. 101–624, §2202(b)(9), (13), inserted heading and ''The Corporation'' and substituted period for semicolon at end.

Subsec. (i). Pub. L. 101–624, §2202(b)(10), (14), inserted heading and ''The Corporation'' and substituted period for ''; and'' at end.

Subsec. (j). Pub. L. 101–624, §2202(b)(11), (14), inserted heading and ''The Corporation'' and substituted period for ''; and'' at end.

Subsec. (k). Pub. L. 101–624, §2202(b)(12), inserted heading and ''The Corporation''.

Subsec. (*l*). Pub. L. 101–624, §2201(a), added subsec. (*l*).

Subsec. (m). Pub. L. 101–624, §2202(a), added subsec. (m).

1980—Subsec. (c). Pub. L. 96–365, §103(1), substituted ''may purchase'' for ''may make contracts and purchase''. See subsec. (k) of this section.

Subsec. (d). Pub. L. 96–365, §103(2), substituted provision granting exclusive original jurisdiction to district courts of the United States, including district courts of the District of Columbia and of any territory or possession, for prior grant to any State court of record having general jurisdiction or any United States district court, authorized intervention by the Corporation in proceedings, and required suits against the Corporation to be brought in the District of Columbia or in district wherein plaintiff resides or is engaged in business.

Subsec. (f). Pub. L. 96–365, §103(3), substituted ''use of the United States mails'' for ''free use of the United States mails''.

Subsec. (h). Pub. L. 96–365, §107(a), struck out authority for conducting researches, surveys, and investigations relating to crop insurance. See section 1508(i) of this title.

Subsec. (k). Pub. L. 96–365, §103(4), added subsec. (k).

1949—Subsec. (h). Act Aug. 25, 1949, struck out obsolete language and included authority for a study of the possibility of developing some type of livestock insurance.

1947—Subsec. (d). Act Aug. 1, 1947, provided for suits in State courts of general jurisdiction or in United States district courts regardless of amount in controversy.

1941—Subsec. (h). Act June 21, 1941, substituted ''and preparatory to the application of the chapter to other basic commodities when so provided by law, shall assemble data relative to field corn, for the purpose of establishing a satisfactory actuarial basis for such commodity'' for ''for wheat and other agricultural commodities.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–185, title V, §537, June 23, 1998, 112 Stat. 584, provided that: ''Except as provided in section 535 [112 Stat. 583], this subtitle [subtitle C (§§531–537) of title V of Pub. L. 105–185, amending this section and sections 1508 and 1516 of this title and enacting provisions set out as notes under this section] and the amendments made by this subtitle take effect on July 1, 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1403(c)(1) of Pub. L. 103–66 provided that: ''Except as provided in paragraph (2), this section [amending this section and sections 1508 and 1508a of this title] and the amendments made by this section shall become effective on October 1, 1993.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–365 effective Sept. 26, 1980, see section 112 of Pub. L. 96–365, set out as a note under section 1504 of this title.

REGULATIONS

Section 1403(c)(2) of Pub. L. 103–66 provided that: ''Not later than 30 days after the date of enactment of this Act [Aug. 10, 1993], the Secretary of Agriculture shall publish, for public comment, proposed regulations to implement the amendments made by this section [amending this section and sections 1508 and 1508a of this title].''

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

REQUIRED TERMS AND CONDITIONS OF STANDARD REINSURANCE AGREEMENTS

Pub. L. 105–185, title V, § 536, June 23, 1998, 112 Stat. 584, provided that:

''(a) DEFINITIONS.—In this section, the terms 'approved insurance provider' and 'Corporation' have the meanings given the terms in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

''(b) TERMS AND CONDITIONS.—

''(1) INCORPORATION OF AMENDMENTS.—For each of the 1999 and subsequent reinsurance years, the Corporation shall ensure that each Standard Reinsurance Agreement between an approved insurance provider and the Corporation reflects the amendments to the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) that are made by this subtitle [see Effective Date of 1998 Amendment note above] to the extent the amendments are applicable to approved insurance providers.

''(2) RETENTION OF EXISTING PROVISIONS.—Except to the extent necessary to implement the amendments made by this subtitle, each Standard Reinsurance Agreement described in paragraph (1) shall contain the following provisions of the Standard Reinsurance Agreement for the 1998 reinsurance year:

''(A) Section II, concerning the terms of reinsurance and underwriting gain and loss for an approved insurance provider.

''(B) Section III, concerning the terms for subsidies and administrative fees for an approved insurance provider.

''(C) Section IV, concerning the terms for loss adjustment for an approved insurance provider under catastrophic risk protection.

''(D) Section V.C., concerning interest payments between the Corporation and an approved insurance provider.

''(E) Section V.I.5., concerning liquidated damages.

''(c) IMPLEMENTATION.—To implement this subtitle and the amendments made by this subtitle, the Corporation is not required to amend provisions of the Standard Reinsurance Agreement not specifically affected by this subtitle or an amendment made by this subtitle.''

CROP INSURANCE PROVIDER EVALUATION

Section 118 of Pub. L. 103–354 provided that:

''(a) IN GENERAL.—The Comptroller General of the United States and the Federal Crop Insurance Corporation (referred to in this section as the 'Corporation') shall jointly evaluate the financial arrangement between the Corporation and approved insurance providers to determine the quality, costs, and efficiencies of providing the benefits of multiple peril crop insurance to producers of agricultural commodities covered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(b) COLLECTION OF INFORMATION AND PROPOSALS.—The Corporation shall require private insurance providers and agents to supply, and the private insurance providers and agents shall supply, records and information necessary to make the determinations and evaluations required under this section. The Corporation shall solicit from the approved insurance providers and agents proposals for modifying or altering the requirements, regulations, procedures, and processes related to implementing the Federal Crop Insurance Act to reduce the operating and administrative costs of the providers and agents.

''(c) INITIAL REPORT.—Not later than 180 days after receipt of information and cost-reduction proposals under subsection (b), the Corporation shall evaluate the information and proposals obtained and report the results of the evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(d) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act [Oct. 13, 1994], the Comptroller General and the Corporation shall submit a final report that provides the evaluation required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In making the evaluation, the Comptroller General and the Corporation shall—

''(1) consider the changes made by the Corporation in response to increased program participation resulting from the enactment of this Act;

''(2) include an evaluation and opinion of the accuracy and reasonableness of—

''(A) the average actual costs for approved insurance providers to deliver multiple peril crop insurance;

''(B) the cost per policy of complying with the requirements, regulations, procedures, and processes of the Federal Crop Insurance Act;

''(C) the cost differences for various provider firm sizes and any business delivered by the Federal Government;

''(D) the adequacy of the standard reimbursement for potential new providers; and

''(E) the identification of any new costs related to the enactment of this Act not previously identified in the information reported by the providers;

''(3) compare delivery costs of multiple peril crop insurance to other insurance coverages that the provider may sell and determine the extent, if any, to which any funds provided to carry out the Federal Crop Insurance Act are being used to fund any other business enterprise operated by the provider;

''(4)(A) assess alternative methods for reimbursing providers for reasonable and necessary expenses associated with delivery of multiple peril crop insurance;

''(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

''(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

''(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

''(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

''(B) the relative risk borne by the provider for the different lines of insurance;

''(C) the availability and price of commercial reinsurance; and

''(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

''(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

''(e) INFORMATION.—

''(1) PRIVACY.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

''(2) SUBPOENAS.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.''

CROSS REFERENCES

Amount in controversy, generally, see section 1332 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28.

Jurisdiction of district court of action by corporation organized under federal law, see section 1349 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1521 of this title; title 26 section 6109; title 42 section 405.

§§ 1506a, 1506b. Omitted

CODIFICATION

Section 1506a, act July 30, 1947, ch. 356, title II, § 202, 61 Stat. 550, which related to authority of Federal Crop Insurance Corporation to make expenditures, was from the Department of Agriculture Appropriation Act, 1948, and was not repeated in subsequent appropriation acts.

Section 1506b, acts June 29, 1954, ch. 409, title II, § 201, 68 Stat. 317; May 23, 1955, ch. 43, title II, § 201, 69 Stat. 60; June 4, 1956, ch. 355, title II, § 201, 70 Stat. 238, which provided that crop inspection costs and loss adjustments could be considered as nonadministrative or nonoperating expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Acts for fiscal years 1955–57, and was not repeated in subsequent appropriation acts.

§ 1507. Personnel of Corporation

(a) Appointment; civil service exemption; compensation

The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Secretary may determine appropriate. However, personnel paid by the hour, day, or month when actually employed may be appointed without regard to civil-service laws and regulations.

(b) Application of employees' compensation law

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5, shall extend to persons given employment under the provisions of this chapter, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) Use of associations of producers and private insurance companies; payment of administrative and program expenses; sale of crop insurance through private agents and brokers: renewals, exclusion of compensation from premium rates, indemnification for errors or omissions of Commission or its contractors

In the administration of this chapter, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this chapter, (2) contract with private insurance companies, private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector, and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided*, That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission. Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(h) of this title.

(d) Allotment of funds to Federal and State agencies

The Secretary may allot to bureaus and offices of the Department or transfer to such other agencies of the State and Federal Governments that the Secretary requests to assist in carrying out this chapter any funds made available pursuant to the provisions of section 1516 of this title.

(e) Utilization of producer cooperative associations

In carrying out the provisions of this chapter the Board may, in its discretion, utilize producer-owned and producer-controlled cooperative associations.

(f) Use of resources, data, boards, and committees of Federal agencies

The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this chapter.

(g) Specialty Crops Coordinator

(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with

the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.

(Feb. 16, 1938, ch. 30, title V, § 507, 52 Stat. 73; Aug. 1, 1947, ch. 440, § 6, 61 Stat. 719; Aug. 25, 1949, ch. 512, § 10, 63 Stat. 665; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Pub. L. 92–310, title II, § 221(b), June 6, 1972, 86 Stat. 205; Pub. L. 96–365, title I, § 104, Sept. 26, 1980, 94 Stat. 1313; Pub. L. 101–624, title XXII, § 2206, Nov. 28, 1990, 104 Stat. 3958; Pub. L. 102–237, title VI, § 601(3), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103–354, title I, §§ 102(b)(4)(B), (C), 105, 115(b), 119(f)(2), Oct. 13, 1994, 108 Stat. 3181, 3182, 3204, 3208.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set out in Title 5, Government Organization and Employees. See, particularly section 3301 et seq. of Title 5.

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions that authorized personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen to have their compensation fixed without regard to ''the Classification Act of 1923, as amended'' were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (b), reference to ''subchapter I of chapter 81 of title 5'' substituted for ''the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–354, §§ 105(1), 115(b)(1), substituted ''as the Secretary may determine appropriate. However,'' for ''as he may determine: *Provided*, That'' and struck out '', and county crop insurance committeemen'' before ''may be appointed''.

Subsec. (c). Pub. L. 103–354, § 119(f)(2), substituted ''1508(h)'' for ''1508(b)'' in last sentence.

Subsec. (d). Pub. L. 103–354, § 105(2), made technical amendment to reference to section 1516 of this title and struck out before period at end '', except that employees or agencies responsible for administering this chapter in each county shall be selected and designated by the Corporation and shall be responsible directly to the Corporation without the intervention of any intermediate office or agency''.

Pub. L. 103–354, § 102(b)(4)(B), (C), 115(b)(2), substituted ''Secretary'' for ''Secretary of Agriculture'', ''Department'' for ''Department of Agriculture'', and ''that the Secretary requests'' for ''as he may request''.

Subsec. (g). Pub. L. 103–354, § 105(3), added subsec. (g).

1991—Subsec. (c). Pub. L. 102–237 inserted a comma after ''private insurance companies'' in cl. (2).

1990—Subsec. (c). Pub. L. 101–624 inserted ''private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,'' after ''private insurance companies'' and inserted at end ''Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(b) of this title.''

1980—Subsec. (c). Pub. L. 96–365, § 104(1), inserted ''shall, to the maximum extent possible'', incorporated existing provisions in cl. (1), including in cl. (1) provision for payment of program expenses, but omitting provision for inclusion of estimated expenses in insurance premiums, and added cls. (2) and (3) and provisions for exclusion of compensation from premium rates and indemnification of agents and brokers for errors or omissions of Commission or its contractors.

Subsec. (f). Pub. L. 96–365, § 104(2), added subsec. (f).

1972—Subsec. (a). Pub. L. 92–310 struck out provisions which empowered Secretary to require bonds of officers and employees.

1949—Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

Act Aug. 25, 1949, inserted requirement that officers and employees be appointed subject to civil service laws and regulations, and exempted personnel paid by hour, day, or month when employed, and county crop-insurance committeemen from civil-service laws and regulations or the Classification Act of 1923.

1947—Act Aug. 1, 1947, provided for selection and designation of county employees and agencies and their direct responsibility.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–365 effective Sept. 26, 1980, see section 112 of Pub. L. 96–365, set out as a note under section 1504 of this title.

REPEALS

Act Oct. 29, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1508. Crop insurance

(a) Authority to offer insurance

(1) In general

If sufficient actuarial data are available (as determined by the Corporation), the Corpora-

tion may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

(2) Period

Except in the cases of tobacco and potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term ''field'' means the environment in which the commodity is produced.

(3) Exclusions

Insurance provided under this subsection shall not cover losses due to—

(A) the neglect or malfeasance of the producer;

(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

(C) the failure of the producer to follow good farming practices (as determined by the Secretary).

(4) Expansion to other areas or single producers

(A) Area expansion

The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

(B) Producer expansion

In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this chapter if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to the Corporation.

(5) Dissemination of crop insurance information

The Corporation shall make available to producers through local offices of the Department—

(A) current and complete information on all aspects of Federal crop insurance; and

(B) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

(6) Addition of new and specialty crops

(A) Data collection

Not later than 180 days after October 13, 1994, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

(B) Addition of new crops

Not later than 1 year after October 13, 1994, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this chapter to new and specialty crops.

(C) Addition of direct sale perishable crops

Not later than 1 year after October 13, 1994, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

(D) Addition of nursery crops

Not later than 2 years after April 4, 1996, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.

(b) Catastrophic risk protection

(1) In general

The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

(2) Amount of coverage

(A) In general

Subject to subparagraph (B)—

(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

(B) Reduction in actual payment

The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

(3) Yield and loss basis

A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

(4) Sale of catastrophic risk coverage

(A) In general

Catastrophic risk coverage may be offered by—

(i) approved insurance providers, if available in an area; and

(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

(B) Need

For purposes of considering need under subparagraph (A)(ii), the Secretary may take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

(C) Delivery of coverage

(i) In general

In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

(ii) Coverage by approved insurance providers

To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

(iii) Timing of determinations

Not later than 90 days after April 4, 1996, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department.

(iv) Current policies

This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection policies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall begin at a date that permits the process to be completed not later than 45 days before the sales closing date.

(5) Administrative fee

(A) Basic fee

Each producer shall pay an administrative fee for catastrophic risk protection in an amount equal to 10 percent of the premium for the catastrophic risk protection or $50 per crop per county, whichever is greater, as determined by the Corporation.

(B) Additional fee

In addition to the amount required under subparagraph (A), the producer shall pay a $10 fee for each amount determined under subparagraph (A).

(C) Time for payment

The amounts required under subparagraphs (A) and (B) shall be paid by the producer on the date that premium for a policy of additional coverage would be paid by the producer.

(D) Use of fees

(i) In general

The amounts paid under this paragraph shall be deposited in the crop insurance fund established under section 1516(c) of this title, to be available for the programs and activities of the Corporation.

(ii) Limitation

No funds deposited in the crop insurance fund under this subparagraph may be used to compensate an approved insurance provider or agent for the delivery of services under this subsection.

(E) Waiver of fee

The Corporation shall waive the amounts required under this paragraph for limited resource farmers, as defined by the Corporation.

(6) Participation requirement

A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

(7) Eligibility for Department programs

(A) In general

Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops

at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], for the conservation reserve program, or for any benefit described in section 2008f of this title, a person shall—

(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.

(B) "Crop of economic significance" defined

As used in this paragraph, the term ''crop of economic significance'' means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

(8) Limitation due to risk

The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

(9) Transitional coverage for 1995 crops

Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 [Oct. 13, 1994] to obtain catastrophic risk protection for the crop. On enactment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this chapter then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c) of this section.

(10) Simplification

(A) Catastrophic risk protection plans

In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this chapter, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

(B) Other plans

To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this chapter without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

(11) Loss adjustment

The rate for reimbursing an approved insurance provider or agent for expenses incurred by the approved insurance provider or agent for loss adjustment in connection with a policy of catastrophic risk protection shall not exceed 11 percent of the premium for catastrophic risk protection that is used to define loss ratio.

(c) General coverage levels

(1) Additional coverage generally

(A) In general

The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

(B) Purchase

To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

(2) Transfer of relevant information

If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

(3) Yield and loss basis

A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

(4) Level of coverage

The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

(5) Price level

The Corporation shall establish a price level for each commodity on which insurance is offered that—

(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).

(6) Price elections

(A) In general

Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

(B) Minimum price elections

The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

(C) Wheat classes and malting barley

The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addition to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

(7) Fire and hail coverage

For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

(8) State premium subsidies

The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

(9) Limitations on additional coverage

The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

(10) Administrative fee

(A) Fee required

Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. The administrative fee for the producer shall be $50 per crop per county, but not to exceed $200 per producer per county, up to a maximum of $600 per producer for all counties in which a producer has insured crops. Subparagraphs (D) and (E) of subsection (b)(5) of this section shall apply with respect to the use of administrative fees under this subparagraph.

(B) Exception

If a producer elects to purchase additional coverage for a crop equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall not be subject to the administrative fee required by this paragraph or subsection (b)(5) of this section. If the producer has already paid the administrative fee for a lower level of coverage for the crop, the administrative fee shall be refunded to the producer unless the refund would reduce to less than $200 the total amount of the administrative fees paid by the producer for 2 or more crops in the same county for which a lower level of coverage is obtained.

(C) Additional fee

If a producer elects to purchase additional coverage for a crop equal to or exceeding 65 percent of the recorded or appraised average yield and 100 percent of the expected market price or an equivalent coverage, the producer shall pay an administrative fee of $20 for the coverage. If a producer has already paid an administrative fee for lesser coverage for the crop, the fee for lesser coverage shall be refunded to the producer unless the producer has paid the maximum fee for lesser coverage and refund of the fee will not reduce the amount to be paid below the maximum amount.

(D) Deposit of fees

Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, administrative fees collected under subparagraph (B) in excess of $100 per producer per county and under subparagraph (C) shall be deposited in the insurance fund established under section 1516(c) of this title to be available for the programs and activities of the Corporation.

(d) Premiums

(1) Premiums required

The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

(2) Premium amounts

The premium amounts for catastrophic risk protection under subsection (b) of this section and additional coverage under subsection (c) of this section shall be fixed as follows:

(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

(i) be sufficient to cover anticipated losses and a reasonable reserve; and

(ii) include an amount for operating and administrative expenses, as determined by the Corporation.

(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

(i) be sufficient to cover anticipated losses and a reasonable reserve; and

(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

(e) Payment of portion of premium by Corporation

(1) In general

For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) of this section and the additional coverage provided under subsection (c) of this section, the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

(2) Amount of payment

The amount of the premium to be paid by the Corporation shall be as follows:

(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A) of this section.

(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B) of this section.

(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C) of this section.

(3) Premium reduction

If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reimbursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

(4) Individual and area crop insurance coverage

The Corporation shall allow approved insurance providers to offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b) of this section.

(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.

(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.

(D) The Corporation shall pay a part of the premium equivalent to—

(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.

(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).

(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially

sound or that the interests of producers are not adequately protected.

(f) Eligibility

(1) In general

To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

(2) Sales closing date

(A) In general

For coverage under this chapter, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department.

(B) Established dates

Except as provided in subparagraph (C), the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

(C) Exception

If compliance with subparagraph (B) results in a sales closing date for an agricultural commodity that is earlier than January 31, the sales closing date for that commodity shall be January 31 beginning with the 2000 crop year.

(3) Records and reporting

To obtain catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section, a producer shall—

(A) provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and

(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

(g) Yield determinations

(1) In general

Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section.

(2) Yield coverage plans

(A) Actual production history

Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

(B) Assigned yield

If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

(C) Area yield

The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

(D) Commodity-by-commodity basis

A producer may choose between individual yield or area yield coverage or combined coverage (as provided in subsection (e)(4) of this section), if available, on a commodity-by-commodity basis.

(3) Transitional yields for producers of feed or forage

(A) In general

If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

(ii) over 50 percent of the net farm income of the producer is derived from the operation.

(B) Yield calculation

The Corporation shall—

(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

(C) Termination of authority

The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

(h) Submission of policies and materials to Board

(1) In general

In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c) of this section, a person may prepare for submission or propose to the Board—

(A) other crop insurance policies and provisions of policies; and

(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

(2) Submission of policies

A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this chapter, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e) of this section.

(3) Review and approval by the Board

A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

(4) Guidelines for submission and review

The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5 until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this chapter.

(5) Required publication

Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.

(6) Pilot cost of production risk protection plan

(A) In general

The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

(B) Pilot basis

The cost of production risk protection plan shall—

(i) be established as a pilot project for each of the 1996 and 1997 crop years; and

(ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

(C) Insurable loss

An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

(D) "New producer" defined

As used in this paragraph, the term ''new producer'' means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.

(7) Additional prevented planting policy coverage

(A) In general

Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

(B) Approved insurance providers

Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

(C) Timing of loss

A crop loss shall be covered by the additional prevented planting coverage if—

(i) crop insurance policies were obtained for—

(I) the crop year the loss was experienced; and

(II) the crop year immediately preceding the year of the prevented planting loss; and

(ii) the cause of the loss occurred—

(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

(II) before the sales closing date for the crop in the year in which the loss is experienced.

(8) Pilot program of assigned yields for new producers

(A) Program required

For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot program to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g) of this section. The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

(B) Increased assigned yields

In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

(C) Eligible new producer

The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.

(9) Revenue insurance pilot program

(A) In general

Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997 through 2001, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

(B) Administration

Revenue insurance under this paragraph shall—

(i) be offered through reinsurance arrangements with private insurance companies;

(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

(iii) be actuarially sound; and

(iv) require the payment of premiums and administrative fees by an insured producer.

(10) Time limits for response to submission of new policies

(A) In general

The Board shall establish a reasonable time period within which the Board shall approve or disapprove a proposal from a person regarding a new policy submitted in accordance with this subsection.

(B) Effect of failure to meet time limits

Except as provided in subparagraph (C), if the Board fails to provide a response to a proposal described in subparagraph (A) in accordance with subparagraph (A), the new policy shall be deemed to be approved by the Board for purposes of this subsection for the initial reinsurance year designated for the new policy in the request.

(C) Exceptions

Subparagraph (B) shall not apply to a proposal submitted under this subsection if the Board and the person submitting the request agree to an extension of the time period.

(i) Adoption of rates and coverages

The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

(j) Claims for losses

(1) In general

Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner.

(2) Denial of claims

(A) In general

Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

(B) Statute of limitations

A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

(3) Indemnification

The Corporation shall provide approved insurance providers with indemnification, including costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

(4) Marketing windows

The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.

(k) Reinsurance

(1) In general

Notwithstanding any other provision of this chapter, the Corporation shall, to the maximum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

(2) Terms and conditions

The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) of this section and sound reinsurance principles.

(3) Share of risk

The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

(4) Rate

(A) In general

Except as provided in subparagraph (B), the rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

(i) for the 1998 reinsurance year, 27 percent of the premium used to define loss ratio; and

(ii) for each of the 1999 and subsequent reinsurance years, 24.5 percent of the premium used to define loss ratio.

(B) Proportional reductions

A policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 1998 reinsurance year that is lower than the rate specified in subparagraph (A)(i) shall receive a reduction in the rate of reimbursement that is proportional to the reduction in the rate of reimbursement between clauses (i) and (ii) of subparagraph (A).

(5) Cost and regulatory reduction

Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on October 13, 1994.

(6) Agency discretion

The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5.

(7) Plan

The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

***(l)* Optional coverages**

The Corporation may offer specific risk protection programs, including protection against prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

(m) Research

(1) In general

Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

(2) Exception

No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

(3) Evaluation

After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.

(n) Limitation on multiple benefits for same loss

(1) In general

Except as provided in paragraph (2), if a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) of this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this chapter or under the other program, but not both. A producer who purchases additional coverage under sub-

section (c) of this section may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

(2) Exception

Paragraph (1) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(Feb. 16, 1938, ch. 30, title V, § 508, 52 Stat. 74; June 22, 1938, ch. 563, 52 Stat. 835; June 21, 1941, ch. 214, §§ 3–7, 10, 55 Stat. 255, 256; Dec. 23, 1944, ch. 713, §§ 1–3, 58 Stat. 918, 919; Aug. 1, 1947, ch. 440, §§ 1–3, 61 Stat. 718; Aug. 25, 1949, ch. 512, §§ 1–3, 63 Stat. 663; Aug. 13, 1953, ch. 431, 67 Stat. 575; Pub. L. 85–111, July 23, 1957, 71 Stat. 309; Pub. L. 86–131, Aug. 4, 1959, 73 Stat. 278; Pub. L. 88–589, Sept. 12, 1964, 78 Stat. 933; Pub. L. 96–365, title I, §§ 105, 106, 107(b), Sept. 26, 1980, 94 Stat. 1314, 1315, 1317; Pub. L. 100–387, title II, § 208(a), Aug. 11, 1988, 102 Stat. 941; Pub. L. 101–624, title XXII, §§ 2203–2205, Nov. 28, 1990, 104 Stat. 3955–3957; Pub. L. 102–237, title VI, § 601(4), (5), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103–66, title XIV, § 1403(b)(1), (2), Aug. 10, 1993, 107 Stat. 333, 334; Pub. L. 103–354, title I, § 106, Oct. 13, 1994, 108 Stat. 3183; Pub. L. 104–127, title I, §§ 193(a)(1), (2), (c), (d), (f), 195, Apr. 4, 1996, 110 Stat. 943–946; Pub. L. 105–185, title V, §§ 532, 534, June 23, 1998, 112 Stat. 581, 583; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 803(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–38; Pub. L. 106–113, div. B, § 1000(a)(5) [title II, §§ 205(a), 206], Nov. 29, 1999, 113 Stat. 1536, 1501A–294.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (b)(7)(A), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§ 7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

For the effective date of this paragraph, referred to in subsecs. (b)(10)(B) and (g)(3)(C), as being Oct. 13, 1994, see Effective Date of 1994 Amendment note below.

The Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, referred to in subsec. (c)(10)(D), is Pub. L. 103–330, Sept. 30, 1994, 108 Stat. 2345. Provisions of the Act relating to the Federal Crop Insurance Corporation (108 Stat. 2447) are not classified to the Code. For complete classification of this Act to the Code, see Tables.

Section 118 of the Federal Crop Insurance Reform Act of 1994, referred to in subsec. (k)(5), is section 118 of Pub. L. 103–354, which is set out as a note under section 1506 of this title.

The Consolidated Farm and Rural Development Act, referred to in subsec. (n)(2), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle C of the Act is classified generally to subchapter III (§ 1961 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1999—Subsec. (f)(2). Pub. L. 106–113, § 1000(a)(5) [title II, § 206], designated existing provisions as subpar. (A), inserted heading, struck out ''Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.'' after ''price and production adjustment programs of the Department.'', and added subpars. (B) and (C).

Subsec. (h)(9)(A). Pub. L. 106–113, § 1000(a)(5) [title II, § 205(a)], substituted ''1997 through 2001'' for ''1997, 1998, 1999, and 2000''.

1998—Subsec. (b)(5). Pub. L. 105–185, § 532(a), added par. (5) and struck out heading and text of former par. (5) which, in subpar. (A) required payment of $50 fee per crop per county up to a maximum of $200 per producer per county and $600 per producer for all counties, in subpar. (B) directed crediting of fees up to $100 collected by USDA offices to appropriations account, retention of fees up to $100 collected by approved insurance providers, and deposit of fees in excess of $100 in crop insurance fund, and in subpar. (C) waived fee for limited resource farmers as defined by Corporation.

Subsec. (b)(11). Pub. L. 105–185, § 532(d), added par. (11).

Subsec. (c)(10)(A). Pub. L. 105–185, § 532(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) of this section shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.''

Subsec. (c)(10)(C). Pub. L. 105–185, § 532(b)(2), substituted ''$20'' for ''$10'' in first sentence.

Subsec. (h)(10). Pub. L. 105–185, § 534, added par. (10).

Subsec. (k)(4). Pub. L. 105–185, § 532(c), added par. (4) and struck out heading and text of former par. (4). Text read as follows: ''The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

''(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

''(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

''(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.''

Subsec. (n). Pub. L. 105–277 designated existing provisions as par. (1), inserted heading, substituted ''Except as provided in paragraph (2), if a producer'' for ''If a producer'', and added par. (2).

1996—Subsec. (a)(6)(D). Pub. L. 104–127, § 193(c), added subpar. (D).

Subsec. (b)(4)(C). Pub. L. 104–127, § 193(a)(1), added subpar. (C).

Subsec. (b)(7)(A). Pub. L. 104–127, § 193(a)(2), added subpar. (A) and struck out heading and text of former subpar. (A). Prior to amendment, text read as follows: ''To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 2008f of this title, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.''

Subsec. (h)(9). Pub. L. 104–127, § 195, added par. (9).

Subsec. (j)(4). Pub. L. 104–127, § 193(d), added par. (4).

Subsec. (n). Pub. L. 104–127, § 193(f), added subsec. (n).

1994—Pub. L. 103–354 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a), authority to offer insurance; in subsec. (b), submission of policies and materials to Board; in subsec. (c), actuarial soundness; in subsec. (d), adoption of rates and coverages; in subsec. (e), premiums; in subsec. (f), claims for losses; in subsec. (g), special rule for cotton; in subsec. (h), reinsur-

ance; in subsec. (i), application to other areas; in subsec. (j), optional coverages; in subsec. (k), research; in subsec. (*l*), crop insurance for dry edible beans; in subsec. (m), information collection on crop insurance; and in subsec. (n), area yield plan.

1993—Subsec. (h). Pub. L. 103–66, § 1403(b)(1), substituted fifth sentence for former fifth sentence which read as follows: ''The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance.''

Subsec. (n). Pub. L. 103–66, § 1403(b)(2), added subsec. (n).

1991—Subsec. (a). Pub. L. 102–237, § 601(4), struck out par. (1) designation.

Subsecs. (k) to (n). Pub. L. 102–237, § 601(5), redesignated subsecs. (*l*) to (n) as (k) to (m), respectively.

1990—Pub. L. 101–624, § 2204(b)(1), inserted section catchline and struck out ''To carry out the purposes of this chapter the Corporation is authorized and empowered—'' before subsec. (a).

Subsec. (a). Pub. L. 101–624, § 2205(1), inserted heading, substituted ''the Corporation may insure'' for ''to insure'' in first sentence, and inserted provisions relating to amount of insurance to be provided in cases where Agricultural Stabilization and Conservation Service has established adjusted yields, and provisions relating to establishment of a price level for each commodity beginning with the 1992 crop year.

Subsecs. (b) to (d). Pub. L. 101–624, § 2204(a)(1), (2), added subsecs. (b) to (d) and redesignated subsecs. (b) to (d) as (e) to (g), respectively.

Subsec. (e). Pub. L. 101–624, § 2204(a)(1), (b)(2), redesignated subsec. (b) as (e), inserted heading, and substituted ''The Corporation may fix'' for ''To fix'' in par. (1). Former subsec. (e) redesignated (h).

Subsec. (f). Pub. L. 101–624, § 2204(a)(1), redesignated subsec. (c) as (f). Former subsec. (f) redesignated (i).

Pub. L. 101–624, § 2203(a), inserted heading, substituted ''The Corporation may adjust and pay claims for losses as provided under subsection (a) of this section'' for ''To adjust and pay claims for losses'', and inserted after first sentence ''The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.''

Subsec. (g). Pub. L. 101–624, § 2204(a)(1), (b)(3), redesignated subsec. (d) as (g), inserted heading, and substituted ''the Corporation may include'' for ''to include''. Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 101–624, § 2204(a)(1), redesignated subsec. (e) as (h). Former subsec. (h) redesignated (k).

Pub. L. 101–624, § 2203(b), inserted heading, substituted ''The Corporation is directed'' for ''And directed'', and inserted sentence at end relating to revision of reinsurance agreements beginning with the 1992 reinsurance year.

Subsec. (i). Pub. L. 101–624, § 2204(a)(1), (b)(4), redesignated subsec. (f) as (i), inserted heading, and substituted ''The Corporation may provide'' for ''To provide''. Former subsec. (i) redesignated (*l*).

Subsec. (j). Pub. L. 101–624, § 2204(a)(1), (b)(5), redesignated subsec. (g) as (j), inserted heading, and substituted ''The Corporation may offer'' for ''To offer''. Former subsec. (j) redesignated (m).

Subsec. (k). Pub. L. 101–624, § 2205(2), struck out subsec. (k) which set out a special rule for calculating premiums and indemnities, with respect to insuring timber and forest yields.

Pub. L. 101–624, § 2204(a)(1), (b)(6), redesignated subsec. (h) as (k), inserted heading, and substituted ''The Corporation may include'' for ''To include''.

Subsec. (*l*). Pub. L. 101–624, § 2204(a)(1), (b)(7), redesignated subsec. (i) as (*l*), inserted heading, substituted ''The Corporation may conduct'' for ''To conduct'', and struck out second and third sentences which read as follows: ''Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this chapter based on personalized rates and with guarantees determined from the producer's actual yield history.''

Subsec. (m). Pub. L. 101–624, § 2204(b)(8), added subsec. (m) and struck out former subsec. (m) which read as follows: ''To accumulate, prior to the 1989 crop year, sufficient actuarial data to enable the Corporation to provide crop insurance that meets the differentiated needs of producers of different types of dry edible beans. Commencing with the 1989 crop year, the Corporation shall make such crop insurance available to producers.''

Pub. L. 101–624, § 2204(a)(1), redesignated subsec. (j) as (m).

Subsec. (n). Pub. L. 101–624, § 2204(a)(3), added subsec. (n).

1988—Subsec. (j). Pub. L. 100–387 added subsec. (j).

1980—Subsec. (a). Pub. L. 96–365, § 105, authorized Corporation, if sufficient actuarial data is available, to insure producers of any agricultural commodity grown in the United States under any plan of insurance determined to be adapted to the commodity involved; defined ''field'' in the case of aquacultural species to mean the environment in which the commodity is produced; in revising percentage limitations for crop insurance coverage, prescribed 75 per centum protection for recorded or appraised average yield (previously protected up to such percentage), offered producers lesser levels of coverage including 50 per centum of recorded or appraised average yield as adjusted, barred protection exceeding 75 per centum, offered price election approximating (but not less than 90 per centum of) projected market price for commodity involved, and struck out requirement for downward adjustment of minimum percentage in yield which may be insured to reflect investment in crop; and struck out limitations on Federal crop insurance program which: limited crop insurance to not more than seven agricultural commodities in 1948 and to not more than three additional commodities yearly thereafter, beginning with 1954 crop authorized yearly expansion of crop insurance program to not more than 150 counties in addition to counties offered insurance the previous year, limited reinsurance for private insurance companies to 20 counties, and required counties selected by the Board for crop insurance to be representative of areas where the commodity involved normally was produced; and struck out general reinsurance provision, covered in subsec. (e) of this section.

Subsec. (b). Pub. L. 96–365, § 106(1), designated existing provisions as par. (1), struck out ''in the agricultural commodity or in cash,'' after ''premiums for insurance'' and proviso from first sentence authorizing establishment of premiums on the basis of the parity or comparable price for the commodity as determined and publish by Secretary of Agriculture, or on the basis of an average market price designated by the Board and second sentence providing for collection of premiums at such time or times, or for securing in such manner, as the Board may determine, which is covered in par. (4), required the rates to be actuarially sufficient, added pars. (2) and (3), incorporated existing provision in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 96–365, § 106(2), struck out ''in the agricultural commodity or in cash,'' after ''claims for losses'' and provisions respecting: determination of indemnities on same price basis as premiums were determined for the crop with respect to which the indemnities were paid; requirement that the Corporation post annually for each county at the county courthouse a list of indemnities paid for losses on farms in the county; action on claims in any court of the State having general jurisdiction, sitting in the county where the insured farm was located; and jurisdiction of district courts without regard to amount in controversy.

Subsec. (d). Pub. L. 96–365, § 106(3), redesignated subsec. (e) as (d) and struck out prior subsec. (d) authoriz-

ing Corporation to purchase, handle, store, insure, provide storage facilities for, and sell agricultural commodities.

Subsec. (e). Pub. L. 96–365, §106(4), added subsec. (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 96–365, §106(4), substituted provisions for insurance and reinsurance in the territories and possessions for prior provision for reinsurance in Puerto Rico when not available from recognized private sources.

Subsecs. (g), (h). Pub. L. 96–365, §106(4), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 96–365, §107(b), added subsec. (i).

1964—Subsec. (a). Pub. L. 88–589 increased from 100 to 150 the number of counties into which the Federal crop insurance program may be extended.

1959—Subsec. (a). Pub. L. 86–131 struck out provision prohibiting Federal crop insurance in a county unless two hundred farms or one third of the farms normally producing the commodity apply for such insurance, excluding farms refused insurance on the basis of risk involved.

1957—Subsec. (f). Pub. L. 85–111 added subsec. (f).

1953—Subsec. (a). Act Aug. 13, 1953, authorized extension of Federal crop insurance program into an additional 100 counties, struck out commodity formula basis on which this expansion may take place, and provided an exception to the strict county limitation by providing that producers on farms situated in a local producing area bordering on a county with a crop insurance program may be included in that county's program.

1949—Subsec. (a). Act Aug. 25, 1949, §1, provided for an annual increase in number of counties in which insurance now offered by Corporation can be issued.

Subsec. (b). Act Aug. 25, 1949, §2, struck out provision under which Corporation's administrative expenses are restricted, after the crop year 1949, to a sum equivalent to 25 percent of the premiums collected in the preceding year.

Subsec. (c). Act Aug. 25, 1949, §3, struck out provision which required prorating of losses beginning with crop year 1950.

1947—Subsec. (a). Act Aug. 1, 1947, §1, amended subsec. (a) generally, and among other changes, provided for crop insurance, commencing with crops planted for harvest in 1948, made provision for reinsurance, enumerated specific crops insurable in 1948, provided for additional crops in subsequent years, limited number of counties in which certain crops were insurable, increased required number of applications in any one county from fifty to two hundred, and authorized Board to refuse insurance in any county where agricultural commodity to be insured constitutes an unimportant part of total agricultural income.

Subsec. (b). Act Aug. 1, 1947, §2, inserted proviso relating to basis for premiums.

Subsec. (c). Act Aug. 1, 1947, §3, inserted first proviso relating to determination of price basis for indemnities.

1944—Subsec. (a). Act Dec. 23, 1944, §1, amended subsec. (a) generally to provide insurance against loss not only for wheat and cotton crops but also for flax, corn, oats, etc.

Subsec. (b). Act Dec. 23, 1944, §2, provided for the establishment of such rates as would cover crop losses and build up a reasonable reserve, and inserted proviso.

Subsec. (c). Act Dec. 23, 1944, §3, inserted first proviso, and inserted ''and received'' after ''mailed to'' in last proviso.

1941—Subsec. (a). Act June 21, 1941, §§3–5, struck out comma after ''1939'' and inserted ''and with the cotton crop planted for harvest in 1942'', and substituted ''producers of the agricultural commodity against loss in yields of the agricultural commodity'' for ''producers of wheat against loss in yields of wheat'' in the first sentence, and ''the agricultural commodity'' for ''wheat'' in the third sentence, respectively.

Subsecs. (b), (c). Act June 21, 1941, §6, substituted ''the agricultural commodity'' for ''wheat'' wherever appearing.

Subsec. (d). Act June 21, 1941, §§6, 10, substituted ''the agricultural commodity'' for ''wheat'' wherever appearing, and inserted second sentence.

Subsec. (e). Act June 21, 1941, §7, added subsec. (e).

1938—Subsec. (a). Act June 22, 1938, inserted second proviso in first sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–185 effective July 1, 1998, see section 537 of Pub. L. 105–185, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Oct. 1, 1993, see section 1403(c) of Pub. L. 103–66, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 105 of Pub. L. 96–365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Section 106 of Pub. L. 96–365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Amendment by section 107(b) of Pub. L. 96–365 effective Sept. 26, 1980, see section 112 of Pub. L. 96–365, set out as a note under section 1504 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

EXPANSION OF CROP INSURANCE PILOTS

Pub. L. 106–113, div. B, §1000(a)(5) [title II, §205(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–294, provided that: ''In the case of any pilot program offered under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.] that was approved by the Board of Directors of the Federal Crop Insurance Corporation on or before September 30, 1999, the pilot program may be offered on a regional, whole State, or national basis for the 2000 and 2001 crop years notwithstanding section 553 of title 5, United States Code.''

LIMITATION ON FEE FOR CATASTROPHIC RISK PROTECTION

Pub. L. 105–277, div. A, §101(a) [title VII, §748], Oct. 21, 1998, 112 Stat. 2681, 2681–32, provided that: ''Notwithstanding the provisions of section 508(b)(5)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)(A)), for the 1999 reinsurance and subsequent reinsurance years, no producer shall pay more than $50 per crop per county as an administrative fee for catastrophic risk protection under section 508(b)(5)(A) of the Act.''

SPECIAL RULE FOR 1996 CROP YEAR REGARDING CATASTROPHIC RISK PROTECTION INSURANCE

Section 193(a)(3) of Pub. L. 104–127 provided that:

''(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

''(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the

date of enactment of this title [Apr. 4, 1996], the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

''(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

''(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

''(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

''(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.''

CROP INSURANCE PILOT PROGRAM

Section 193(b) of Pub. L. 104–127 provided that:

''(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

''(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

''(3) DURATION.—A pilot project under this paragraph shall be of two years' duration.''

PREVENTED PLANTING

Section 116 of Pub. L. 103–354 provided that:

''(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

''(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

''(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

''(A) the amount that is payable under the conserving use program; and

''(B) the amount that is payable under the prevented planting coverage policy.

''(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

''(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

''(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

''(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

''(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 ([former] 7 U.S.C. 1445b–3a(c)(1)(E), 1444f(c)(1)(E), 1444–2(c)(1)(D), or 1441–2(c)(1)(D)).

''(c) OILSEED PREVENTED PLANTING PAYMENTS.—

''(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 ([former] 7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

''(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

''(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.''

REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION

Section 117 of Pub. L. 103–354 provided that: ''Not later than 180 days after the date of enactment of this Act [Oct. 13, 1994] and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act [7 U.S.C. 1508(a)(5)] (as amended by section 106).''

FEDERAL CROP INSURANCE COMMISSION

Pub. L. 100–546, Oct. 28, 1988, 102 Stat. 2730, provided for establishment, membership, compensation, etc., of Commission for the Improvement of the Federal Crop Insurance Program, directed Commission to study and determine why participation in program had not reached levels anticipated when Federal Crop Insurance Act of 1980 was enacted, to identify States and commodities to which lack of participation in program is most serious, and to prepare findings and recommendations setting forth means by which participation in program could be increased and natural protection for producers of agricultural commodities could be improved, required Commission to submit an interim report to Congressional committees and Secretary of Agriculture, not later than Apr. 1, 1989, containing findings and recommendations for immediate administrative improvement in program, aimed at improving program in 1990 sales year, and a final report, not later than July 1, 1989, to include Commission's findings and recommendation and a status report on improvement of program, authorized Commission to continue to monitor program and to submit monthly reports beginning July 1, 1989, and ending Dec. 31, 1990, and terminated Commission on Dec. 31, 1990.

LOSS ADJUSTMENT OBLIGATIONS

Pub. L. 100–203, title I, § 1507, Dec. 22, 1987, 101 Stat. 1330–29, provided that: ''It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

''(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

''(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.''

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON 1981 CROPS

Section 202 of Pub. L. 96–365 provided that: ''The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act [Sept. 26, 1980], whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or (2)

covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act [subsec. (b)(3) or (e) of this section]. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation.''

STUDY OF ALTERNATIVE ALL-RISK, ALL-CROP INSURANCE PROGRAMS

Pub. L. 95–181, § 2, Nov. 15, 1977, 91 Stat. 1373, provided that: ''The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding $200,000, as are appropriated for fiscal year 1978 under section 504 of the Federal Crop Insurance Act, as amended [section 1504 of this title], may be utilized to conduct such a study.''

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Section 5 of act Aug. 1, 1947, provided: ''Nothing in this Act [amending sections 1502, 1505 (a to d), 1506(d), 1507(d), and 1508 (a to c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act is hereby terminated at the end of the 1947 crop year.''

CROSS REFERENCES

Amount in controversy, generally, see section 1332 of Title 28, Judiciary and Judicial Procedure.

Amount in controversy immaterial in action arising under Act regulating commerce, see section 1337 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1506, 1507, 1515, 1518, 2008f, 7211, 7333 of this title.

§ 1508a. Repealed. Pub. L. 103–354, title I, § 107, Oct. 13, 1994, 108 Stat. 3197

Section, act Feb. 16, 1938, ch. 30, title V, § 508A, as added Aug. 14, 1989, Pub. L. 101–82, title VI, § 604, 103 Stat. 587; amended Aug. 10, 1993, Pub. L. 103–66, title XIV, § 1403(b)(3), 107 Stat. 334, related to crop insurance yield coverage. See section 1508(g) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 1509. Exemption of indemnities from levy

Claims for indemnities under this chapter shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or the estate of the insured to the United States except claims of the United States or the Corporation arising under this chapter.

(Feb. 16, 1938, ch. 30, title V, § 509, 52 Stat. 75; Pub. L. 103–354, title I, § 115(c), Oct. 13, 1994, 108 Stat. 3204.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''or the estate of the insured'' for ''or his estate''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Attachment and garnishment, see rules 64 and 70, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1510. Deposit and investment of funds; Federal Reserve banks as fiscal agents

All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians, and fiscal agents for the Corporation in the performance of its powers conferred by this chapter.

(Feb. 16, 1938, ch. 30, title V, § 510, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1511. Tax exemption

The Corporation, including its franchise, its capital, reserves, and surplus, and its income

and property, shall be exempt from all taxation on or after February 16, 1938, imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.

(Feb. 16, 1938, ch. 30, title V, § 511, 52 Stat. 75; Pub. L. 103–354, title I, § 108, Oct. 13, 1994, 108 Stat. 3197.)

AMENDMENTS

1994—Pub. L. 103–354 inserted at end ''A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1512. Corporation as fiscal agent of Government

When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as a depository of public money and financial agent of the Government, as may be required of it.

(Feb. 16, 1938, ch. 30, title V, § 512, 52 Stat. 75.)

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1513. Books of account and annual reports of Corporation

The Corporation shall at all times maintain complete and accurate books of accounts and shall file annually with the Secretary a complete report as to the business of the Corporation.

(Feb. 16, 1938, ch. 30, title V, § 513, 52 Stat. 76; Pub. L. 93–604, title VI, § 603, Jan. 2, 1975, 88 Stat. 1963; Pub. L. 103–354, title I, § 102(b)(4)(C), Oct. 13, 1994, 108 Stat. 3181.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Secretary'' for ''Secretary of Agriculture''.

1975—Pub. L. 93–604 struck out provisions that financial transactions of Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable and the proviso that such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by Comptroller General with his report.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

AUDIT OF GOVERNMENT CORPORATIONS

Section 9105(f) of Title 31, Money and Finance, provides that an audit under subsection (a) of that section is in place of an audit of the financial transactions of a Government corporation the Comptroller General is required to make in reporting to Congress or the President under another law.

§ 1514. Crimes and offenses

(a) to (e) Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

(f) Application of laws on interest of Members of Congress in contracts

The provisions of section 22 of title 41 shall not apply to any crop insurance agreements made under this chapter.

(Feb. 16, 1938, ch. 30, title V, § 514, 52 Stat. 76; June 25, 1948, ch. 645, §§ 4, 21, 62 Stat. 859, 862.)

AMENDMENTS

1948—Subsecs. (a) to (e). Act June 25, 1948, § 21, repealed provisions relating to crimes and offenses. See sections 371, 433, 657, 658, 1006, 1014, and former section 1093 of Title 18, Crimes and Criminal Procedure.

Subsec. (f). Act June 25, 1948, § 4, struck out provisions relating to former sections 202 to 207 of Title 18. See sections 202, 216, 431 to 433 of Title 18.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948, effective Sept. 1, 1948, see section 20 of that act.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by

1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1515. Advisory Committee for Federal Crop Insurance

(a) Establishment

The Secretary may establish within the Department an advisory committee to be known as the ''Advisory Committee for Federal Crop Insurance''.

(b) Primary responsibility

The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this chapter and on other issues related to crop insurance, as determined by the Manager of the Corporation.

(c) Membership

The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this chapter. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

(d) Administrative provisions

(1) Terms

Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c) of this section. The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

(2) Chairperson

The Advisory Committee shall be chaired by the Manager of the Corporation.

(3) Meetings

The Advisory Committee shall meet at least annually. The meetings of the Advisory Committee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

(e) Reports

Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

(1) the progress toward implementation of this chapter;

(2) the actuarial soundness of the Federal crop insurance program;

(3) the rate of producer participation in both catastrophic risk protection under section 1508(b) of this title and additional coverage under section 1508(c) of this title; and

(4) the progress toward improved crop insurance coverage for new and specialty crops.

(f) Termination of authority

The authority provided by this section shall terminate on September 30, 1998.

(Feb. 16, 1938, ch. 30, title V, §515, as added Pub. L. 103–354, title I, §109, Oct. 13, 1994, 108 Stat. 3197.)

PRIOR PROVISIONS

A prior section, act Feb. 16, 1938, ch. 30, title V, §515, 52 Stat. 77, provided for appointment and compensation of an advisory committee, prior to repeal by Pub. L. 96–365, title I, §108, Sept. 26, 1980, 94 Stat. 1317.

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 1516. Funding

(a) Authorization of appropriations

(1) Discretionary expenses

There are authorized to be appropriated for fiscal year 1999 and each subsequent fiscal year such sums as are necessary to cover the salaries and expenses of the Corporation.

(2) Mandatory expenses

There are authorized to be appropriated such sums as are necessary to cover for each of the 1999 and subsequent reinsurance years—

(A) the administrative and operating expenses of the Corporation for the sales commissions of agents; and

(B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage.

(b) Payment of Corporation expenses from insurance fund

(1) Expenses generally

For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund established under subsection (c) of this section all expenses of the Corporation (other than expenses covered by subsection (a)(1) of this section and expenses covered by paragraph (2)(A)), including—

(A) premium subsidies and indemnities;

(B) administrative and operating expenses of the Corporation necessary to pay the sales commissions of agents; and

(C) all administrative and operating expense reimbursements due under a reinsurance agreement with an approved insurance provider.

(2) Research and development expenses

(A) In general

For each of the 1999 and subsequent reinsurance years, the Corporation may pay

from the insurance fund established under subsection (c) of this section research and development expenses of the Corporation, but not to exceed $3,500,000 for each fiscal year.

(B) Dairy options pilot program

Amounts necessary to carry out the dairy options pilot program shall not be counted toward the limitation on research and development expenses specified in subparagraph (A).

(c) Insurance fund

(1) In general

There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2) of this section, to be available without fiscal year limitation.

(2) Commodity Credit Corporation funds

If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b) of this section, to the extent the funds of the Commodity Credit Corporation are available—

(A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b) of this section; and

(B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b) of this section.

(Feb. 16, 1938, ch. 30, title V, § 516, 52 Stat. 77; June 21, 1941, ch. 214, §§ 6, 8, 55 Stat. 255, 256; Aug. 3, 1956, ch. 950, § 10, 70 Stat. 1034; Pub. L. 96–365, title I, §§ 109, 110, Sept. 26, 1980, 94 Stat. 1317, 1318; Pub. L. 97–11, May 22, 1981, 95 Stat. 13; Pub. L. 99–198, title X, § 1021, Dec. 23, 1985, 99 Stat. 1459; Pub. L. 103–354, title I, § 110, Oct. 13, 1994, 108 Stat. 3198; Pub. L. 104–127, title I, § 193(e), Apr. 4, 1996, 110 Stat. 945; Pub. L. 105–185, title V, § 531, June 23, 1998, 112 Stat. 580.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–185, § 531(1)(A), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''There are authorized to be appropriated for each of fiscal years 1995 through 2001 such sums as are necessary to cover—

''(A) the salaries and expenses of the Corporation; and

''(B) the administrative and operating expenses of the Corporation for the sales commissions of agents.''

Subsec. (a)(2). Pub. L. 105–185, § 531(1)(B)(i), inserted ''for each of the 1999 and subsequent reinsurance years'' after ''are necessary to cover'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 105–185, § 531(1)(B)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: ''in the case of each of the 1995 through 1997 reinsurance years, the administrative and operating expenses of the Corporation for the sales commissions of agents, consistent with subsection (b)(1) of this section; and''.

Subsec. (b). Pub. L. 105–185, § 531(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) ADMINISTRATIVE AND OPERATING EXPENSES.—In the case of each of the 1995 through 1997 reinsurance years, the Corporation is authorized to pay from the insurance fund established under subsection (c) of this section, the administrative and operating expenses of an approved insurance provider, including expenses covered by subsection (a)(1)(B) of this section.

''(2) OTHER EXPENSES.—The Corporation is authorized to pay from the insurance fund established under subsection (c) of this section—

''(A) all other expenses of the Corporation (other than expenses covered by subsection (a)(1) of this section), including all premium subsidies and indemnities;

''(B) in the case of each of the 1995 through 1997 reinsurance years, all administrative and expense reimbursements due under a reinsurance agreement with an approved insurance provider; and

''(C) to the extent necessary, expenses incurred by the Corporation to carry out research and development.''

1996—Subsec. (a)(2)(C). Pub. L. 104–127, § 193(e)(1), struck out subpar. (C) which read as follows: ''payments for noninsured assistance losses under section 1519 of this title.''

Subsec. (b)(1). Pub. L. 104–127, § 193(e)(2)(A), struck out subpar. (A) designation and heading ''In general'', substituted ''In the case of each'' for ''Except as provided in subparagraph (B), in the case of each'', and struck out heading and text of subpar. (B). Prior to amendment, text read as follows: ''In the case of the 1997 reinsurance year, the amount of the payments from the insurance fund established under subsection (c) of this section for the expenses of the Corporation for the sales commissions of agents may not exceed 8.5 percent of the total amount of premiums paid for additional coverage for the 1997 reinsurance year.''

Subsec. (b)(2)(A). Pub. L. 104–127, § 193(e)(3), struck out '', noninsured assistance benefits,'' after ''all premium subsidies''.

Subsec. (b)(2)(B). Pub. L. 104–127, § 193(e)(2)(B), struck out ''subject to paragraph (1)(B),'' before ''in the case of each''.

1994—Pub. L. 103–354 amended section generally, substituting subsecs. (a) to (c) for former subsecs. (a) to (d) relating to authorization of appropriations to cover operating and administrative costs of Corporation, issuance of regulations, emergency funding, and borrowing authority.

1985—Subsec. (c)(1). Pub. L. 99–198 struck out provision that Secretary's authority to use the funds of Commodity Credit Corporation for purposes of this subsection would expire one year after date on which that authority was first used.

1981—Subsec. (a). Pub. L. 97–11 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (a). Pub. L. 96–365, § 109, substituted appropriations authorization of necessary sums for former limitation of $12,000,000 for each fiscal year beginning after June 30, 1938; included as costs agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments and authorized payment of these costs from premium income and other Corporation funds and restoration of such payments through subsequent year appropriations; prescribed limitation on employment of additional personnel except during emergencies; and deleted provisions for for consideration as being nonadministrative or nonoperating expenses such expenses as related to purchase, transportation, handling, or sale of the agricultural commodity and the direct cost of loss adjusters for crop inspections and loss adjustments and provision for use of premium income for administrative and operating costs within limits prescribed in applicable appropriations.

Subsecs. (c), (d). Pub. L. 96–365, § 110, added subsecs. (c) and (d).

1956—Subsec. (a). Act Aug. 3, 1956, added to list of costs which may be considered as nonadministrative or nonoperating, the direct cost of loss adjusters for crop inspections and loss adjustment, and authorized use of premium income for administrative and operating costs within limits prescribed by applicable appropriation.

1941—Subsec. (a). Act June 21, 1941, substituted ''the agricultural commodity'' for ''wheat'', and ''$12,000,000'' for ''$6,000,000''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–185 effective July 1, 1998, see section 537 of Pub. L. 105–185, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 109 of Pub. L. 96–365 provided that the amendment made by that section is effective Oct. 1, 1980.

Section 110 of Pub. L. 96–365 provided that the amendment made by that section is effective Oct. 1, 1980.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

ADDITIONAL APPROPRIATION

Act Dec. 23, 1944, ch. 713, §6, 58 Stat. 920, provided an additional appropriation not to exceed $3,000,000 to be available for the fiscal year 1945 to carry out the provisions of this chapter for the fiscal years 1943 and 1944.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1507, 1508 of this title.

§ 1517. Separability

The sections of this chapter and subdivisions of sections are declared to be separable, and in the event any one or more sections or parts of the same of this chapter be held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this chapter.

(Feb. 16, 1938, ch. 30, title V, §517, 52 Stat. 77.)

§ 1518. "Agricultural commodity" defined

''Agricultural commodity'', as used in this chapter, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under subsection (a) or (m) of section 1508 of this title, or any one or more of such commodities, as the context may indicate.

(Feb. 16, 1938, ch. 30, title V, §518, as added June 21, 1941, ch. 214, §9, 55 Stat. 256; amended Dec. 23, 1944, ch. 713, §4, 58 Stat. 919; Aug. 25, 1949, ch. 512, §9, 63 Stat. 665; Pub. L. 96–365, title I, §111, Sept. 26, 1980, 94 Stat. 1319; Pub. L. 102–237, title VI, §601(6), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103–354, title I, §119(f)(3), Oct. 13, 1994, 108 Stat. 3208.)

PRIOR PROVISIONS

A former section 1518, act Feb. 16, 1938, ch. 30, title V, §518, 52 Stat. 77, was transferred to section 1519 of this title at the time of the renumbering of such section 518 of act Feb. 16, 1938, as section 519 by act June 21, 1941, ch. 214, §9, 55 Stat. 256.

AMENDMENTS

1994—Pub. L. 103–354 substituted ''(m)'' for ''(k)'' after ''subsection (a) or''.

1991—Pub. L. 102–237 substituted ''subsection (a) or (k)'' for ''subsection (a) or (i)''.

1980—Pub. L. 96–365 extended definition of ''agricultural commodity'' to include tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, nursery crops, and aquacultural species as illustrated but not limited, excluded livestock and stored grain, substituted ''sugar cane'' for ''sugarcane'', and inserted reference to subsec. (i) of section 1508 of this title.

1949—Act Aug. 25, 1949, amended section to correct a clerical error in citation of ''subsection (a) of section 1508''.

1944—Act Dec. 23, 1944, increased scope of definition of ''agricultural commodity'' from ''wheat or cotton'' to include all crops now set out.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–365 effective Sept. 26, 1980, see section 112 of Pub. L. 96–365, set out as a note under section 1504 of this title.

§ 1519. Repealed. Pub. L. 104–127, title I, § 196(j), Apr. 4, 1996, 110 Stat. 950

Section, act Feb. 16, 1938, ch. 30, title V, §519, formerly §518, 52 Stat. 77; renumbered §519, June 21, 1941, ch. 214, §9, 55 Stat. 256; amended Oct. 13, 1994, Pub. L. 103–354, title I, §§111, 112, 108 Stat. 3199, 3202, related to noninsured crop disaster assistance program. See section 7333 of this title.

§ 1520. Producer eligibility

Except as otherwise provided in this chapter, a producer shall not be denied insurance under this chapter if—

(1) for purposes of catastrophic risk protection coverage, the producer is a ''person'' (as defined by the Secretary); and

(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.

(Feb. 16, 1938, ch. 30, title V, §520, as added Pub. L. 92–357, July 28, 1972, 86 Stat. 501; amended

Pub. L. 103–354, title I, §113, Oct. 13, 1994, 108 Stat. 3203.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''Producer eligibility'' for ''Persons under twenty-one years of age'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, no person shall be denied insurance under this chapter solely on the ground that he is under twenty-one years of age if such person is (1) over eighteen years of age, and (2) has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant or sharecropper: *Provided*, That any such person who enters into a Federal Crop Insurance contract shall be subject to the same legal liability and have the same legal rights with respect to such contract as any person over the age of twenty-one years.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as a note under section 1502 of this title.

§ 1521. Ineligibility for catastrophic risk and noninsured assistance payments

If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this chapter to which the person is not entitled, has evaded this chapter, or has acted with the purposes of evading this chapter, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 1506(n) of this title.

(Feb. 16, 1938, ch. 30, title V, §521, as added Pub. L. 103–354, title I, §114, Oct. 13, 1994, 108 Stat. 3203.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2811 of this title; title 15 sections 1459, 2311.

§ 1551. Short title

This chapter may be cited as the ''Federal Seed Act.''

(Aug. 9, 1939, ch. 615, §1, 53 Stat. 1275.)

EFFECTIVE DATE

See section 1610 of this title.

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97–439, §1, Jan. 8, 1983, 96 Stat. 2287, provided that: ''This Act [amending sections 1561, 1571, 1581, 1582, 1585, and 1586 of this title and repealing sections 1583 and 1584 of this title] may be cited as the 'Federal Seed Act Amendments of 1982'.''

SUBCHAPTER I—DEFINITIONS

§ 1561. Definition of terms

(a) When used in this chapter—

(1) The term ''United States'' means the several States, District of Columbia, and Puerto Rico.

(2) The term ''person'' includes a partnership, corporation, company, society, or association.

(3) The term ''interstate commerce'' means—

(A) commerce between any State, Territory, possession, or the District of Columbia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia.

(4) For the purposes of this chapter with respect to labeling for treatment, variety and origin (but not in anywise limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation in, that current of commerce usual in the transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(5) The term ''foreign commerce'' means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6)(a) The term ''district court of the United States'' means any court exercising the powers of a district court of the United States,

(b) Omitted

(7) The term—

(A) ''Agricultural seeds'' shall mean grass, forage, and field crop seeds which the Secretary of Agriculture finds are used for seeding purposes in the United States and which he lists in the rules and regulations prescribed under section 1592 of this title.

(B) ''Vegetable seeds'' shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

(8) For the purpose of subchapter II of this chapter, the term ''weed seeds'' means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

(A) The State into which the seed is offered for transportation, or transported; or

(B) Puerto Rico, Guam, or District of Columbia into which transported, or District of Columbia in which sold.

(9)(A) For the purpose of subchapter II of this chapter, the term ''noxious-weed seeds'' means the seeds or bulblets of plants recognized as noxious—

(i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;

(ii) by the law or rules and regulations of Puerto Rico, Guam, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this chapter, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of subchapter III of this chapter, the term ''noxious-weed seeds'' means the seeds of Lepidium draba L., Lepidium repens (Schrenk) Boiss., Hymenophysa pubescens C. A., Mey., white top; Cirsium arvense (L.) Scop., Canada thistle; Cuscuta spp., dodder; Agropyron repens (L.) Beauv., quackgrass; Sorghum halepense (L.) Pers., Johnson grass; Convolvulus arvensis L., bindweed; Centaurea picris Pall., Russian knapweed; Sonchus arvensis L., perennial sowthistle; Euphorbia esula L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

(10) The term ''origin'' means the State, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

(11) The term ''kind'' means one or more related species or subspecies which singly or collectively is known by one common name, for example, soybean, flax, carrot, radish, cabbage, cauliflower, and so forth.

(12) The term ''variety'' means a subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(13) The term ''type'' means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 1592 of this title.

(14) The term ''germination'' means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 1593 of this title.

(15) The term ''hard seeds'' means the percentage of seeds which because of hardness or impermeability do not absorb moisture or ger-

minate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, determined by methods prescribed under section 1593 of this title.

(16) The term ''inert matter'' means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 1593 of this title.

(17) The term ''label'' means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(18) The term ''labeling'' includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(19) The term ''advertisement'' means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(20) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this chapter—

(A) the term ''false labeling'' means any labeling which is false or misleading in any particular;

(B) the term ''false advertisement'' means any advertisement which is false or misleading in any particular.

(21) The term ''screenings'' shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds.

(22) The term ''in bulk'' refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

(23) The term ''treated'' means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects or other pests which attack seeds or seedlings growing therefrom.

(24) The term ''seed certifying agency'' means (A) an agency authorized under the laws of a State, Territory, or possession, to officially certify seed and which has standards and procedures approved by the Secretary (after due notice, hearings, and full consideration of the views of farmer users of certified seed and other interested parties) to assure the genetic purity and identity of the seed certified, or (B) an agency of a foreign country determined by the Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (A).

(Aug. 9, 1939, ch. 615, title I, § 101, 53 Stat. 1275; June 25, 1948, ch. 646, § 1, 62 Stat. 870; Aug. 1, 1956, ch. 852, § 1, 70 Stat. 908; Pub. L. 85–581, §§ 1–3, Aug. 1, 1958, 72 Stat. 476; Pub. L. 89–686, §§ 1–3, 19, Oct. 15, 1966, 80 Stat. 975, 979; Pub. L. 91–89, § 1, Oct. 17, 1969, 83 Stat. 134; Pub. L. 97–439, § 5(a), Jan. 8, 1983, 96 Stat. 2288.)

CODIFICATION

Section was enacted without a subsec. (b).

Former subsec. (a)(6)(b), which extended the former term ''circuit court of appeals,'' in case the principal place of business or residence of the person against whom a cease and desist order was issued was in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for purposes of this chapter, has been omitted from the Code as obsolete due to the enactment of act June 25, 1948. The District of Columbia is now a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name notes under sections 1599, 1600, and 1601 of this title.

AMENDMENTS

1983—Subsec. (a)(8). Pub. L. 97–439, § 5(a)(1)(B), struck out ''(A)'' before ''For the purpose of subchapter II of this chapter''.

Subsec. (a)(8)(A). Pub. L. 97–439, § 5(a)(1)(C), substituted ''(A)'' for ''(i)'' before ''The State into which''.

Subsec. (a)(8)(B). Pub. L. 97–439, § 5(a)(1)(A), (D), substituted ''(B)'' for ''(ii)'' before ''Puerto Rico, Guam, or District of Columbia'' and struck out a former subpar. (B) which had, for purposes of subchapter III, defined ''weed seeds'' to mean seeds or bulblets of plants found by Secretary to be detrimental to agricultural interests of the United States or any part thereof.

Subsec. (a)(17). Pub. L. 97–439, § 5(a)(2), redesignated par. (18) as (17). Former par. (17), which, for purposes of subchapter III, had defined ''pure live seed'' as the portion of any lot of seed subject to this chapter consisting of live agricultural or vegetable seed determined by methods prescribed under section 1593 of this title, was struck out.

Subsec. (a)(18) to (25). Pub. L. 97–439, § 5(a)(2), redesignated pars. (18) through (25) as (17) through (24), respectively.

1969—Subsec. (a)(25). Pub. L. 91–89 inserted provision authorizing Secretary (after due notice, hearing, and full consideration of the views of interested parties) to approve of the standards and procedures of seed certifying agencies authorized under the laws of a State, Territory, or possession.

1966—Subsec. (a)(1). Pub. L. 89–686, § 1, struck out references to ''Alaska,'' and ''Hawaii,'' before and after ''District of Columbia,''.

Subsec. (a)(4). Pub. L. 89–686, § 19, inserted ''treatment'' before ''variety''.

Subsec. (a)(7)(A). Pub. L. 89–686, § 2, redefined ''agricultural seeds'' to be such as are listed in rules and regulations rather than in statutory text as added to or taken therefrom pursuant to rules and regulations.

Subsec. (a)(8)(A)(ii), (9)(A)(ii). Pub. L. 89–686, § 1, struck out reference to ''Alaska, Hawaii,'' before ''Puerto Rico''.

Subsec. (a)(10). Pub. L. 89–686, § 1, struck out references to ''Alaska,'' and ''Hawaii,'' before and after ''District of Columbia,''.

Subsec. (a)(11). Pub. L. 89–686, § 3, substituted ''soybean, flax, carrot, radish'' for ''wheat, oat, vetch, sweetclover''.

1958—Subsec. (a)(7)(A). Pub. L. 85–581, § 1, included sugar beets in list of seeds subject to this chapter by striking out ''excluding sugar beet'' after ''Beta vulgaris L.—Field beet''.

Subsec. (a)(24). Pub. L. 85–581, § 2, added par. (24).

Subsec. (a)(25). Pub. L. 85–581, § 3, added par. (25).

1956—Subsec. (a)(8)(A)(ii). Act Aug. 1, 1956, § 1(a), inserted ''Guam'' after ''Puerto Rico''.

Subsec. (a)(9)(A)(ii). Act Aug. 1, 1956, § 1(b), inserted ''Guam'' after ''Puerto Rico''.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–581, § 16, provided that: ''This Act, and the amendments [amending sections 1561, 1562, 1571 to 1574, 1581, 1582, and 1586 of this title] made hereby, shall take effect upon the date of enactment [Aug. 1, 1958].''

EFFECTIVE DATE

See section 1610 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1571 of this title.

§ 1562. False representations as certified seed; required provisions

Any labeling, advertisement, or other representation subject to this chapter which represents that any seed is certified seed or any class thereof shall be deemed to be false in this respect unless (a) it has been determined by a seed certifying agency that such seed conformed to standards of genetic purity and identity as to kind or variety, and is in compliance with the rules and regulations of such agency pertaining to such seed; and (b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind or variety. Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed shall be certified only when

(1) the basic seed from which the variety was produced furnished by authority of the owner of the variety if the certification is made during the term of protection, and

(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation.

(Aug. 9, 1939, ch. 615, title I, §102, as added Pub. L. 85–581, §4, Aug. 1, 1958, 72 Stat. 476; amended Pub. L. 91–89, §2, Oct. 17, 1969, 83 Stat. 134; Pub. L. 91–577, title III, §142(b), Dec. 24, 1970, 84 Stat. 1558.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91–577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables.

AMENDMENTS

1970—Pub. L. 91–577 inserted provisions setting out conditions for certification of seed of any variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed.

1969—Pub. L. 91–89 struck out references to registered seed, and required labels, advertisement, or other representations to certify that the seed contained therein was determined by a seed certifying agency to be of a specified class and a specified kind of variety in conformity with the standards of genetic purity and identity as to kind or variety.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–577 effective Dec. 24, 1970, see section 141 of Pub. L. 91–577, set out as an Effective Date note under section 2321 of this title.

SUBCHAPTER II—INTERSTATE COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1561 of this title.

§ 1571. Prohibitions relating to interstate commerce in certain seeds

It shall be unlawful for any person to transport or deliver for transportation in interstate commerce—

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each container bears a label giving the following information, in accordance with rules and regulations prescribed under section 1592 of this title.

(1) The name of the kind or kind and variety for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That (A), except with respect to seed mixtures intended for lawn and turf purposes, if any such component is one which the Secretary of Agriculture has determined, in rules and regulations prescribed under section 1592 of this title, is generally labeled as to variety, the label shall bear, in addition to the name of the kind, either the name of such variety or the statement ''Variety Not Stated'', (B) in the case of any such component which is a hybrid seed it shall, in addition to the above requirements, be designated as hybrid on the label, and (C) seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance;

(2) Lot number or other identification;

(3) Origin, stated in accordance with paragraph (a)(1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 1561(a)(9)(A)(iii) of this title he shall determine that weeds other than those designated by State requirements are noxious;

(6) Percentage by weight of agricultural seeds other than those included under paragraph (a)(1) of this section;

(7) Percentage by weight of inert matter;

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a)(1) of this section, and each

kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, and (C) the calendar month and year the test was completed to determine such percentages, except that, in the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture;

(9) Name and address of (A) the person who transports, or delivers for transportation, said seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(10) The year and month beyond which an inoculant, if shown in the labeling, is no longer claimed to be effective.

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 1592 of this title:

(1) For containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(2) For containers of one pound or less of seed that germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words ''Below Standard''; and

(C) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(3) For containers of more than one pound of seed—

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each and, further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label;

(B) Lot number or other lot identification;

(C) For each named kind and variety of seed—

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages; and

(D) Name and address of—

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce: *Provided, however*, That the Secretary of Agriculture may by rules and regulations designate: (1) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (2) a longer period for any kind of agricultural or vegetable seed which (A) is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer

period, maintain the viability of said seed under ordinary conditions of handling; or (B) the Secretary finds will maintain a percentage of germination within the limits of tolerance established under this chapter under ordinary conditions of handling.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this chapter and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this chapter and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this chapter and of the regulations made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this chapter, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice if in bulk, that they are intended for cleaning, processing, or manufacturing purposes, and not for seeding purposes.

(i) Any agricultural seeds or any mixture thereof or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(1) A word or statement indicating that the seeds have been treated;

(2) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(3) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as ''Do not use for food or feed or oil purposes'': *Provided*, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as ''This seed has been treated with POISON'', in red letters on a background of distinctly contrasting color; and

(4) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title II, §201, 53 Stat. 1279; Pub. L. 85–581, §§5–8, Aug. 1, 1958, 72 Stat. 476; Pub. L. 89–686, §§4–10, Oct. 15, 1966, 80 Stat. 975–977; Pub. L. 97–439, §§2–4, Jan. 8, 1983, 96 Stat. 2287.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–439, §2(a), struck out '', except as provided in paragraph (j) of this section for seed mixtures intended for lawn and turf purposes,'' after ''following information'' in provisions preceding par. (1).

Subsec. (a)(1)(A). Pub. L. 97–439, §2(b)(1), inserted ''(A), except with respect to seed mixtures intended for lawn and turf purposes,'' after ''*Provided*, That''.

Subsec. (a)(1)(B). Pub. L. 97–439, §2(b)(2), substituted '', (B)'' for '': *And provided further*, That''.

Subsec. (a)(1)(C). Pub. L. 97–439, §2(b)(3), added cl. (C).

Subsec. (a)(8). Pub. L. 97–439, §3, inserted exception relating to the case of a seed mixture.

Subsec. (c)(1). Pub. L. 97–439, §4(1), substituted ''(1)'' for ''(a)''.

Subsec. (c)(2). Pub. L. 97–439, §4(2), substituted ''(2)'' for ''(b)''.

Subsec. (c)(2)(A). Pub. L. 97–439, §4(3), inserted ''(A)'' after ''vegetable seed which''.

Subsec. (c)(2)(B). Pub. L. 97–439, §4(4), added cl. (B).

Subsec. (j). Pub. L. 97–439, §2(c), struck out subsec. (j) which directed that seed mixtures intended for lawn and turf purposes be transported or delivered for transport in interstate commerce in containers of fifty pounds or less, and specified the information to be placed on the label.

1966—Subsec. (a). Pub. L. 89–686, §4, inserted in introductory text, '', except as provided in subsection (j) of this section for seed mixtures intended for lawn and turf purposes,''.

Subsec. (a)(1). Pub. L. 89–686, §5, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The name of (A) kind, or (B) kind and variety, or (C) kind and type, for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That such components are expressed in accordance with the category designated under (A), (B), or (C);''.

Subsec. (a)(10). Pub. L. 89–686, §6, added par. (10).

Subsec. (b). Pub. L. 89–686, §7, substituted provisions respecting labeling requirements for containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture in par. (1), containers of one pound or less of seed that germinates less than the standard last established by the Secretary in par. (2), and containers of more than one pound of seed in par. (3), for former labeling requirements which prescribed in par. (1) name of each kind and variety of seed and if two or more kinds or varieties are present, the percentage of each, in par. (2) for each variety of vegetable seed which germinates less than the standard last established by the Secretary of Agriculture, as provided under section 1593(c) of this title, the percentage of germination, exclusive of hard seed; (ii) percentage of hard seed, if present; (iii) the calendar month and year the test was completed to determine such percentages; (iv) the words ''Below Standard''; and in par. (3), name and address of—

(A) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce.

Subsec. (c). Pub. L. 89–686, §8, substituted in cl. (b) ''a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling'' for ''a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such

longer period a germination within the established limits of tolerance''.

Subsec. (i)(4). Pub. L. 89–686, § 9, transposed ''of any process used in such treatment'' which followed ''description'' to end of sentence, inserting a comma preceding such phrase.

Subsec. (j). Pub. L. 89–686, § 10, added subsec. (j).

1958—Subsec. (a)(8). Pub. L. 85–581, § 5, inserted ''and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole''.

Subsec. (b)(1). Pub. L. 85–581, § 6, required label on container to show percentage where two or more varieties of seed are present.

Subsec. (b)(2). Pub. L. 85–581, § 7, substituted ''For each variety of vegetable seed'' for ''For seeds''.

Subsec. (i). Pub. L. 85–581, § 8, added subsec. (i).

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1573, 1593 of this title.

§ 1572. Records

All persons transporting, or delivering for transportation, in interstate commerce, agricultural seeds shall keep for a period of three years a complete record of origin, treatment, germination, and purity of each lot of such agricultural seeds, and all persons transporting, or delivering for transportation, in interstate commerce, vegetable seeds shall keep for a period of three years a complete record of treatment, germination and variety of such vegetable seeds. The Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this chapter.

(Aug. 9, 1939, ch. 615, title II, § 202, 53 Stat. 1281; Pub. L. 85–581, § 9, Aug. 1, 1958, 72 Stat. 477; Pub. L. 89–686, § 11, Oct. 15, 1966, 80 Stat. 978.)

AMENDMENTS

1966—Pub. L. 89–686 required record of treatment of agricultural and vegetable seeds.

1958—Pub. L. 85–581 required keeping of records of vegetable seeds.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1573 of this title.

§ 1573. Exemptions

(a) Carrier transporting seeds

The provisions of sections 1571 and 1572 of this title shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: *Provided*, That such carrier is not engaged in processing or merchandising seed subject to the provisions of this chapter; and such provisions shall not apply to seeds produced by any farmer on his own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: *And provided further*, That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 1571 and 1572 of this title unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: *And provided further*, That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

(b) Seeds not for seeding purposes

The provisions of section 1571(a), (b), or (i) of this title shall not apply—

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or for feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce—

(A) if in bulk, in which case, however, the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(B) if in containers and in quantities of twenty thousand pounds or more: *Provided*, That (i) the omission from each container of the information required under section 1571(a), (b), and (i) of this title is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce, (ii) each container shall have stenciled upon it or bear a label containing a lot designation, and (iii) the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(C) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That (i) this fact is so stated in the invoice or other records accompanying and pertaining to such seed if the seed is in bulk or if the seed is in containers and in quantities of twenty thousand pounds or more, (ii) this fact is so stated on attached labels if the seed is in containers and in quantities less than twenty thousand pounds, and (iii) any such seed later to be labeled as to origin and/or variety shall be labeled as to origin and/or variety in accordance with rules and regulations prescribed under section 1592 of this title.

(c) Emergency preventing presentation of information

When the Secretary of Agriculture finds that, because of the time interval between seed har-

vesting and sowing, or because of an emergency beyond human control, the information required by this chapter as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 1571(a) and (b) of this title as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds

The provisions of sections 1571(a) and (b) of this title relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or kind and variety of seeds shall not be deemed violated if there are seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken reasonable precautions to insure the identity of the seeds to be that stated.

(e) Name of substance used in treatment of seeds

The provisions of section 1571(i) of this title relative to the labeling of agricultural and vegetable seeds with the name of any substance used in the treatment of seeds shall not be deemed violated if the substance or substances used in such treatment could not be or were not identified because of their indistinguishability from the substance or substances intended to be used in the treatment of the seeds: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclosed that said person has taken reasonable precautions to insure the identity of the substance or substances to be as stated.

(Aug. 9, 1939, ch. 615, title II, § 203, 53 Stat. 1281; Pub. L. 85–581, § 10, Aug. 1, 1958, 72 Stat. 477; Pub. L. 89–686, § 12, Oct. 15, 1966, 80 Stat. 978.)

AMENDMENTS

1966—Subsec. (d). Pub. L. 89–686, § 12(a), substituted ''the kind or kind and variety of seeds'', ''if there are seeds'', '': *Provided*, That'', and ''reasonable precautions to insure the identity of the seed to be that stated'' for ''the kind or variety or type of seeds'', ''if there be other seeds'', '', provided that'', and ''proper precautions to insure the identity to be that stated'', respectively.

Subsec. (e). Pub. L. 89–686, § 12(b), added subsec. (e).

1958—Subsec. (b). Pub. L. 85–581 inserted references to section 1571(i) of this title and eased labeling requirements with respect to shipment of seed in containers and in quantities of twenty thousand pounds or more.

EFFECTIVE DATE

See section 1610 of this title.

§ 1574. Disclaimers, limited warranties and nonwarranties

The use of a disclaimer, limited warranty, or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this chapter, or the rules and regulations made and promulgated thereunder. Nothing in this section is intended to preclude the use of a disclaimer, limited warranty, or nonwarranty clause as a defense in any proceeding not brought under this chapter.

(Aug. 9, 1939, ch. 615, title II, § 204, 53 Stat. 1282; July 9, 1956, ch. 520, § 2, 70 Stat. 508; Pub. L. 85–581, § 11, Aug. 1, 1958, 72 Stat. 478.)

AMENDMENTS

1958—Pub. L. 85–581 precluded use of limited warranty clause as defense in prosecution or other proceeding brought under provisions of this chapter and stated that use of enumerated clauses as defenses in proceedings not brought under this chapter is not barred.

1956—Act July 9, 1956, substituted ''or other proceeding'' for '', or in any proceeding for confiscation of seeds,''.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see note set out under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

§ 1575. False advertising

It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however*, That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, residing in the United States, who caused, directly or indirectly, the dissemination of such advertisement.

(Aug. 9, 1939, ch. 615, title II, § 205, 53 Stat. 1282.)

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER III—FOREIGN COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1561, 1592 of this title.

§ 1581. Prohibitions relating to importations

The importation into the United States is prohibited of—

(1) any agricultural or vegetable seeds if any such seed contains noxious-weed seeds or the

labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to this subchapter (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of any agricultural or vegetable seeds, unless the invoice pertaining to such seed and any other labeling of such seed bear a lot identification and the name of each kind and variety of vegetable seed present in any amount and each kind or kind and variety of agricultural seed present in excess of 5 per centum of the whole, and unless in the case of hybrid seed present in excess of 5 per centum of the whole it is designated as hybrid.[1]

(4) any agricultural seeds or any mixture thereof, or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(A) A word or statement indicating that the seeds have been treated;

(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(C) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as ''Do not use for food or feed or oil purposes''; *Provided*, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as ''This seed has been treated with POISON'', in red letters on a background of distinctly contrasting color; and

(D) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title III, § 301, 53 Stat. 1282; Pub. L. 85–581, § 12, Aug. 1, 1958, 72 Stat. 478; Pub. L. 89–686, §§ 13, 14, Oct. 15, 1966, 80 Stat. 978; Pub. L. 97–439, § 5(b)(1), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 103–465, title IV, § 441(1), Dec. 8, 1994, 108 Stat. 4973.)

AMENDMENTS

1994—Pub. L. 103–465 struck out ''(a)'' before ''The importation'' in introductory provisions, struck out '', or is required to be stained and is not so stained, under the terms of this subchapter,'' after ''noxious-weed seeds'' in par. (1), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: ''any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this subchapter and the regulations made and promulgated thereunder.''

1983—Subsec. (a)(1). Pub. L. 97–439 substituted ''any agricultural or vegetable seeds if any such seed contains noxious weed seeds'' for ''any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes''.

1966—Subsec. (a)(4). Pub. L. 89–686, § 13, prohibited importation of any seed containing 10 per centum or more of any agricultural seeds and prescribed as additional prerequisites to importation a lot identification for the invoice and any other labeling, the kind and variety of seed present in any amount, each kind or kind and variety of seed present in excess of 5 per centum of the whole, and hybrid designation in case of hybrid seed present in excess of 5 per centum of the whole.

Subsec. (a)(5). Pub. L. 89–686, § 14, added par. (5).

1958—Subsec. (a)(4). Pub. L. 85–581 added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

§ 1582. Procedure relating to importations; disposal of refuse; exceptions

(a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 1592 of this title, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the owner or consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this subchapter and do not comply with the provisions of this subchapter, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the owner or consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the owner or consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title: *Provided*, That the Secretary of the Treasury may authorize the delivery of seed or screenings which are being imported or offered for import to the owner or consignee thereof, pending decision as to the admission of such seed or screenings and for cleaning, labeling, or other reconditioning if required to bring such seed or screenings into compliance with the provisions of this chapter, upon the execution by such owner or consignee of a good and sufficient bond conditioned upon redelivery of the seed or screenings upon demand unless redelivery is waived because the seed is reconditioned to bring it into compliance with this chapter or is

[1] So in original. The period probably should be a semicolon.

destroyed under Government supervision under this chapter, and providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury: *And provided further*, That all expenses incurred by the United States (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the supervision of cleaning, labeling, other reconditioning, or destruction, of seed or screenings under this subchapter shall be reimbursed to the United States by the owner or consignee of the seed or screenings, and such reimbursements shall be recredited to the appropriation from which the expenses were paid, the amount of such expenses to be determined in accordance with joint regulations under section 1592 of this title, and all expenses in connection with the storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importations made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title.

(c) The provisions of this subchapter shall not apply—

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the chapter: *Provided*, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 1592 of this title.

(d) The provisions of this subchapter prohibiting the importation of seed shall not apply—

(1) when seed grown in the United States is returned from a foreign country without having been admitted into the commerce of any foreign country: *Provided*, That there is satisfactory proof as provided for in the joint rules and regulations prescribed under section 1592 of this title, that the seed was grown in the United States and was not admitted into the commerce of a foreign country and was not commingled with other seed, or

(2) when seed is imported for sowing for experimental or breeding purposes and not for sale: *Provided*, That declarations are filed, and importations are limited in quantity, as provided for in the rules and regulations prescribed under section 1592 of this title, to assure that the importations are for experimental or breeding purposes.

(Aug. 9, 1939, ch. 615, title III, §302, 53 Stat. 1283; Pub. L. 85–581, §§13, 14, Aug. 1, 1958, 72 Stat. 478, 479; Pub. L. 89–686, §§15–17, Oct. 15, 1966, 80 Stat. 979; Pub. L. 97–439, §5(b)(2), (3), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 100–449, title III, §301(e), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103–182, title III, §361(a), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 103–465, title IV, §441(2), Dec. 8, 1994, 108 Stat. 4973.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–465, §441(2)(A), struck out ''staining,'' before ''cleaning, labeling,'' in two places.

Subsec. (e). Pub. L. 103–465, §441(2)(B), struck out subsec. (e) which read as follows: ''The provisions of this subchapter requiring certain seeds to be stained shall not apply—

''(1) to alfalfa or clover seed originating in Canada or Mexico, or

''(2) when seeds otherwise required to be stained will not be sold within the United States and will be used for seed production only by or for the importer or consignee and the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seeds will be used only for seed production by or for the importer or consignee.''

1993—Subsec. (e)(1). Pub. L. 103–182 inserted ''or Mexico'' after ''Canada''.

1988—Pub. L. 100–449 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The provisions of this subchapter requiring certain seeds to be stained shall not apply when such seed will not be sold within the United States and will be used for seed production only by or for the importer or consignee: *Provided*, That the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed will be used only for seed production by or for the importer or consignee.''

1983—Subsec. (a). Pub. L. 97–439, §5(b)(2), struck out provision that Secretary may apply statistical sampling and inspection techniques to samples and screenings to determine whether pure-live seed requirement of any kind of seed was being met, in event of which he was to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d). Pub. L. 97–439, §5(b)(3)(A), struck out ''that is adulterated or unfit for seeding purposes'' after ''importation of seed'' in provisions preceding par. (1).

Subsec. (d)(3). Pub. L. 97–439, §5(b)(3)(B), struck out cl. (3) which described the situation when seed not meeting the pure-live seed requirements of section 1584 of this title would not be sold within the United States and would be used for seed production only by or for the importer or consignee, providing that the importer of record or consignee filed a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed would be used only for seed production by or for the importer or consignee.

1966—Subsec. (a). Pub. L. 89–686, §15, authorized Secretary of Agriculture to apply statistical sampling and inspection techniques to samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met and to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d)(3). Pub. L. 89–686, §16, added par. (3).

Subsec. (e). Pub. L. 89–686, §17, added subsec. (e).

1958—Subsec. (a). Pub. L. 85–851, §13, inserted ''owner or'' before ''consignee'' wherever appearing, except in the two provisos, changed first proviso to bring its wording in line with practices generally followed with other commodities illegally placed into consumption, and provided in second proviso for reimbursement of all costs to the Federal Government incident to supervision required under this chapter.

Subsec. (d). Pub. L. 85–581, §14, added subsec. (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to

the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§§ 1583, 1584. Repealed. Pub. L. 97–439, § 5(b)(4), Jan. 8, 1983, 96 Stat. 2288

Section 1583, act Aug. 9, 1939, ch. 615, title III, § 303, 53 Stat. 1283, related to adulterated seed.

Section 1584, acts Aug. 9, 1939, ch. 615, title III, § 304, 53 Stat. 1284; Oct. 15, 1966, Pub. L. 89–686, § 18, 80 Stat. 979, related to seed unfit for seeding purposes.

§ 1585. Certain seeds not adapted for general agricultural use

Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination.

(Aug. 9, 1939, ch. 615, title III, § 303, as added Pub. L. 103–465, title IV, § 441(3), Dec. 8, 1994, 108 Stat. 4973.)

PRIOR PROVISIONS

A prior section 1585, act Aug. 9, 1939, ch. 615, title III, § 303, formerly § 305, 53 Stat. 1284; renumbered § 303, Jan. 8, 1983, Pub. L. 97–439, § 5(b)(4), 96 Stat. 2288, related to requirement that certain seeds containing alfalfa and/or red clover be stained, prior to repeal by Pub. L. 103–465, title IV, § 441(3), Dec. 8, 1994, 108 Stat. 4973.

EFFECTIVE DATE

Section effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as a note under section 3601 of Title 19, Customs Duties.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1586. Certain acts prohibited

It shall be unlawful for any person—

(a) To sell or offer for sale—

(1) any seed for seeding purposes if imported under this subchapter for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this subchapter for other than seeding purposes; or

(3) any seed which is prohibited entry under the provisions of this chapter.

(b) To make any false or misleading representation with respect to any seed subject to this subchapter being imported into the United States or offered for import: *Provided*, That this subsection shall not be deemed violated by any person if the false or misleading representation is the name of a variety indistinguishable in appearance from the seed being imported or offered for import and the records and other pertinent facts reveal that such person relied in good faith upon representations with respect to the name of the indistinguishable variety made by the shipper of the seed.

(Aug. 9, 1939, ch. 615, title III, § 304, formerly § 306, 53 Stat. 1285; Pub. L. 85–581, § 15, Aug. 1, 1958, 72 Stat. 479; renumbered § 304, Pub. L. 97–439, § 5(b)(4), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 103–465, title IV, § 441(4), Dec. 8, 1994, 108 Stat. 4973.)

AMENDMENTS

1994—Subsec. (a)(4) to (7). Pub. L. 103–465, § 441(4)(A), struck out pars. (4) to (7) which read as follows:

''(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the rules and regulations made and promulgated thereunder;

''(5) any seed stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;

''(6) any seed stained with different colors;

''(7) any seed stained under the provisions of this chapter, the labeling of which states that such seed is adapted.''

Subsecs. (b), (c). Pub. L. 103–465, § 441(4)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''To change the proportion of seeds stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.''

1958—Subsec. (c). Pub. L. 85–581 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1591. Delegation of duties

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

(Aug. 9, 1939, ch. 615, title IV, § 401, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

§ 1592. Rules and regulations

(a) The Secretary of Agriculture shall make such rules and regulations as he may deem nec-

essary for the effective enforcement of this chapter, except as otherwise provided in this section.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally such rules and regulations as they may deem necessary for the effective enforcement of subchapter III of this chapter.

(c) Prior to the promulgation of any rule or regulation under this chapter, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register and may be amended or revoked in the manner provided for its promulgation.

(Aug. 9, 1939, ch. 615, title IV, § 402, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571, 1573, 1581, 1582, 1593 of this title.

§ 1593. Standards, tests, tolerances

(a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this chapter shall be made by methods set forth by rules and regulations prescribed under section 1592 of this title.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this chapter.

(c) For the purpose of section 1571(b) of this title, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production.

(Aug. 9, 1939, ch. 615, title IV, § 403, 53 Stat. 1285.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Delegation of regulatory functions of Secretary of Agriculture, see section 450c et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1561, 1571 of this title.

§ 1593a. Seed variety information and survey

(a) Information

(1) In general

Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Secretary.

(2) Dissemination of information

The Secretary shall disseminate varietal performance information obtained under paragraph (1) to plant breeders, producers, and end users.

(b) Survey

The Secretary shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

(c) Analysis of variety survey data

The Secretary shall analyze the variety surveys conducted under subsection (b) of this section in conjunction with available applied research information on intrinsic quality characteristics of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. This information shall be disseminated as required by subsection (a)(2) of this section.

(Pub. L. 101–624, title XX, § 2013, Nov. 28, 1990, 104 Stat. 3933.)

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Federal Seed Act which comprises this chapter.

§ 1594. Prohibition against alterations

No person shall detach, alter, deface, or destroy any label provided for in this chapter or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 404, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1595. Seizure

(a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this chapter shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which the seed is found.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this chapter, it may be disposed of by the court by—

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the

rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this chapter and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

(d) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 405, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Proceedings for forfeitures and seizures, see section 2461 of Title 28, Judiciary and Judicial Procedure.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1596. Penalties

(a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than $1,000, for the first offense, and upon conviction for each subsequent offense not more than $2,000.

(b) Any person who violates any provision of this chapter or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than $25 or more than $500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 406, 53 Stat. 1286; July 9, 1956, ch. 520, § 1, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, designated existing provisions as subsec. (a), inserted ''knowingly or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts,'' and added subsec. (b).

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act July 9, 1956, provided that: ''The amendments made by this Act [amending sections 1574, 1596, and 1602 of this title] shall be applicable only with respect to violations occurring after the enactment of this Act [July 9, 1956].''

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1597. Agent's acts as binding principal

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed.

(Aug. 9, 1939, ch. 615, title IV, § 407, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1598. Notice of intention to prosecute

Before any violation of this chapter is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to prevent[1] his views, either orally or in writing, with regard to such contemplated proceeding.

(Aug. 9, 1939, ch. 615, title IV, § 408, 53 Stat. 1286.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1599. Cease and desist proceedings

(a) Hearing

Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this chapter or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint;

[1] So in original. Probably should be ''present''.

but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

(b) Report of Secretary of Agriculture

If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the chapter or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Amendment of report

Until the record in such hearing has been filed in a court of appeals as provided in section 1600 of this title, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service

Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return postoffice receipt for said complaint, order, or other process mailed by registered mail or by certified mail as aforesaid shall be proof of the service of the same.

(Aug. 9, 1939, ch. 615, title IV, §409, 53 Stat. 1287; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85–791, §24(a), Aug. 28, 1958, 72 Stat. 949; Pub. L. 86–507, §1(7), June 11, 1960, 74 Stat. 200.)

AMENDMENTS

1960—Subsec. (d). Pub. L. 86–507 substituted ''mailing a copy thereof by registered mail or by certified mail'' for ''registering and mailing a copy thereof'' and ''mailed by registered mail or by certified mail'' for ''registered and mailed''.

1958—Subsec. (c). Pub. L. 85–791 struck out ''a transcript of'' before ''the record''.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' which appeared in subsec. (c) of this section.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1600, 1601, 1602 of this title.

§ 1600. Appeal to court of appeals

An order made under section 1599 of this title shall be final and conclusive unless within thirty days after the service the person appeals to the court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

The evidence so taken or admitted and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

The court may affirm, modify, or set aside the order of the Secretary.

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(Aug. 9, 1939, ch. 615, title IV, §410, 53 Stat. 1287; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85–791, §24(b), Aug. 28, 1958, 72 Stat. 949; Pub. L. 98–620, title IV, §402(7)(A), Nov. 8, 1984, 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98–620 in fourth par., struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1958—Pub. L. 85–791 substituted, in first sentence of second par., ''thereupon file in the court the record in

such proceedings as provided in section 2112 of title 28'' for ''forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order'', substituted, in second sentence of second par., ''record'' for ''transcript'', substituted in third par., ''petition'' for ''transcript'', and struck out, in fourth par., '', duly certified'' after ''admitted''.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1599, 1601, 1602 of this title.

§ 1601. Enforcement of order

If any person against whom an order is issued under section 1599 of this title fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28. Upon such filing of the application the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 1600 of this title for applications to set aside or modify orders.

(Aug. 9, 1939, ch. 615, title IV, § 411, 53 Stat. 1288; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 24(c), Aug. 28, 1958, 72 Stat. 949; Pub. L. 98–620, title IV, § 402(7)(B), Nov. 8, 1984, 98 Stat. 3357.)

AMENDMENTS

1984—Pub. L. 98–620 struck out second par. which required proceedings in such cases to be made a preferred cause and expedited in every way.

1958—Pub. L. 85–791 substituted ''file the record in such proceedings as provided in section 2112 of title 28'' for ''certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order'' in first sentence, and struck out ''and transcript'' after ''application'' in second sentence.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'' wherever appearing in this section.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

See section 1610 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1602 of this title.

§ 1602. Separability

The institution of any one of the proceedings provided for in sections 1595, 1596, 1599 to 1601 of this title shall not bar institution of any of the others, except that action shall not be instituted under both subsections 1596(a) and (b) of this title for the same cause of action. Nothing in this chapter shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this chapter or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

(Aug. 9, 1939, ch. 615, title IV, § 412, 53 Stat. 1288; July 9, 1956, ch. 520, § 3, 70 Stat. 508.)

AMENDMENTS

1956—Act July 9, 1956, inserted references to civil penalties as well as criminal penalties under section 1596 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see section 4 of act July 9, 1956, set out as a note under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1603. Procedural powers; witness fees and mileage

(a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpenas, examine witnesses, take depositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are

taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(Aug. 9, 1939, ch. 615, title IV, § 413, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

CROSS REFERENCES

Fees of witnesses, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 1604. Publication

After judgment by the court, or the issuance of a cease and desist order, in any case arising under this chapter, notice thereof shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 414, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1605. Authorization of appropriations

(a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter.

(b) Funds appropriated for carrying into effect the purpose of this chapter shall be available for allotment by the Secretary of Agriculture to the bureaus and offices of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes or for services rendered or to be rendered in connection therewith.

Appropriations made under this authorization, within the limit prescribed in such appropriations, may be expended for the share of the United States in the expense of the International Seed Testing Congress in carrying out plans for correlating the work of the various adhering governments on problems relating to seed analyses or other subjects which the Congress may determine to be necessary in the interest of international seed trade.

(Aug. 9, 1939, ch. 615, title IV, § 415, 53 Stat. 1289; Sept. 21, 1944, ch. 412, title VII, § 701(b), 58 Stat. 741.)

AMENDMENTS

1944—Act Sept. 21, 1944, added last par.

EFFECTIVE DATE

See section 1610 of this title.

§ 1606. Authorization of expenditures

The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this chapter and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

(Aug. 9, 1939, ch. 615, title IV, § 416, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1607. Cooperation with other governmental agencies

The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 417, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1608. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(Aug. 9, 1939, ch. 615, title IV, § 418, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1609. Repeals

Sections 111 to 116 of this title are repealed on the one hundred and eightieth day after August 9, 1939: *Provided*, *however*, That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of sections 111 to 116 of this title, and in effect on August 9, 1939, shall remain with the same full force and effect as if promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, § 419, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1610. Effective date

This chapter shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after August 9, 1939; as to vegetable seeds in interstate commerce, one year after August 9, 1939; and as to sections 1591 to 1593 of this title, on August 9, 1939.

(Aug. 9, 1939, ch. 615, title IV, § 420, 53 Stat. 1290.)

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

§ 1611. Illegal sales of uncertified seed

It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer

for sale or advertise, by variety name, seed not certified by an official seed certifying agency, when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owners of the variety.

(Aug. 9, 1939, ch. 615, title V, § 501, as added Pub. L. 91–577, title III, § 142(a), Dec. 24, 1970, 84 Stat. 1558; amended Pub. L. 97–98, title XI, § 1118, Dec. 22, 1981, 95 Stat. 1272.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91–577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§ 2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–98 substituted ''sell or offer for sale or advertise, by variety name, seed'' for ''sell by variety name seed'', ''certifying agency, when'' for ''certifying agency when'', and ''owners of the variety'' for ''owner of the variety''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Dec. 24, 1970, see section 141 of Pub. L. 91–577, set out as a note under section 2321 of this title.

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 198b, 1623a, 6104 of this title; title 21 section 1033.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1621. Congressional declaration of purpose; use of existing facilities; cooperation with States

The Congress declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this chapter, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done under this chapter in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets.

(Aug. 14, 1946, ch. 966, title II, § 202, 60 Stat. 1087.)

SHORT TITLE

Section 201 of title II of act Aug. 14, 1946, provided that: ''This title [enacting this chapter] may be cited as the 'Agricultural Marketing Act of 1946'.''

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

NATIONAL COMMISSION ON FOOD MARKETING

Pub. L. 88–354, July 3, 1964, 78 Stat. 269, as amended by Pub. L. 89–20, May 15, 1965, 79 Stat. 111, provided for the establishment of a bipartisan National Commission on Food Marketing composed of fifteen members, five from the Senate, five from the House of Representatives and five from outside the Federal Government, to study and appraise the marketing structure of the food industry and to make a final report of its findings and conclusions to the President and to the Congress by July 1, 1966. The Commission ceased to exist ninety days after submission of its final report.

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

Poultry and poultry products inspection, see section 451 et seq. of Title 21, Food and Drugs.

§ 1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

(a) Determination of methods of processing, packaging, marketing, etc.; publication of results

To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) Determination of costs

To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after September 29, 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for ''ice cream''.

(d) Elimination of artificial barriers to free movement

To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) Development of new markets

To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(f) Increasing consumer education

To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this chapter shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and subsection (e) of this section.

(g) Collection and dissemination of marketing information

To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) Inspection and certification of products in interstate commerce; credit and future availability of funds; investment; certificates as evidence; penalties

To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection. Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained. Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than $1,000 or imprisoned not more than one year, or both. Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been

shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.

(i) Development of facilities for assembling, processing, transporting, etc.

To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) Improvement of transportation facilities and rates

To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission,,[1] or other Federal or State transportation regulatory body, or the Secretary of Transportation, with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) Collection and dissemination of marketing statistics

To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(*l*) Development of procurement standards and specifications

To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) Promotion of research for handling, storing, preserving, etc.

To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) General research, services, and activities

To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

(Aug. 14, 1946, ch. 966, title II, §203, 60 Stat. 1087; Aug. 9, 1955, ch. 632, §1, 69 Stat. 553; Pub. L. 95–113, title II, §206, Sept. 29, 1977, 91 Stat. 920; Pub. L. 97–31, §12(2), Aug. 6, 1981, 95 Stat. 153; Pub. L. 98–403, §2, Aug. 28, 1984, 98 Stat. 1480; Pub. L. 98–443, §9(j), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 105–277, div. A, §101(a) [title VII, §755(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–34.)

[1] So in original.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–277 inserted at end ''Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.''

1984—Subsec. (h). Pub. L. 98–403 inserted provisions relating to the credit of certain funds to the trust fund account which incurs the cost of services provided under this subsection, the future availability of those funds, and investment thereof by the Secretary of Agriculture or the Secretary of the Treasury.

Subsec. (j). Pub. L. 98–443 struck out ''the Civil Aeronautics Board'' after ''the Maritime Commission,''.

1981—Subsec. (j). Pub. L. 97–31 inserted reference to Secretary of Transportation.

1977—Subsec. (c). Pub. L. 95–113 inserted provisions relating to the setting of a standard of quality for ice cream.

1955—Subsec. (h). Act Aug. 9, 1955, inserted sentence to provide penalties for forgery or alteration of inspection certificates, unauthorized use of official grade marks or designations, and false or deceptive reference to United States grade standards or services.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

Section 304 of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, Government Organization and Employees, abolished Federal Maritime Board, including offices of members of Board. Functions of Board transferred either to Federal Maritime Commission or to Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

United States Maritime Commission abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix of Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, such Board having created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of such Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, head of Maritime Administration, which likewise was established by Plan in Department of Commerce with provision that chairman of said Federal Maritime Board should, ex officio, be such Administrator.

Executive and administrative functions of Maritime Commission transferred to Chairman of Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5.

AGRICULTURAL PROCESSING EQUIPMENT; INSPECTION AND CERTIFICATION; FEE

Pub. L. 106–78, title VII, § 734, Oct. 22, 1999, 113 Stat. 1165, provided that: ''None of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 302(h) [203(h)] of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary: *Provided*, That this provision shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–277, div. A, § 101(a) [title VII, § 747], Oct. 21, 1998, 112 Stat. 2681, 2681–32, as amended by Pub. L. 106–31, title V, § 5001(c), May 21, 1999, 113 Stat. 109.

COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE

Pub. L. 105–18, title II, § 1001, June 12, 1997, 111 Stat. 172, provided that:

''(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act [June 12, 1997], the Secretary of Agriculture shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. To the maximum extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transactions separately.

''(b) CONFIDENTIALITY.—All information provided to, or acquired by, the Secretary under subsection (a) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.

''(c) REPORT.—Not later than 150 days after the date of enactment of this Act [June 12, 1997], the Secretary shall report to the Committee on Agriculture, and the Committee on Appropriations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations, of the Senate, on the rate of reporting compliance by cheese manufacturers with respect to the information collected under subsection (a). At the time of the report, the Secretary may submit legislative recommendations to improve the rate of reporting compliance.

''(d) TERMINATION OF EFFECTIVENESS.—The authority provided by subsection (a) terminates effective April 5, 1999.''

LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM

Pub. L. 102–237, title I, § 124, Dec. 13, 1991, 105 Stat. 1844, provided that:

''(a) REPORT.—Not later than 90 days after the date of enactment of this Act [Dec. 13, 1991], the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

''(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

''(A) California (including San Francisco);

''(B) the East Coast region (including Washington, D.C.);

''(C) the Midwest region (including Chicago, Illinois);

''(D) Texas;

''(E) the Rocky Mountain region; and

''(F) Florida;

''(2) sheep and lamb inventories, including on-feed reports;

''(3) the price and supply relationships between retailers and breakers;

''(4) the viability of voluntary or mandatory reporting for sheep prices; and

''(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

''(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

''(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

''(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

''(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

''(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

''(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.''

RESEARCH TO INVESTIGATE EXTENT TO WHICH GRADE STANDARDS GOVERNING COSMETIC APPEARANCE AFFECT PESTICIDE USE IN PRODUCTION OF PERISHABLE COMMODITIES; ADVISORY COMMITTEE; REPORT

Pub. L. 101–624, title XIII, subtitle C, Nov. 28, 1990, 104 Stat. 3566, as amended by Pub. L. 102–237, title I, § 114(a)(3), Dec. 13, 1991, 105 Stat. 1838, provided that:

''SEC. 1351. DEFINITION.

''As used in this subtitle, the term 'cosmetic appearance' means the exterior appearance of an agricultural commodity, including changes to that appearance resulting from superficial damage or other alteration that do not significantly affect yield, taste, or nutritional value.

''SEC. 1352. RESEARCH.

''(a) REQUIREMENT.—The Secretary of Agriculture shall conduct research to examine the effects, to the extent listed in subsection (b), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance.

''(b) SCOPE OF RESEARCH.—The primary goal of this research is to investigate the extent to which grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

''(1) determine pesticide application levels for United States perishable commodity production and assess trends, and factors influencing those trends, of pesticide application levels since 1975;

''(2) determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

''(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on—

''(A) the application and availability of pesticides in agriculture;

''(B) the adoption of agricultural practices that result in reduced pesticide use;

''(C) production and marketing costs;

''(D) domestic and international markets and trade for perishable commodities;

''(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

''(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section.

''(c) FIELD RESEARCH.—

''(1) LENGTH OF PROJECTS.—The Secretary of Agriculture shall implement, not later than 12 months after the date of enactment of this Act [Nov. 28, 1990], a minimum of three, 2-year market research projects, in at least three States, to demonstrate and evaluate the feasibility of consumer education and information programs.

''(2) SCOPE OF FIELD RESEARCH.—Research under paragraph (1) shall be conducted to evaluate programs designed to—

''(A) offer consumers choices among perishable commodities produced with different production practices;

''(B) provide consumers with information about agricultural practices used in the production of perishable commodities; or

''(C) educate the public about the relationship, as determined in the research conducted under this subtitle, between the cosmetic appearance of perishable commodities and pesticide use.

''(d) DISSEMINATION OF RESULTS.—The Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning Federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

''(e) ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements.

''(2) MEMBERSHIP.—The Advisory Committee shall consist of 12 members comprised of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower and shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section.

''(f) REPORT.—The Secretary of Agriculture shall report to Congress on the research conducted under this section no later than September 30, 1992. The Secretary shall report on the research conducted under subsection (c) no later than September 30, 1993.

''SEC. 1353. CHANGES IN PROCEDURAL REGULATIONS.

''With regard to Federal grade standards developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), the Secretary of Agriculture shall:

''(1) Take into account the impact of those standards on the ability of perishable commodity growers to reduce the use of pesticides.

''(2) Provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards.

''(3) Provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process.

''(4) Provide interested parties with annual status reports during the period 1992 through 1994, updated upon request, on all pending grade standard changes the Department of Agriculture is considering.

''SEC. 1354. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out the activities required under this subtitle, $4,000,000 for each fiscal year.''

CROSS REFERENCES

Investigation of quality and condition of produce received in interstate commerce, see section 499n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title; title 40 section 474.

§ 1622a. Authority to assist farmers and elevator operators

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

(Pub. L. 101–624, title XX, § 2014, Nov. 28, 1990, 104 Stat. 3933.)

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§ 1623. Authorization of appropriations; allotments to States

(a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this chapter, there is hereby authorized to be appropriated the following sums:

(1) $2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional $5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this chapter shall be in addition to, and not in substitution for, sums appropriated or otherwise

made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of this chapter: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

(Aug. 14, 1946, ch. 966, title II, § 204, 60 Stat. 1089.)

§ 1623a. Minimum sum for contracting

Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427 and 1621–1629), and by chapter 63 of title 31 shall be available for contracting in accordance with said Acts and chapter.

(Pub. L. 106–78, title VII, § 703, Oct. 22, 1999, 113 Stat. 1160.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, § 101(a) [title VII, § 703], Oct. 21, 1998, 112 Stat. 2681, 2681–25.

Pub. L. 105–86, title VII, § 703, Nov. 18, 1997, 111 Stat. 2104.

Pub. L. 104–180, title VII, § 703, Aug. 6, 1996, 110 Stat. 1596.

Pub. L. 104–37, title VII, § 703, Oct. 21, 1995, 109 Stat. 329.

Pub. L. 103–330, title VII, § 703, Sept. 30, 1994, 108 Stat. 2466.

Pub. L. 103–111, title VII, § 703, Oct. 21, 1993, 107 Stat. 1078.

Pub. L. 102–341, title VII, § 703, Aug. 14, 1992, 106 Stat. 906.

Pub. L. 102–142, title VII, § 704, Oct. 28, 1991, 105 Stat. 911.

Pub. L. 101–506, title VI, § 604, Nov. 5, 1990, 104 Stat. 1346.

Pub. L. 101–161, title VI, § 604, Nov. 21, 1989, 103 Stat. 982.

Pub. L. 100–460, title VI, § 604, Oct. 1, 1988, 102 Stat. 2259.

Pub. L. 100–202, § 101(k) [title VI, § 604], Dec. 22, 1987, 101 Stat. 1329–322, 1329–353.

Pub. L. 99–500, § 101(a) [title VI, § 604], Oct. 18, 1986, 100 Stat. 1783, 1783–27, and Pub. L. 99–591, § 101(a) [title VI, § 604], Oct. 30, 1986, 100 Stat. 3341, 3341–27.

Pub. L. 99–190, § 101(a) [H.R. 3037, title VI, § 604], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, § 101(a) [H.R. 5743, title VI, § 604], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, § 101(d) [H.R. 3223, title VI, § 604], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title VI, § 604, Dec. 18, 1982, 96 Stat. 1810.

Pub. L. 97–103, title VI, § 604, Dec. 23, 1981, 95 Stat. 1487.

Pub. L. 96–528, title VI, § 604, Dec. 15, 1980, 94 Stat. 3116.

Pub. L. 96–108, title VI, § 603, Nov. 9, 1979, 93 Stat. 840.

Pub. L. 95–448, title VI, § 603, Oct. 11, 1978, 92 Stat. 1092.

Pub. L. 95–97, title VI, § 603, Aug. 12, 1977, 91 Stat. 828.

Pub. L. 94–351, title VI, § 603, July 12, 1976, 90 Stat. 868.

Pub. L. 94–122, title VI, § 605, Oct. 21, 1975, 89 Stat. 667.

Pub. L. 93–563, title V, § 505, Dec. 31, 1974, 88 Stat. 1842.

Pub. L. 93–135, title V, § 506, Oct. 24, 1973, 87 Stat. 490.

Pub. L. 92–399, title V, § 506, Aug. 22, 1972, 86 Stat. 611.

Pub. L. 92–73, title V, § 506, Aug. 10, 1971, 85 Stat. 201.

Pub. L. 91–566, title V, § 506, Dec. 22, 1970, 84 Stat. 1496.

Pub. L. 91–127, title V, § 506, Nov. 26, 1969, 83 Stat. 260.

Pub. L. 90–463, title V, § 506, Aug. 8, 1968, 82 Stat. 653.

Pub. L. 90–113, title V, § 506, Oct. 24, 1967, 81 Stat. 335.

Pub. L. 89–556, title V, § 506, Sept. 7, 1966, 80 Stat. 704.

Pub. L. 89–316, title V, § 506, Nov. 2, 1965, 79 Stat. 1179.

Pub. L. 88–573, title V, § 506, Sept. 2, 1964, 78 Stat. 876.

Pub. L. 88–250, title VI, § 606, Dec. 30, 1963, 77 Stat. 833.

Pub. L. 87–879, title VI, § 606, Oct. 24, 1962, 76 Stat. 1215.

Pub. L. 87–112, title V, § 506, July 26, 1961, 75 Stat. 241.

Pub. L. 86–532, title IV, § 406, June 29, 1960, 74 Stat. 244.

Pub. L. 86–80, title IV, § 406, July 8, 1959, 73 Stat. 180.

Pub. L. 86–459, title IV, § 406, June 13, 1958, 72 Stat. 199.

Pub. L. 85–118, title V, § 506, Aug. 2, 1957, 71 Stat. 340.

June 4, 1956, ch. 355, title V, § 506, 70 Stat. 241.

May 23, 1955, ch. 43, title V, § 506, 69 Stat. 63.

June 29, 1954, ch. 409, title V, § 506, 68 Stat. 319.

§ 1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations

(a) In carrying out the provisions of this chapter, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and

service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts under this section may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 3324(a) and (b) of title 31 and section 5 of title 41 shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C., sec. 713), remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this chapter.

(Aug. 14, 1946, ch. 966, title II, §205, 60 Stat. 1090; Aug. 30, 1954, ch. 1076, §1(7), 68 Stat. 966.)

REFERENCES IN TEXT

Section 5 of the Act of June 20, 1874, as amended (31 U.S.C. sec. 713), referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, §3, 63 Stat. 407.

CODIFICATION

In subsec. (a), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 (31 U.S.C., sec. 529) of the Revised Statutes on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1954—Subsec. (b). Act Aug. 30, 1954, repealed second sentence requiring Secretary of Agriculture to include in his annual report to Congress a complete statement of research work being performed under contracts or cooperative agreements under this chapter.

DISTRIBUTION OF SURPLUS COMMODITIES

Pub. L. 97–253, title I, §191, Sept. 8, 1982, 96 Stat. 787, provided that:

''(a) The Congress finds that—

''(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

''(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

''(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

''(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

''(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

''(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

''(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

''(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

''(b) It is the sense of the Congress that—

''(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

''(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

''(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.''

CROSS REFERENCES

Marketing of agricultural products, cooperation with state agencies in administration and enforcement of laws relating to, see section 450 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210; title 42 section 418.

§ 1625. Transfer and consolidation of functions, powers, bureaus, etc.

In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this chapter, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected are authorized to be transferred to and used by such administrative agency to which the transfer may

be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

(Aug. 14, 1946, ch. 966, title II, § 206, 60 Stat. 1090.)

§ 1626. Definitions

When used in this chapter, the term ''agricultural products'' includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof, and the term ''State'' when used in this chapter shall include the Virgin Islands and Guam.

(Aug. 14, 1946, ch. 966, title II, § 207, 60 Stat. 1091; Pub. L. 92–318, title V, § 506(f), June 23, 1972, 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92–318 inserted definition of ''State'' as including Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

§ 1627. Appointment of personnel; compensation; employment of specialists

The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this chapter: *Provided*, That the Secretary of Agriculture may appoint any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws.

(Aug. 14, 1946, ch. 966, title II, § 208, 60 Stat. 1091.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions that authorized the Secretary of Agriculture to ''fix the compensation'' of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical or other special services, without regard to the ''Classification Act of 1923, as amended'' were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

§ 1628. Repealed. Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246

Section, acts Aug. 14, 1946, ch. 966, title III, § 301, 60 Stat. 1091; Dec. 29, 1967, Pub. L. 90–233, 81 Stat. 752, provided for establishment and staffing of a national advisory committee to aid in implementing the research and service work authorized under this chapter, sections 427 and 427i of this title and former sections 427h and 427j of this title, and set forth functions of such committee.

§ 1629. Establishment of committees to assist in research and service programs

In the furtherance of the research and service work authorized by sections 427 and 427i of this title and this chapter, the Secretary of Agriculture may, in addition to the national advisory committee, establish appropriate committees, including representatives of producers, industry, government and science, to assist in effectuating specific research and service programs.

(Aug. 14, 1946, ch. 966, title III, § 302, 60 Stat. 1091.)

REFERENCES IN TEXT

The national advisory committee, referred to in text, was established by section 1628 of this title, which was subsequently repealed by Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246.

CODIFICATION

Section was not enacted as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§ 1630. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 508, 70 Stat. 241, which provided for availability of appropriations for committee expenses in effectuating research and service work, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title V, § 509, 69 Stat. 64.

June 29, 1954, ch. 409, title V, § 509, 68 Stat. 319.

§ 1631. Protection for purchasers of farm products

(a) Congressional findings

Congress finds that—

(1) certain State laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender;

(2) these laws subject the purchaser of farm products to double payment for the products,

once at the time of purchase, and again when the seller fails to repay the lender;

(3) the exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products; and

(4) this exposure constitutes a burden on and an obstruction to interstate commerce in farm products.

(b) Declaration of purpose

The purpose of this section is to remove such burden on and obstruction to interstate commerce in farm products.

(c) Definitions

For the purposes of this section—

(1) The term ''buyer in the ordinary course of business'' means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

(2) The term ''central filing system'' means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the Secretary of the United States Department of Agriculture; the Secretary shall certify such system if the system complies with the requirements of this section; specifically under such system—

(A) effective financing statements or notice of such financing statements are filed with the office of the Secretary of State of a State;

(B) the Secretary of State records the date and hour of the filing of such statements;

(C) the Secretary of State compiles all such statements into a master list—

(i) organized according to farm products;

(ii) arranged within each such product—

(I) in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; and

(II) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; and

(III) geographically by county or parish; and

(IV) by crop year;

(iii) containing the information referred to in paragraph (4)(D);

(D) the Secretary of State maintains a list of all buyers of farm products, commission merchants, and selling agents who register with the Secretary of State, on a form indicating—

(i) the name and address of each buyer, commission merchant and selling agent;

(ii) the interest of each buyer, commission merchant, and selling agent in receiving the lists described in subparagraph (E); and

(iii) the farm products in which each buyer, commission merchant, and selling agent has an interest;

(E) the Secretary of State distributes regularly as prescribed by the State to each buyer, commission merchant, and selling agent on the list described in subparagraph (D) a copy in written or printed form of those portions of the master list described in paragraph[1] (C) that cover the farm products in which such buyer, commission merchant, or selling agent has registered an interest;

(F) the Secretary of State furnishes to those who are not registered pursuant to (2)(D) of this section[2] oral confirmation within 24 hours of any effective financing statement on request followed by written confirmation to any buyer of farm products buying from a debtor, or commission merchant or selling agent selling for a seller covered by such statement.

(3) The term ''commission merchant'' means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) The term ''effective financing statement'' means a statement that—

(A) is an original or reproduced copy of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement;

(B) other than in the case of an electronically reproduced copy of the statement, is signed and filed with the Secretary of State of a State by the secured party;

(C) other than in the case of an electronically reproduced copy of the statement, is signed by the debtor;

(D) contains,

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable; and a reasonable description of the property, including[3] county or parish in which the property is located;

(E) must be amended in writing, within 3 months, similarly signed and filed, to reflect material changes;

(F) remains effective for a period of 5 years from the date of filing, subject to extensions for additional periods of 5 years each by refiling or filing a continuation statement within 6 months before the expiration of the initial 5 year period;

[1] So in original. Probably should be ''subparagraph''.

[2] So in original. Probably should be ''pursuant to subparagraph (D)''.

[3] So in original. Probably should be followed by ''the''.

(G) lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement has lapsed, whichever occurs first;

(H) is accompanied by the requisite filing fee set by the Secretary of State; and

(I) substantially complies with the requirements of this subparagraph even though it contains minor errors that are not seriously misleading.

(5) The term ''farm product'' means an agricultural commodity such as wheat, corn, soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, wool-clip, maple syrup, milk, and eggs), that is in the possession of a person engaged in farming operations.

(6) The term ''knows'' or ''knowledge'' means actual knowledge.

(7) The term ''security interest'' means an interest in farm products that secures payment or performance of an obligation.

(8) The term ''selling agent'' means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

(9) The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(10) The term ''person'' means any individual, partnership, corporation, trust, or any other business entity.

(11) The term ''Secretary of State'' means the Secretary of State or the designee of the State.

(d) Purchases free of security interest

Except as provided in subsection (e) of this section and notwithstanding any other provision of Federal, State, or local law, a buyer who in the ordinary course of business buys a farm product from a seller engaged in farming operations shall take free of a security interest created by the seller, even though the security interest is perfected; and the buyer knows of the existence of such interest.

(e) Purchases subject to security interest

A buyer of farm products takes subject to a security interest created by the seller if—

(1)(A) within 1 year before the sale of the farm products, the buyer has received from the secured party or the seller written notice of the security interest organized according to farm products that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county or parish, and a reasonable description of the property; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any[4] payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest; and

(B) the buyer has failed to perform the payment obligations, or

(2) in the case of a farm product produced in a State that has established a central filing system—

(A) the buyer has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(B) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(3) in the case of a farm product produced in a State that has established a central filing system, the buyer—

(A) receives from the Secretary of State of such State written notice as provided in subparagraph[5] (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm product being sold by such seller as being subject to an effective financing statement or notice; and

(B) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise; and[6]

(f) Law governing "receipt"

What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(g) Commission merchants or selling agents: sales free of or subject to security interest; law governing "receipt"

(1) Except as provided in paragraph (2) and notwithstanding any other provision of Federal, State, or local law, a commission merchant or selling agent who sells, in the ordinary course of business, a farm product for others, shall not be subject to a security interest created by the seller in such farm product even though the security interest is perfected and even though the

[4] So in original. Probably should be preceded by ''contains''.

[5] So in original. Probably should be ''subsection''.

[6] So in original. A period probably should appear instead of ''; and''.

commission merchant or selling agent knows of the existence of such interest.

(2) A commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product if—

(A) within 1 year before the sale of such farm product the commission merchant or selling agent has received from the secured party or the seller written notice of the security interest; organized according to farm products, that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products, where applicable, crop year, county or parish, and a reasonable description of the property, etc.; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any[7] payment obligations imposed on the commission merchant or selling agent by the secured party as conditions for waiver or release of the security interest; and

(B) the commission merchant or selling agent has failed to perform the payment obligations;

(C) in the case of a farm product produced in a State that has established a central filing system—

(i) the commission merchant or selling agent has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(ii) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(D) in the case of a farm product produced in a State that has established a central filing system, the commission merchant or selling agent—

(i) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) of this section that specifies both the seller and the farm products being sold by such seller as being subject to an effective financing statement or notice; and

(ii) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(3) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(h) Security agreements; identity lists; notice of identity or accounting for proceeds; violations

(1) A security agreement in which a person engaged in farming operations creates a security interest in a farm product may require the person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom the person engaged in farming operations may sell such farm product.

(2) If a security agreement contains a provision described in paragraph (1) and such person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on such list, the person engaged in farming operations shall be subject to paragraph (3) unless the person—

(A) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least 7 days prior to such sale; or

(B) has accounted to the secured party for the proceeds of such sale not later than 10 days after such sale.

(3) A person violating paragraph (2) shall be fined $5,000 or 15 per centum of the value or benefit received for such farm product described in the security agreement, whichever is greater.

(i) Regulations

The Secretary of Agriculture shall prescribe regulations not later than 90 days after December 23, 1985, to aid States in the implementation and management of a central filing system.

(j) Effective date

This section shall become effective 12 months after December 23, 1985.

(Pub. L. 99–198, title XIII, § 1324, Dec. 23, 1985, 99 Stat. 1535; Pub. L. 104–127, title VI, § 662, Apr. 4, 1996, 110 Stat. 1107.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

AMENDMENTS

1996—Subsec. (c)(4)(A). Pub. L. 104–127, § 662(1), substituted ''of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement'' for ''thereof''.

Subsec. (c)(4)(B), (C). Pub. L. 104–127, § 662(2), inserted ''other than in the case of an electronically reproduced copy of the statement,'' before ''is''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[7] So in original. Probably should be preceded by ''contains''.

§ 1632. Market expansion research

(a) The Secretary of Agriculture, using available funds, shall increase and intensify research programs conducted by or for the Department of Agriculture that are directed at developing technology to overcome barriers to expanded sales of United States agricultural commodities and the products thereof in domestic and foreign markets, including research programs for the development of procedures to meet plant quarantine requirements and improvement in the transportation and handling of perishable agricultural commodities.

(b)(1) The Secretary of Agriculture shall conduct a research and development program to formulate new uses for farm and forest products. Such program shall include, but not be limited to, research and development of industrial, new, and value-added products.

(2) To the extent practicable, the Secretary of Agriculture shall carry out the program authorized in this subsection with colleges and universities, private industry, and Federal and State entities through a combination of grants, cooperative agreements, contracts, and interagency agreements.

(3)(A) There are authorized to be appropriated such sums as are necessary to carry out the program authorized under this subsection.

(B) In addition, the Secretary may use funds appropriated or made available to the Secretary under provisions of law other than subparagraph (A) to carry out such program.

(C) To the extent requests are made for matching funds under such program, the total amount of funds used by the Secretary to carry out the program under this subsection may not be less than $10,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

(4) Funds appropriated under subparagraph (A) or made available under subparagraph (B) may be transferred among appropriation accounts to carry out the purposes of the program authorized under this subsection.

(5) Notwithstanding any other provision of law, the Federal share of the cost of each research or development project funded under this subsection may not exceed 50 percent of the cost of such project.

(Pub. L. 99–198, title XIV, § 1436, Dec. 23, 1985, 99 Stat. 1558.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

SUBCHAPTER II—LIVESTOCK MANDATORY REPORTING

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

PART A—PURPOSE; DEFINITIONS

§ 1635. Purpose

The purpose of this subchapter is to establish a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock that—

(1) provides information that can be readily understood by producers, packers, and other market participants, including information with respect to the pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products;

(2) improves the price and supply reporting services of the Department of Agriculture; and

(3) encourages competition in the marketplace for livestock and livestock products.

(Aug. 14, 1946, ch. 966, title II, § 211, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1188.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out below.

LIVESTOCK MANDATORY REPORTING

Pub. L. 106–78, title IX, Oct. 22, 1999, 113 Stat. 1188, provided that:

''SEC. 901. SHORT TITLE.

''This title [enacting sections 198 to 198b and 1635 to 1636h of this title and this note, amending sections 192 and 5712 of this title, repealing section 229a of this title, and amending provisions set out as a note under section 1421 of this title] may be cited as the 'Livestock Mandatory Reporting Act of 1999'.

''Subtitle A—Livestock Mandatory Reporting

''SEC. 911. LIVESTOCK MANDATORY REPORTING.

''[Enacted this subchapter.]

''SEC. 912. UNJUST DISQUALIFICATION.

''[Amended section 192 of this title.]

''SEC. 913. CONFORMING AMENDMENTS.

''(a) [Repealed section 229a of this title.]

''(b) [Amended section 101(a) [title XI, § 1127] of Pub. L. 105–277, 7 U.S.C. 1421 note.]

''Subtitle B—Related Beef Reporting Provisions

''SEC. 921. BEEF EXPORT REPORTING.

''[Amended section 5712 of this title.]

''SEC. 922. EXPORT CERTIFICATES FOR MEAT AND MEAT FOOD PRODUCTS.

''Not later than 1 year after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall fully implement a program, through the use of a streamlined electronic online system, to issue and report export certificates for all meat and meat products.

''SEC. 923. IMPORTS OF BEEF, BEEF VARIETY MEATS, AND CATTLE.

''(a) IN GENERAL.—The Secretary of Agriculture shall—

''(1) obtain information regarding the import of beef and beef variety meats (consistent with the information categories reported for beef exports under section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a))) and cattle using available information sources; and

''(2) publish the information in a timely manner weekly and in a form that maximizes the utility of the information to beef producers, packers, and other market participants.

''(b) CONTENT.—The published information shall include information reporting the year-to-date cumulative annual imports of beef, beef variety meats, and cattle for the current and prior marketing years.

''SEC. 924. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out sections 922 and 923.

''Subtitle C—Related Swine Reporting Provisions

''SEC. 931. IMPROVEMENT OF HOGS AND PIGS INVENTORY REPORT.

''(a) IN GENERAL.—Effective beginning not later than 90 days after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall publish on a monthly basis the Hogs and Pigs Inventory Report.

''(b) GESTATING SOWS.—The Secretary shall include in a separate category of the Report the number of bred female swine that are assumed, or have been confirmed, to be pregnant during the reporting period.

''(c) PHASE-OUT.—Effective for a period of eight quarters after the implementation of the monthly report required under subsection (a), the Secretary shall continue to maintain and publish on a quarterly basis the Hogs and Pigs Inventory Report published on or before the date of the enactment of this Act.

''SEC. 932. BARROW AND GILT SLAUGHTER.

''(a) IN GENERAL.—The Secretary of Agriculture shall promptly obtain and maintain, through an appropriate collection system or valid sampling system at packing plants, information on the total slaughter of swine that reflects differences in numbers between barrows and gilts, as determined by the Secretary.

''(b) AVAILABILITY.—The information shall be made available to swine producers, packers, and other market participants in a report published by the Secretary not less frequently than weekly.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary shall administer the collection and compilation of information, and the publication of the report, required by this section.

''(2) NONDELEGATION.—The Secretary shall not delegate the collection, compilation, or administration of the information required by this section to any packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)).

''SEC. 933. AVERAGE TRIM LOSS CORRELATION STUDY AND REPORT.

''(a) IN GENERAL.—The Secretary of Agriculture shall contract with a qualified contractor to conduct a correlation study and prepare a report establishing a baseline and standards for determining and improving average trim loss measurements and processing techniques for pork processors to employ in the slaughter of swine.

''(b) CORRELATION STUDY AND REPORT.—The study and report shall—

''(1) analyze processing techniques that would assist the pork processing industry in improving procedures for uniformity and transparency in how trim loss is discounted (in dollars per hundred pounds carcass weight) by different packers and processors;

''(2) analyze slaughter inspection procedures that could be improved so that trimming procedures and policies of the Secretary are uniform to the maximum extent determined practicable by the Secretary;

''(3) determine how the Secretary may be able to foster improved breeding techniques and animal handling and transportation procedures through training programs made available to swine producers so as to minimize trim loss in slaughter processing; and

''(4) make recommendations that are designed to effect changes in the pork industry so as to achieve continuous improvement in average trim losses and discounts.

''(c) SUBSEQUENT REPORTS ON STATUS OF IMPROVEMENTS AND UPDATES IN BASELINE.—Not less frequently than once every 2 years after the initial publication of the report required under this section, the Secretary shall make subsequent periodic reports that—

''(1) examine the status of the improvement in reducing trim loss discounts in the pork processing industry; and

''(2) update the baseline to reflect changes in trim loss discounts.

''(d) SUBMISSION OF REPORTS TO CONGRESS, PRODUCERS, PACKERS, AND OTHERS.—The reports required under this section shall be made available to—

''(1) the public on the Internet;

''(2) the Committee on Agriculture of the House of Representatives;

''(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(4) producers and packers; and

''(5) other market participants.

''SEC. 934. SWINE PACKER MARKETING CONTRACTS.

''[Enacted sections 198 to 198b of this title.]

''SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

''Subtitle D—Implementation

''SEC. 941. REGULATIONS.

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall publish final regulations to implement this title and the amendments made by this title.

''(b) PUBLICATION OF PROPOSED REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish proposed regulations to implement this title and the amendments made by this title.

''(c) COMMENT PERIOD.—The Secretary shall provide an opportunity for comment on the proposed regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

''(d) FINAL REGULATIONS.—Not later than 60 days after the conclusion of the comment period, the Secretary shall publish the final regulations and implement this title and the amendments made by this title.

''SEC. 942. TERMINATION OF AUTHORITY.

''The authority provided by this title [enacting sections 198 to 198b and 1635 to 1636h of this title and this note, amending sections 192 and 5712 of this title, repealing section 229a of this title, and amending provisions set out as a note under section 1421 of this title] and the amendments made by this title terminate 5 years after the date of the enactment of this Act [Oct. 22, 1999].''

§ 1635a. Definitions

In this subchapter:

(1) Base price

The term ''base price'' means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of carcass weight.

(2) Basis level

The term ''basis level'' means the agreed-on adjustment to a future price to establish the final price paid for livestock.

(3) Current slaughter week

The term ''current slaughter week'' means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

(4) F.O.B.

The term ''F.O.B.'' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(5) Livestock

The term ''livestock'' means cattle, swine, and lambs.

(6) Lot

The term ''lot'' means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

(7) Marketing

The term ''marketing'' means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

(8) Negotiated purchase

The term ''negotiated purchase'' means a cash or spot market purchase by a packer of livestock from a producer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(9) Negotiated sale

The term ''negotiated sale'' means a cash or spot market sale by a producer of livestock to a packer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(10) Prior slaughter week

The term ''prior slaughter week'' means the Monday through Sunday prior to a reporting day.

(11) Producer

The term ''producer'' means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

(12) Reporting day

The term ''reporting day'' means a day on which—

(A) a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer;

(B) the Secretary is required to make information concerning the business described in subparagraph (A) available to the public; and

(C) the Department of Agriculture is open to conduct business.

(13) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(14) State

The term ''State'' means each of the 50 States.

(Aug. 14, 1946, ch. 966, title II, § 212, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1188.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198 of this title.

PART B—CATTLE REPORTING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1636, 1636a of this title.

§ 1635d. Definitions

In this part:

(1) Cattle committed

The term ''cattle committed'' means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

(2) Cattle type

The term ''cattle type'' means the following types of cattle purchased for slaughter:

(A) Fed steers.

(B) Fed heifers.

(C) Fed Holsteins and other fed dairy steers and heifers.

(D) Cows.

(E) Bulls.

(3) Formula marketing arrangement

The term ''formula marketing arrangement'' means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(4) Forward contract

The term ''forward contract'' means—

(A) an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to—

(i) prices quoted on the Chicago Mercantile Exchange; or

(ii) other comparable publicly available prices; or

(B) such other forward contract as the Secretary determines to be applicable.

(5) Packer

The term ''packer'' means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a cattle processing plant that is federally inspected;

(B) for any calendar year, the term includes only a cattle processing plant that slaughtered an average of at least 125,000 head of cattle per year during the immediately preceding 5 calendar years; and

(C) in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, the

Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this part.

(6) Packer-owned cattle

The term ''packer-owned cattle'' means cattle that a packer owns for at least 14 days immediately before slaughter.

(7) Terms of trade

The term ''terms of trade'' includes, with respect to the purchase of cattle for slaughter—

(A) whether a packer provided any financing agreement or arrangement with regard to the cattle;

(B) whether the delivery terms specified the location of the producer or the location of the packer's plant;

(C) whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(D) the percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of—

(i) the date on which the cattle were committed to the packer; or

(ii) the date on which the cattle were purchased by the packer.

(8) Type of purchase

The term ''type of purchase'', with respect to cattle, means—

(A) a negotiated purchase;

(B) a formula market arrangement; and

(C) a forward contract.

(Aug. 14, 1946, ch. 966, title II, § 221, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1189.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1635e. Mandatory reporting for live cattle

(a) Establishment

The Secretary shall establish a program of live cattle price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the cattle slaughtering industry.

(b) General reporting provisions applicable to packers and the Secretary

(1) In general

Whenever the prices or quantities of cattle are required to be reported or published under this section, the prices or quantities shall be categorized so as to clearly delineate—

(A) the prices or quantities, as applicable, of the cattle purchased in the domestic market; and

(B) the prices or quantities, as applicable, of imported cattle.

(2) Packer-owned cattle

Information required under this section for packer-owned cattle shall include quantity and carcass characteristics, but not price.

(c) Daily reporting

(1) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (including once not later than 10:00 a.m. Central Time and once not later than 2:00 p.m. Central Time) the following information for each cattle type:

(A) The prices for cattle (per hundredweight) established on that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle purchased on a live weight basis;

(iii) the quantity of cattle purchased on a dressed weight basis;

(iv) a range of the estimated live weights of the cattle purchased;

(v) an estimate of the percentage of the cattle purchased that were of a quality grade of choice or better; and

(vi) any premiums or discounts associated with—

(I) weight, grade, or yield; or

(II) any type of purchase.

(B) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle delivered on a live weight basis; and

(iii) the quantity of cattle delivered on a dressed weight basis.

(C) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle committed on a live weight basis; and

(iii) the quantity of cattle committed on a dressed weight basis.

(D) The terms of trade regarding the cattle, as applicable.

(2) Publication

The Secretary shall make the information available to the public not less frequently than three times each reporting day.

(d) Weekly reporting

(1) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week:

(A) The quantity of cattle purchased through a forward contract that were slaughtered.

(B) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered.

(C) The quantity and carcass characteristics of packer-owned cattle that were slaughtered.

(D) The quantity, basis level, and delivery month for all cattle purchased through forward contracts that were agreed to by the parties.

(E) The range and average of intended premiums and discounts that are expected to be in effect for the current slaughter week.

(2) Formula purchases

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week:

(A) The quantity (quoted in both numbers of head and hundredweights) of cattle.

(B) The weighted average price paid for a carcass, including applicable premiums and discounts.

(C) The range of premiums and discounts paid.

(D) The weighted average of premiums and discounts paid.

(E) The range of prices paid.

(F) The aggregate weighted average price paid for a carcass.

(G) The terms of trade regarding the cattle, as applicable.

(3) Publication

The Secretary shall make available to the public the information obtained under paragraphs (1) and (2) on the first reporting day of the current slaughter week, not later than 10:00 a.m. Central Time.

(e) Regional reporting of cattle types

(1) In general

The Secretary shall determine whether adequate data can be obtained on a regional basis for fed Holsteins and other fed dairy steers and heifers, cows, and bulls based on the number of packers required to report under this section.

(2) Report

Not later than 2 years after October 22, 1999, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the determination of the Secretary under paragraph (1).

(Aug. 14, 1946, ch. 966, title II, § 222, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1191.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1635f. Mandatory packer reporting of boxed beef sales

(a) Daily reporting

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (not less than once before, and once after, 12:00 noon Central Time) information on total boxed beef sales, including—

(1) the price for each lot of each negotiated boxed beef sale (determined by seller-buyer interaction and agreement), quoted in dollars per hundredweight (on a F.O.B. plant basis);

(2) the quantity for each lot of each sale, quoted by number of boxes sold; and

(3) information regarding the characteristics of each lot of each sale, including—

(A) the grade of beef (USDA Choice or better, USDA Select, or ungraded no-roll product);

(B) the cut of beef; and

(C) the trim specification.

(b) Publication

The Secretary shall make available to the public the information required to be reported under subsection (a) of this section not less frequently than twice each reporting day.

(Aug. 14, 1946, ch. 966, title II, § 223, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1193.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

PART C—SWINE REPORTING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1636, 1636a of this title.

§ 1635i. Definitions

In this part:

(1) Affiliate

The term ''affiliate'', with respect to a packer, means—

(A) a person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(B) a person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(C) a person that directly or indirectly controls, or is controlled by or under common control with, the packer.

(2) Applicable reporting period

The term ''applicable reporting period'' means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as required under section 1635j(c) of this title.

(3) Barrow

The term ''barrow'' means a neutered male swine.

(4) Base market hog

The term ''base market hog'' means a hog for which no discounts are subtracted from and no premiums are added to the base price.

(5) Bred female swine

The term ''bred female swine'' means any female swine, whether a sow or gilt, that has been mated or inseminated and is assumed, or has been confirmed, to be pregnant.

(6) Formula price

The term ''formula price'' means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

(7) Gilt

The term ''gilt'' means a young female swine that has not produced a litter.

(8) Hog class

The term ''hog class'' means, as applicable—

(A) barrows or gilts;

(B) sows; or

(C) boars or stags.

(9) Noncarcass merit premium

The term ''noncarcass merit premium'' means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

(10) Other market formula purchase

(A) In general

The term ''other market formula purchase'' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product.

(B) Inclusion

The term ''other market formula purchase'' includes a formula purchase in a case in which the price formula is based on one or more futures or options contracts.

(11) Other purchase arrangement

The term ''other purchase arrangement'' means a purchase of swine by a packer that—

(A) is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and

(B) does not involve packer-owned swine.

(12) Packer

The term ''packer'' means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a swine processing plant that is federally inspected;

(B) for any calendar year, the term includes only a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years; and

(C) in the case of a swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this part.

(13) Packer-owned swine

The term ''packer-owned swine'' means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

(14) Packer-sold swine

The term ''packer-sold swine'' means the swine that are—

(A) owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and

(B) sold for slaughter to another packer.

(15) Pork

The term ''pork'' means the meat of a porcine animal.

(16) Pork product

The term ''pork product'' means a product or byproduct produced or processed in whole or in part from pork.

(17) Purchase data

The term ''purchase data'' means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by—

(A) hog class;

(B) type of purchase; and

(C) packer-owned swine.

(18) Slaughter data

The term ''slaughter data'' means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of when the price of the swine was negotiated or otherwise determined, reported by—

(A) hog class;

(B) type of purchase; and

(C) packer-owned swine.

(19) Sow

The term ''sow'' means an adult female swine that has produced one or more litters.

(20) Swine

The term ''swine'' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

(21) Swine or pork market formula purchase

The term ''swine or pork market formula purchase'' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

(22) Type of purchase

The term ''type of purchase'', with respect to swine, means—

(A) a negotiated purchase;
(B) other market formula purchase;
(C) a swine or pork market formula purchase; and
(D) other purchase arrangement.

(Aug. 14, 1946, ch. 966, title II, § 231, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1193.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198 of this title.

§ 1635j. Mandatory reporting for swine

(a) Establishment

The Secretary shall establish a program of swine price information reporting that will—
(1) provide timely, accurate, and reliable market information;
(2) facilitate more informed marketing decisions; and
(3) promote competition in the swine slaughtering industry.

(b) General reporting provisions applicable to packers and the Secretary

(1) In general

The Secretary shall establish and implement a price reporting program in accordance with this section that includes the reporting and publication of information required under this section.

(2) Packer-owned swine

Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(3) Packer-sold swine

If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising—
(A) packer-sold swine; and
(B) all other swine.

(4) Additional information

(A) Review

The Secretary shall review the information required to be reported by packers under this section at least once every 2 years.

(B) Outdated information

After public notice and an opportunity for comment, subject to subparagraph (C), the Secretary shall promulgate regulations that specify additional information that shall be reported under this section if the Secretary determines under the review under subparagraph (A) that—
(i) information that is currently required no longer accurately reflects the methods by which swine are valued and priced by packers; or
(ii) packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

(C) Limitation

Under subparagraph (B), the Secretary may not require packers to provide any new or additional information that—
(i) is not generally available or maintained by packers; or
(ii) would be otherwise unduly burdensome to provide.

(c) Daily reporting

(1) Prior day report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—
(i) comply with the publication requirements of this section; and
(ii) provide for the timely access to the information by producers, packers, and other market participants.

(B) Reporting deadline and plants required to report

Not later than 7:00 a.m. Central Time on each reporting day, a packer required to report under subparagraph (A) shall report information regarding all swine purchased, priced, or slaughtered during the prior business day of the packer.

(C) Information required

The information from the prior business day of a packer required under this paragraph shall include—
(i) all purchase data, including—
(I) the total number of—
(aa) swine purchased; and
(bb) swine scheduled for delivery; and

(II) the base price and purchase data for slaughtered swine for which a price has been established;

(ii) all slaughter data for the total number of swine slaughtered, including—
(I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of swine delivered at the plant—
(aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and
(bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;

(II) information concerning the average net price, which shall be equal to the

quotient (stated per hundred pounds of carcass weight of swine) obtained by dividing—

(aa) the total amount paid for the swine slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by

(bb) the total carcass weight (in hundred pound increments) of the swine;

(III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine;

(IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine;

(V) the average carcass weight, which shall be equal to the quotient obtained by dividing—

(aa) the total carcass weight of the swine slaughtered at the packing plant during the applicable reporting period; by

(bb) the number of the swine described in item (aa),

adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for swine slaughtered during the applicable reporting period, resulting from the fact that the swine did not fall within the individual packer's established carcass weight or lot variation range;

(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period;

(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the swine slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement; and

(IX) the total slaughter quantity, which shall be equal to the total number of swine slaughtered during the applicable reporting period, including all types of purchases and packer-owned swine; and

(iii) packer purchase commitments, which shall be equal to the number of swine scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(D) Publication

The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 8:00 a.m. Central Time on the reporting day on which the information is received from the packer.

(2) Morning report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of swine, and packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of swine, and packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) Publication

The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

(3) Afternoon report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of swine, and packer-owned swine,

expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of swine, and packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) Publication

The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

(d) Weekly noncarcass merit premium report

(1) In general

Not later than 4:00 p.m. Central Time on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists—

(A) each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(B) the amount (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(2) Premium list

A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.

(3) Availability

A packer shall not be required to pay a listed noncarcass merit premium to a producer that meets the requirements for the premium if the need for swine in a given category is filled at a particular point in time.

(4) Publication

The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

(Aug. 14, 1946, ch. 966, title II, § 232, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1195.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1635i of this title.

PART D—LAMB REPORTING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1636, 1636a of this title.

§ 1635m. Mandatory reporting for lambs

(a) Establishment

The Secretary may establish a program of mandatory lamb price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the lamb slaughtering industry.

(b) Notice and comment

If the Secretary establishes a mandatory price reporting program under subsection (a) of this section, the Secretary shall provide an opportunity for comment on proposed regulations to establish the program during the 30-day period beginning on the date of the publication of the proposed regulations.

(Aug. 14, 1946, ch. 966, title II, § 241, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1200.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

PART E—ADMINISTRATION

§ 1636. General provisions

(a) Confidentiality

The Secretary shall make available to the public information, statistics, and documents obtained from, or submitted by, packers, retail entities, and other persons under this subchapter in a manner that ensures that confidentiality is preserved regarding—

(1) the identity of persons, including parties to a contract; and

(2) proprietary business information.

(b) Disclosure by Federal Government employees

(1) In general

Subject to paragraph (2), no officer, employee, or agent of the United States shall, without the consent of the packer or other person concerned, divulge or make known in any manner, any facts or information regarding the business of the packer or other person that was acquired through reporting required under this subchapter.

(2) Exceptions

Information obtained by the Secretary under this subchapter may be disclosed—

(A) to agents or employees of the Department of Agriculture in the course of their official duties under this subchapter;

(B) as directed by the Secretary or the Attorney General, for enforcement purposes; or

(C) by a court of competent jurisdiction.

(3) Disclosure under Freedom of Information Act

Notwithstanding any other provision of law, no facts or information obtained under this subchapter shall be disclosed in accordance with section 552 of title 5.

(c) Reporting by packers

A packer shall report all information required under this subchapter on an individual lot basis.

(d) Regional reporting and aggregation

The Secretary shall make information obtained under this subchapter available to the public only in a manner that—

(1) ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) ensures that the identity of a reporting person is not disclosed; and

(3) conforms to aggregation guidelines established by the Secretary.

(e) Adjustments

Prior to the publication of any information required under this subchapter, the Secretary may make reasonable adjustments in information reported by packers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(f) Verification

The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under part B, C, or D of this subchapter.

(g) Electronic reporting and publishing

The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subchapter by electronic means.

(h) Reporting of activities on weekends and holidays

(1) In general

Livestock committed to a packer, or purchased, sold, or slaughtered by a packer, on a weekend day or holiday shall be reported by the packer to the Secretary (to the extent required under this subchapter), and reported by the Secretary, on the immediately following reporting day.

(2) Limitation on reporting by packers

A packer shall not be required to report actions under paragraph (1) more than once on the immediately following reporting day.

(i) Effect on other laws

Nothing in this subchapter, the Livestock Mandatory Reporting Act of 1999, or amendments made by that Act restricts or modifies the authority of the Secretary to—

(1) administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(2) administer, enforce, or collect voluntary reports under this chapter or any other law; or

(3) access documentary evidence as provided under sections 49 and 50 of title 15.

(Aug. 14, 1946, ch. 966, title II, § 251, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1200.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

REFERENCES IN TEXT

The Livestock Mandatory Reporting Act of 1999, referred to in subsec. (i), is title IX of Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1188, which is set out as a note under section 1635 of this title.

The Packers and Stockyards Act, 1921, referred to in subsec. (i)(1), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§ 181 et seq.) of this title. For complete classification of this Act to the Code, see section 181 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 198a of this title.

§ 1636a. Unlawful acts

It shall be unlawful and a violation of this subchapter for any packer or other person subject to this subchapter (in the submission of information required under part B, C, or D of this subchapter, as determined by the Secretary) to willfully—

(1) fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary (including estimated information);

(2) solicit or request that a packer, the buyer or seller of livestock or livestock products, or any other person fail to provide, as a condition of any transaction, accurate or timely information required under this subchapter;

(3) fail or refuse to comply with this subchapter; or

(4) report estimated information in any report required under this subchapter in a manner that demonstrates a pattern of significant variance in accuracy when compared to the actual information that is reported for the same reporting period, or as determined by any audit, oversight, or other verification procedures of the Secretary.

(Aug. 14, 1946, ch. 966, title II, § 252, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1201.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636b. Enforcement

(a) Civil penalty

(1) In general

Any packer or other person that violates this subchapter may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation.

(2) Continuing violation

Each day during which a violation continues shall be considered to be a separate violation.

(3) Factors

In determining the amount of a civil penalty to be assessed under paragraph (1), the Sec-

retary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the ability of the person that has committed the violation to continue in business.

(4) Multiple violations

In determining whether to assess a civil penalty under paragraph (1), the Secretary shall consider whether a packer or other person subject to this subchapter has engaged in a pattern of errors, delays, or omissions in violation of this subchapter.

(b) Cease and desist

In addition to, or in lieu of, a civil penalty under subsection (a) of this section, the Secretary may issue an order to cease and desist from continuing any violation.

(c) Notice and hearing

No penalty shall be assessed, or cease and desist order issued, by the Secretary under this section unless the person against which the penalty is assessed or to which the order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(d) Finality and judicial review

(1) In general

The order of the Secretary assessing a civil penalty or issuing a cease and desist order under this section shall be final and conclusive unless the affected person files an appeal of the order of the Secretary in United States district court not later than 30 days after the date of the issuance of the order.

(2) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Enforcement

(1) In general

If, after the lapse of the period allowed for appeal or after the affirmance of a penalty assessed under this section, the person against which the civil penalty is assessed fails to pay the penalty, the Secretary may refer the matter to the Attorney General who may recover the penalty by an action in United States district court.

(2) Finality

In the action, the final order of the Secretary shall not be subject to review.

(f) Injunction or restraining order

(1) In general

If the Secretary has reason to believe that any person subject to this subchapter has failed or refused to provide the Secretary information required to be reported pursuant to this subchapter, and that it would be in the public interest to enjoin the person from further failure to comply with the reporting requirements, the Secretary may notify the Attorney General of the failure.

(2) Attorney General

The Attorney General may apply to the appropriate district court of the United States for a temporary or permanent injunction or restraining order.

(3) Court

When needed to carry out this subchapter, the court shall, on a proper showing, issue a temporary injunction or restraining order without bond.

(g) Failure to obey orders

(1) In general

If a person subject to this subchapter fails to obey a cease and desist or civil penalty order issued under this subsection after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, the United States may apply to the appropriate district court for enforcement of the order.

(2) Enforcement

If the court determines that the order was lawfully made and duly served and that the person violated the order, the court shall enforce the order.

(3) Civil penalty

If the court finds that the person violated the cease and desist provisions of the order, the person shall be subject to a civil penalty of not more than $10,000 for each offense.

(Aug. 14, 1946, ch. 966, title II, § 253, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1202.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636c. Fees

The Secretary shall not charge or assess a user fee, transaction fee, service charge, assessment, reimbursement, or any other fee for the submission or reporting of information, for the receipt or availability of, or access to, published reports or information, or for any other activity required under this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 254, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1203.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636d. Recordkeeping

(a) In general

Subject to subsection (b) of this section, each packer required to report information to the Secretary under this subchapter shall maintain, and make available to the Secretary on request, for 2 years—

(1) the original contracts, agreements, receipts and other records associated with any transaction relating to the purchase, sale,

pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock; and

(2) such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under this subchapter.

(b) Limitations

Under subsection (a)(2) of this section, the Secretary may not require a packer to provide new or additional information if—

(1) the information is not generally available or maintained by packers; or

(2) the provision of the information would be unduly burdensome.

(c) Purchases of cattle or swine

A record of a purchase of a lot of cattle or a lot of swine by a packer shall evidence whether the purchase occurred—

(1) before 10:00 a.m. Central Time;

(2) between 10:00 a.m. and 2:00 p.m. Central Time; or

(3) after 2:00 p.m. Central Time.

(Aug. 14, 1946, ch. 966, title II, § 255, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1203.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636e. Voluntary reporting

The Secretary shall encourage voluntary reporting by packers (as defined in section 191 of this title) to which the mandatory reporting requirements of this subchapter do not apply.

(Aug. 14, 1946, ch. 966, title II, § 256, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1204.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636f. Publication of information on retail purchase prices for representative meat products

(a) In general

Beginning not later than 90 days after October 22, 1999, the Secretary shall compile and publish at least monthly (weekly, if practicable) information on retail prices for representative food products made from beef, pork, chicken, turkey, veal, or lamb.

(b) Information

The report published by the Secretary under subsection (a) of this section shall include—

(1) information on retail prices for each representative food product described in subsection (a) of this section; and

(2) information on total sales quantity (in pounds and dollars) for each representative food product.

(c) Meat Price Spreads Report

During the period ending 2 years after the initial publication of the report required under subsection (a) of this section, the Secretary shall continue to publish the Meat Price Spreads Report in the same manner as the Report was published before October 22, 1999.

(d) Information collection

(1) In general

To ensure the accuracy of the reports required under subsection (a) of this section, the Secretary shall obtain the information for the reports from one or more sources including—

(A) a consistently representative set of retail transactions; and

(B) both prices and sales quantities for the transactions.

(2) Source of information

The Secretary may—

(A) obtain the information from retailers or commercial information sources; and

(B) use valid statistical sampling procedures, if necessary.

(3) Adjustments

In providing information on retail prices under this section, the Secretary may make adjustments to take into account differences in—

(A) the geographic location of consumption;

(B) the location of the principal source of supply;

(C) distribution costs; and

(D) such other factors as the Secretary determines reflect a verifiable comparative retail price for a representative food product.

(e) Administration

The Secretary—

(1) shall collect information under this section only on a voluntary basis; and

(2) shall not impose a penalty on a person for failure to provide the information or otherwise compel a person to provide the information.

(Aug. 14, 1946, ch. 966, title II, § 257, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1204.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636g. Suspension authority regarding specific terms of price reporting requirements

(a) In general

The Secretary may suspend any requirement of this subchapter if the Secretary determines that application of the requirement is inconsistent with the purposes of this subchapter.

(b) Suspension procedure

(1) Period

A suspension under subsection (a) of this section shall be for a period of not more than 240 days.

(2) Action by Congress

If an Act of Congress concerning the requirement that is the subject of the suspension under subsection (a) of this section is not enacted by the end of the period of the suspension established under paragraph (1), the Secretary shall implement the requirement.

(Aug. 14, 1946, ch. 966, title II, § 258, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1205.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 1636h. Federal preemption

In order to achieve the goals, purposes, and objectives of this chapter on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this chapter, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subchapter with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products.

(Aug. 14, 1946, ch. 966, title II, § 259, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1205.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

CHAPTER 39—STABILIZATION OF INTERNATIONAL WHEAT MARKET

Sec.

1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations.
1642. Enforcement by President.
(a) Rules or regulations.
(b) Reports; keeping and examination of books and records.
(c) Penalty for violation.
(d) Forfeiture for excessive exports or imports.
(e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional.
(f) Delegation of authority.
(g) Authorization of appropriations.
(h) Use of funds.
(i) Exclusion from Administrative Procedure Act.
(j) ''Person'' defined.

§ 1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations

The President is authorized, acting through the Commodity Credit Corporation, to make available or cause to be made available, notwithstanding the provisions of any other law, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreement of 1949 signed by Australia, Canada, France, the United States, Uruguay, and certain wheat importing countries, along with the agreements signed by the United States and certain other countries revising and renewing such agreement of 1949 for periods through July 31, 1965 (hereinafter collectively called the ''International Wheat Agreement''). Nothing in this chapter shall be construed to preclude the Secretary of Agriculture, in carrying out programs to encourage the exportation of agricultural commodities and products thereof pursuant to section 612c of this title, from utilizing funds available for such programs in such manner as, either separately or jointly with the Commodity Credit Corporation, to exercise the rights, obtain the benefits, and fulfill all or any part of the obligations of the United States under the International Wheat Agreement or to preclude the Commodity Credit Corporation in otherwise carrying out wheat and wheat-flour export programs as authorized by law. Nothing contained in this chapter shall limit the duty of the Commodity Credit Corporation to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in making available or causing to be made available wheat and wheat-flour under this chapter. The pricing provisions of section 1510(e)[1] of title 22 and section 713a–9 of title 15, shall not be applicable to domestic wheat and wheat-flour supplied to countries which are parties to the International Wheat Agreement and credited to their guaranteed purchases thereunder on and after August 1, 1949, and up to and including June 30, 1950. Where prices in excess of the International Wheat Agreement prices have been paid for such wheat and wheat-flour financed by the Economic Cooperation Administration on or after August 1, 1949, and up to and including June 30, 1950, the Secretary of Agriculture or Commodity Credit Corporation is authorized to reimburse the Economic Cooperation Administration for such excess amounts. Funds realized from such reimbursement shall revert to the respective appropriation or appropriations from which funds were expended for the procurement of such wheat and wheat-flour. There are authorized to be appropriated such sums as may be necessary to make payments to the Commodity Credit Corporation of its estimated or actual net costs of carrying out its functions hereunder. Such net costs in connection with the International Wheat Agreement, 1959, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by importing member countries. Such net costs in connection with the International Wheat Agreement, 1962, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United

[1] See References in Text note below.

States by member and provisional member importing countries, including transactions entered into prior to the deposit of instruments of acceptance or accession by any of the countries involved, if the loading period is not earlier than the date the agreement enters into force. The Commodity Credit Corporation is authorized in carrying out its functions under this chapter to utilize, in advance of such appropriations or payments, any assets available to it.

(Oct. 27, 1949, ch. 772, § 2, 63 Stat. 945; Aug. 1, 1953, ch. 306, § 1, 67 Stat. 358; Aug. 3, 1956, ch. 911, § 1, 70 Stat. 966; Pub. L. 86–336, Sept. 21, 1959, 73 Stat. 600; Pub. L. 87–632, Sept. 5, 1962, 76 Stat. 434.)

REFERENCES IN TEXT

Section 1510 of title 22, referred to in text, was repealed by act Aug. 26, 1954, ch. 937, title V, § 542(a), 68 Stat. 861.

AMENDMENTS

1962—Pub. L. 87–632 extended authority of President to act under wheat agreements revising and renewing the Agreement of 1949 for periods through July 31, 1965, included within the net costs connected with the International Wheat Agreement of 1962, those with respect to commercial purchases from the United States by member and provisional member importing countries, including transactions entered into prior to deposit of instruments of acceptance or accession, if the loading period is not earlier than the date the agreement enters force.

1959—Pub. L. 86–336 authorized this chapter to be used to implement the 1959 agreement and provided that net costs in connection with the 1959 agreement include those with respect to all transactions which qualify as commercial purchases from the United States by importing member countries.

1956—Act Aug. 3, 1956, permitted this chapter to be used to implement the new agreement ratified on July 11, 1956.

1953—Act Aug. 1, 1953, permitted this chapter to be used to implement the new agreement ratified on July 14, 1953.

SHORT TITLE

Section 1 of act Oct. 27, 1949, provided that: ''This Act [enacting this chapter] shall be known as the 'International Wheat Agreement Act of 1949'.''

TRANSFER OF FUNCTIONS

Economic Cooperation Administration abolished by act Oct. 10, 1951, ch. 479, 65 Stat. 373. Its functions are exercised by Agency for International Development. See section 2381 of Title 22, Foreign Relations and Intercourse.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations; Advisory Board of Commodity Credit Corporation; and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

REFERENCES TO INTERNATIONAL WHEAT AGREEMENT OF 1949

Section 2 of act Aug. 3, 1956, provided that: ''Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the Agreement (International Wheat Agreement, 1956) revising and renewing the International Wheat Agreement for a period ending July 31, 1959.''

Section 2 of act Aug. 1, 1953, provided that: ''Reference in any law to the International Wheat Agreement of 1949 shall be deemed to include the agreement revising and renewing the International Wheat Agreement.''

§ 1642. Enforcement by President

(a) Rules or regulations

The President is further authorized to take such other action, including prohibiting or restricting the importation or exportation of wheat or wheat-flour and to issue such rules or regulations which shall have the force and effect of law, as may be necessary in his judgment in the implementation of the International Wheat Agreement.

(b) Reports; keeping and examination of books and records

All persons exporting or importing wheat or wheat-flour or selling wheat or wheat-flour for export shall report to the President such information as he may from time to time require and keep such records as he finds to be necessary to enable him to carry out the purposes of this chapter. Such information shall be reported and such records shall be kept in accordance with such regulations as the President may prescribe. For the purposes of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the President is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are relevant to transactions under the International Wheat Agreement and are within the control of any such person.

(c) Penalty for violation

Any person failing to make any report or keep any record as required by or pursuant to this section, or making any false report or record or knowingly violating any rule or regulation of the President issued pursuant to this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 for each violation.

(d) Forfeiture for excessive exports or imports

Any person who knowingly and willfully exports wheat or wheat-flour from the United States, or who knowingly and willfully imports wheat or wheat-flour into the United States for consumption therein, in excess of the quantity of wheat or wheat-flour permitted to be exported or imported, as the case may be, under regulations issued by the President shall forfeit to the United States a sum equal to two times the market value at the time of the commission of any such act, of the quantity of wheat or wheat-flour by which any such exportation or importation exceeds the authorized amount which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(e) Jurisdiction and venue of actions; remedies, fines, and forfeitures as additional

The district courts of the United States shall have jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this chap-

ter or the rules and regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this chapter or rules and regulations thereunder, or to enjoin any violation of such chapter or rules and regulations, may be brought in any such district wherein the defendant is found or is a resident or transacts business. The remedies, fines, and forfeitures provided for in this chapter shall be in addition to, and not exclusive of, any of the remedies, fines, and forfeitures under existing law.

(f) Delegation of authority

Any power, authority, or discretion conferred on the President by this chapter may be exercised through such department, agency, or officer of the Government as the President may direct, and shall be exercised in conformity with such rules or regulations as he may prescribe.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including the necessary expenses and contributions of the United States in connection with the administration of the International Wheat Agreement.

(h) Use of funds

Funds appropriated under authority of this chapter may be used for the purchase or hire of passenger motor vehicles, for printing and binding, for rent and personal services in the District of Columbia and elsewhere without regard to the limitation contained in section 607(g) of the Federal Employees Pay Act of 1945, as amended [5 U.S.C. 947(g)],[1] and for the employment of experts or consultants or organization thereof, on a temporary basis, by contract or otherwise, without regard to chapter 51 and subchapter III of chapter 53 of title 5, at rates not in excess of $50 per diem.

(i) Exclusion from Administrative Procedure Act

The functions exercised under authority of this chapter shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of sections 3 and 10 thereof.

(j) "Person" defined

The term ''person'' as used in this section shall include the singular and the plural and any individual, partnership, corporation, association, or any other organized group of persons.

(Oct. 27, 1949, ch. 772, §3, 63 Stat. 946; Oct. 28, 1949, ch. 782, title II, §202(27), title XI, §1106(a), 63 Stat. 956, 972.)

REFERENCES IN TEXT

Section 607(g) of the Federal Employees Pay Act of 1945, as amended, referred to in subsec. (h), was repealed by act Sept. 12, 1950, ch. 946, title III, §301 (85), 64 Stat. 843.

The Administrative Procedure Act, referred to in subsec. (i), is act June 11, 1946, ch. 324, 60 Stat. 237, as amended, which was repealed and reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, which enacted Title 5. Sections 3 and 10 thereof are covered by section 552 and chapter 7, respectively, of Title 5.

CODIFICATION

The words ''and the District Court of the United States for the District of Columbia'' in subsection (e) following ''district courts of the United States'' have been deleted as superfluous in view of section 132 (a) of Title 28, Judiciary and Judicial Procedure, which states that ''There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district'', and section 88 of said Title 28 which states that ''The District of Columbia constitutes one judicial district''.

In subsec. (h), ''chapter 51 and subchapter III of chapter 53 of title 5'' was substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Subsec. (h). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act [of 1923]''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

EXECUTIVE ORDER NO. 11108

Ex. Ord. No. 11108, May 22, 1963, 28 F.R. 5185, which delegated to Secretary of Agriculture authority of President under this chapter, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proceedings to be in district and division in which offense committed, see rule 18, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of district courts of actions for recovery of fine, penalty or forfeiture, see section 1355 of Title 28.

United States as party generally, see section 2401 et seq. of Title 28.

United States as plaintiff, jurisdiction of district courts, see section 1345 of Title 28.

Words denoting number, gender, etc., see section 1 of Title 1, General Provisions.

[1] See References in Text note below.

CHAPTER 40—HALOGETON GLOMERATUS CONTROL

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1651. Government policy for control of Halogeton glomeratus.
1652. Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments.
1653. Expenditure of funds; discretion of Secretaries; utilization of available services.
1654. Contributions by States.
1655. Authorization of appropriations; use.
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§ 1651. Government policy for control of Halogeton glomeratus

In order to protect the livestock industry from losses caused by the poisonous weed Halogeton

glomeratus now or hereafter existing on lands in the several States, to provide for the maintenance and development of valuable forage plants on range and pasture lands, and to prevent destruction or impairment of range and pasture lands and other lands by the growth, spread, and development of the poisonous weed known as Halogeton glomeratus, it shall be the policy of the Federal Government, acting independently or in cooperation with the several States and political subdivisions thereof, private associations and organizations, and individuals, to control, suppress, and eradicate this weed, poisonous to livestock, on lands in the several States irrespective of ownership.

(July 14, 1952, ch. 721, § 2, 66 Stat. 597.)

SHORT TITLE

Section 1 of act July 14, 1952, provided that: ''This Act [enacting this chapter] may be cited as the 'Halogeton Glomeratus Control Act'.''

§ 1652. Authority of Secretaries of Agriculture and Interior; surveys; control measures; consent of other departments

The Secretary of the Interior with respect to lands under his jurisdiction, including trust or restricted Indian lands, and the Secretary of Agriculture with respect to any other lands, either independently or in cooperation with any State or political subdivision thereof, private association or organization, or individual, are severally authorized, upon such conditions as they respectively deem necessary—

(1) to conduct surveys to detect the presence and effect of Halogeton glomeratus on lands in such State;

(2) to determine those measures and operations which are necessary to control, suppress, and eradicate such weed; and

(3) to plan, organize, direct, and carry out such measures and operations as either of them may deem necessary to carry out the purposes of this chapter.

(b) Measures and operations to control, suppress, or eradicate Halogeton glomeratus on lands under the jurisdiction of any department, agency, independent establishment, or corporation of the Federal Government shall not be conducted without the consent of the department, agency, independent establishment, or corporation concerned.

(July 14, 1952, ch. 721, § 3, 66 Stat. 598.)

§ 1653. Expenditure of funds; discretion of Secretaries; utilization of available services

The Secretary of Agriculture in his discretion may allocate, out of any sums appropriated to him under authority of this chapter, to any department, agency, independent establishment, or corporation of the Federal Government having jurisdiction over any land on which there exists Halogeton glomeratus, such amounts as he deems necessary for the control, suppression, and eradication of such weed by such department, agency, independent establishment, or corporation, as the case may be. Sums appropriated to the Secretary of the Interior under authority of this chapter shall be expended for work on, or of benefit to, lands under his jurisdiction, including trust or restricted Indian lands. Either Secretary may also accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available.

(July 14, 1952, ch. 721, § 4, 66 Stat. 598.)

§ 1654. Contributions by States

In the discretion of the Secretary of Agriculture or the Secretary of the Interior, as the case may be, no expenditures shall be made from funds appropriated under this chapter to control, suppress, or eradicate Halogeton glomeratus on lands in the several States until there have been made or agreed upon such contributions, in the form of funds, materials, services, or otherwise, by the States and political subdivisions thereof, private associations, and organizations, and individuals, toward the work of controlling, suppressing, or eradicating such weed, as the Secretary of Agriculture or the Secretary of the Interior, respectively, may require.

(July 14, 1952, ch. 721, § 5, 66 Stat. 598.)

§ 1655. Authorization of appropriations; use

(a) There are hereby authorized to be appropriated to the Secretary of Agriculture and to the Secretary of the Interior such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this chapter.

(b) Any sums so appropriated shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, for the purchase, hire, maintenance, operation, and exchange of aircraft and passenger-carrying vehicles, and for such other expenses as may be necessary to carry out the purposes of this chapter.

(c) Such sums shall not be used to pay the cost or value of any property injured or destroyed in carrying out the purposes of this chapter.

(July 14, 1952, ch. 721, § 6, 66 Stat. 598.)

§ 1656. Extent of authority

The authority contained in this chapter shall be in addition to, and shall not limit or supersede, authority contained in existing law with respect to the control, suppression, and eradication of pests, plants, and plant diseases.

(July 14, 1952, ch. 721, § 7, 66 Stat. 599.)

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CROSS REFERENCES

Dairy products and wheat from Commodity Credit Corporation stocks, costs of distribution to be in addition to levels of assistance programmed under this chapter, see section 1431(b) of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1431, 1446c–1, 1736f–1, 1736*o*, 1765b, 5201, 5693, 5713 of this title; title 13 section 301; title 16 section 1537; title 22 sections 2151a, 2291, 2292n, 2353, 2354, 2362, 2370, 2371, 2394, 2455, 2775, 5413, 5425, 6006, 6062; title 46 App. section 1241f.

§ 1691. United States policy

It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this chapter to—

(1) combat world hunger and malnutrition and their causes;

(2) promote broad-based, equitable, and sustainable development, including agricultural development;

(3) expand international trade;

(4) develop and expand export markets for United States agricultural commodities; and

(5) foster and encourage the development of private enterprise and democratic participation in developing countries.

(July 10, 1954, ch. 469, § 2, 68 Stat. 454; Pub. L. 89–808, § 2(A), Nov. 11, 1966, 80 Stat. 1526; Pub. L. 94–161, title II, § 201, Dec. 20, 1975, 89 Stat. 850; Pub. L. 99–198, title XI, § 1111(a), Dec. 23, 1985, 99 Stat. 1474; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.)

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions declaring policy of United States to expand trade, develop export markets, encourage economic development and private enterprise in developing countries, improve local food production and promote foreign policy, and requiring President to give priority to countries most affected by food shortages, encourage other donors, link assistance to local agricultural and related development, seek expanded markets for American commodities, and recognize and support American farm economy.

1985—Pub. L. 99–198 included Congressional declaration of policy to use accrued foreign currencies to foster and encourage the development of private enterprise in developing countries and to enhance food security in developing countries through local food production in first sentence.

1975—Pub. L. 94–161 inserted provisions of second sentence, including cls. (1) to (5), respecting considerations in furnishing food aid under this chapter.

1966—Pub. L. 89–808 restated the Congressional declaration of policy to include the use of the abundant agricultural productivity of the United States to combat hunger and malnutrition and the emphasis on assistance to those developing countries that are determined to improve their own agricultural production and to exclude statement of a policy to facilitate the convertibility of currency, to make maximum efficient use of surplus agricultural commodities in furtherance of the foreign policy of the United States, to purchase strategic materials, to pay United States obligations abroad, and to promote collective strength.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1513 of Pub. L. 101–624 provided that: ''The amendment made by section 1512 [enacting sections 1736g–1 and 1737 to 1738m of this title, amending this section and sections 1691a, 1701 to 1705, 1721 to 1726a, 1727 to 1727e, 1731 to 1736, 1736a to 1736f, and 1736g of this title, and enacting provisions set out as a note under this section] shall become effective on January 1, 1991.''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5 of Pub. L. 89–808 provided that: ''This Act [enacting sections 1707a, 1710, 1725, and 1736a to 1736d of this title, amending this section and sections 1431, 1431b, 1446a–1, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736 of this title, repealing sections 1693 to 1697 of this title, and amending provisions set out as a note under section 1701 of this title] shall take effect as of January 1, 1967, except that section 4 [enacting section 1707a of this title] shall take effect upon enactment [Nov. 11, 1966].''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–385, §1(a), Nov. 13, 1998, 112 Stat. 3460, provided that: ''This Act [amending sections 1736f–1 and 4001 of this title and section 1241f of Title 46, Appendix, Shipping, enacting provisions set out as notes under this section, section 1721 of this title, and section 2293 of Title 22, Foreign Relations and Intercourse, and amending provisions set out as a note under section 1736f–1 of this title] may be cited as the 'Africa: Seeds of Hope Act of 1998'.''

Pub. L. 105–385, title II, §211, Nov. 13, 1998, 112 Stat. 3465, provided that: ''This subtitle [subtitle B (§§211, 212) of title II of Pub. L. 105–385, amending sections 1736f–1 and 4001 of this title and section 1241f of Title 46, Appendix, Shipping, and amending provisions set out as a note under section 1736f–1 of this title] may be cited as the 'Bill Emerson Humanitarian Trust Act of 1998'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–532, §1, Oct. 27, 1992, 106 Stat. 3509, provided that: ''This Act [enacting sections 1738*o* to 1738r, 3294, and 5404 of this title and amending section 1738m of this title] may be cited as the 'Enterprise for the Americas Initiative Act of 1992'.''

Pub. L. 102–532, §2, Oct. 27, 1992, 106 Stat. 3509, which enacted sections 1738*o* to 1738r of this title, is popularly known as the ''Good Neighbor Environmental Act of 1992''.

SHORT TITLE OF 1990 AMENDMENT

Section 1501 of title XV of Pub. L. 101–624 provided that: ''This title [see Tables for classification] may be cited as the 'Agricultural Development and Trade Act of 1990'.''

Section 1511 of Pub. L. 101–624 provided that: ''This subtitle [subtitle A (§§1511–1517) of title XV of Pub. L. 101–624, enacting sections 1706, 1736g–1 and 1737 to 1738m of this title and sections 1241g to 1241v of Appendix to Title 46, Shipping, amending this section and sections 1431, 1691a, 1701 to 1705, 1721 to 1726a, 1727 to 1727e, 1731 to 1736g, 1736*o*, 1736bb–6 of this title, and section 1241f of Appendix to Title 46, and enacting provisions set out as notes under this section] may be cited as the 'Mickey Leland Food for Peace Act'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–576, §1, Oct. 31, 1988, 102 Stat. 2897, provided that: ''This Act [amending section 1727 of this title and enacting provisions set out as a note under section 1727 of this title] may be cited as the 'Bangladesh Disaster Assistance Act of 1988'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–202, §16, as added by Pub. L. 100–418, title IV, §4610(a), Aug. 23, 1988, 102 Stat. 1411, provided that sections 1 to 16 under the heading ''Agricultural Aid and Trade Missions Act'' of Pub. L. 100–202, which enacted sections 1726b and 1736bb to 1736bb–6 of this title, and amended sections 1701, 1703, 1709, 1722, 1726, and 1726a of this title, was to be cited as the ''Agricultural Aid and Trade Missions Act'', prior to repeal by Pub. L. 104–127, title II, §271(a), Apr. 4, 1996, 110 Stat. 976.

SHORT TITLE OF 1980 AMENDMENT

For short title of title III of Pub. L. 96–494, which enacted section 1736f–1 of this title, as the ''Bill Emerson Humanitarian Trust Act'', see section 301 of Pub. L. 96–494, as added and amended, set out as a Short Title note under section 1736f–1 of this title.

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89–808 provided: ''That this Act [enacting sections 1707a, 1710, 1725, and 1736a to 1736d, amending this section and sections 1431, 1431b, 1446a–1, 1701 to 1704, 1705, 1707, 1708, 1709, 1721 to 1724, and 1731 to 1736, repealing sections 1693 to 1697 of this title, and amending provisions set out as a note under section 1701 of this title] may be cited as the 'Food for Peace Act of 1966'.''

SHORT TITLE

Section 1 of act July 10, 1954, as amended by act Nov. 28, 1990, Pub. L. 101–624, title XV, §1512, 104 Stat. 3633, provided that: ''This Act [enacting this chapter] may be cited as the 'Agricultural Trade Development and Assistance Act of 1954'.''

MINIMUM LEVEL OF FOOD ASSISTANCE

Pub. L. 100–418, title IV, §4310, Aug. 23, 1988, 102 Stat. 1399, provided that:

''(a) ANNUAL MINIMUM.—It is the sense of Congress that—

''(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

''(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

''(b) DEFINITION.—For purposes of this section, the term 'foreign economic assistance' includes—

''(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

''(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.''

FOOD AID AND MARKET DEVELOPMENT

Pub. L. 100–418, title IV, §4311, Aug. 23, 1988, 102 Stat. 1400, which declared it to be the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products, and which directed the President (or, as appropriate, the Secretary of Agriculture) to encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases, was repealed by Pub. L. 101–624, title XV, §1571, Nov. 28, 1990, 104 Stat. 3702.

AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT

Subtitle C (§§1217–1224) of title XII of Pub. L. 97–98, as added Pub. L. 98–412, Aug. 30, 1984, 98 Stat. 1576, known as the Agricultural Trade and Export Policy Commission Act, established a National Commission on Agricultural Trade and Export Policy to conduct a study of agriculture-related trade and export policies, programs, and practices of United States, directed Commission to submit to President and Congress a final report and recommendations by July 1, 1986, and provided for termination of Commission 60 days thereafter.

USE OF NONPRICE-SUPPORTED COMMODITIES

Pub. L. 95–113, title XII, §1209, Sept. 29, 1977, 91 Stat. 957, provided that: ''It is the sense of Congress that there be no discrimination between 'price-supported' and 'nonprice-supported' commodities in the programming of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sections 1427 and 1431 of this title].''

SPECIAL TASK FORCE

Pub. L. 95–113, title XII, §1210, Sept. 29, 1977, 91 Stat. 957, required the Secretary of Agriculture, not later

than eighteen months after Sept. 29, 1977, to appoint a special task force to review and report to Congress upon the administration of the Agricultural Trade Development and Assistance Act of 1954, 7 U.S.C. 1961 et seq.

EXECUTIVE ORDER NO. 10560

Ex. Ord. No. 10560, Sept. 13, 1954, 19 F.R. 5927, as amended by Ex. Ord. No. 10575, Nov. 8, 1954, 19 F.R. 7249; Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261; Ex. Ord. No. 10708, May 6, 1957, 22 F.R. 3213; Ex. Ord. No. 10746, Dec. 13, 1957, 22 F.R. 10027; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971; Ex. Ord. No. 10799, Jan. 16, 1959, 24 F.R. 447; Ex. Ord. No. 10827, June 25, 1959, 24 F.R. 5233; Ex. Ord. No. 10884, Aug. 17, 1960, 25 F.R. 8019, which provided for the delegation of administrative functions, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, formerly set out as a note under this section, and was revoked by section 1–502(a) of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER NO. 10685

Ex. Ord. No. 10685, Oct. 29, 1956, 21 F.R. 8261, which designated the International Cooperation Administration as the Federal agency to which funds required for ocean freight costs could be transferred by the Commodity Credit Corporation, was superseded by Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, formerly set out as a note under this section, and was revoked by section 1–502(b) of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER NO. 10900

Ex. Ord. No. 10900, Jan. 5, 1961, 26 F.R. 143, as amended by Ex. Ord. No. 10915, Jan. 24, 1961, 26 F.R. 781; Ex. Ord. No. 10972, Nov. 3, 1961, 26 F.R. 10469; Ex. Ord. No. 11036, July 1, 1962, 27 F.R. 6653; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11963, Jan. 19, 1977, 42 F.R. 4325; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which related to the delegation of administrative functions, was revoked by section 1–501 of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out below.

EXECUTIVE ORDER NO. 11252

Ex. Ord. No. 11252, Oct. 20, 1965, 30 F.R. 13507, as amended by Ex. Ord. No. 12527, Aug. 7, 1985, 50 F.R. 32157, which transferred to the Secretary of State all functions of the Director of the Food-For-Peace Program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12220

Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44245, which provided for delegation of administrative functions relating to agricultural trade development, was revoked by section 6 of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out below.

EX. ORD. NO. 12752. IMPLEMENTATION OF AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED, AND FOOD FOR PROGRESS ACT OF 1985, AS AMENDED

Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8255, as amended by Ex. Ord. No. 13044, Apr. 18, 1997, 62 F.R. 19665, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], as amended by Public Law 101–624 (''Agricultural Trade Development Act''), the Food for Progress Act of 1985 [7 U.S.C. 1736*o*], as amended by Public Law 101–624 (''Food for Progress Act''), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment of Programs.* There is hereby established:

(a) a program under title I of the Agricultural Trade Development Act [7 U.S.C. 1701 et seq.] to provide for the sale of agricultural commodities to developing countries and private entities. Such program shall be implemented by the Secretary of Agriculture (hereafter referred to as the ''Secretary'').

(b) a program under title II of the Agricultural Trade Development Act [7 U.S.C. 1721 et seq.] to provide for the donation of agricultural commodities to foreign countries. Such program shall be implemented by the Administrator of the Agency for International Development (hereafter referred to as the ''Administrator'').

(c) a program under title III of the Agricultural Trade Development Act [7 U.S.C. 1727 et seq.] to provide for the donation of agricultural commodities to least developed countries. Such program shall be implemented by the Administrator.

SEC. 2. *International Negotiations and Accounting for Foreign Currencies.* (a) The Secretary with respect to title I, and the Administrator with respect to titles II and III of the Agricultural Trade Development Act, shall negotiate and execute agreements under the Agricultural Trade Development Act in accord with section 112b of title I [sic] of the United States Code and applicable regulations and procedures of the Department of State.

(b)(1) Foreign currencies that accrue to the United States under titles I and III of the Agricultural Trade Development Act may be used for the purposes set forth in section 104 and section 306 of that Act [7 U.S.C. 1704, 1727e], respectively, in amounts consistent with applicable provisions of law and agreements. Such foreign currencies shall be subject to regulations of the Department of the Treasury governing the purchase, custody, deposit, transfer, and sale of foreign currencies received under the Agricultural Trade Development Act.

(2) The Director of the Office of Management and Budget (hereafter referred to as the ''Director'') shall determine the amount of foreign currencies to be used for the purposes of section 104(c)(8) of the Agricultural Trade Development Act, and such purposes shall be carried out by the agencies with authority to pay the obligations abroad. The purposes of the remaining paragraphs of section 104(c) of that Act shall be carried out by the Department of Agriculture, utilizing, where appropriate, the expertise of other agencies.

(3) The Secretary and Administrator shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a), as related to the use of foreign currencies accruing under title I and title III of the Agricultural Trade Development Act, respectively.

SEC. 3. *Policy Coordination.* (a) To ensure policy coordination of assistance provided under the Agricultural Trade Development Act and the Food for Progress Act, there is hereby established a Food Assistance Policy Council (hereafter referred to as the ''Council'').

(b) The Council will include senior representatives of the Department of Agriculture, the Agency for International Development, the Department of State, and the Office of Management and Budget. Meetings of the Council shall be called by the Secretary or his designee at the request of any senior representative of the Council.

(c) The Council shall advise the President on appropriate policies under the Agricultural Trade Development Act and the Food for Progress Act and shall coordinate decisions on allocations and other policy issues, as well as prepare the report required by section 407(g)(1) of the Agricultural Trade Development Act [7 U.S.C. 1736a(g)(1)].

(d) As necessary for effective coordination, the Council shall provide its advice to the President through the appropriate Cabinet-level body.

SEC. 4. *Delegation of Responsibilities.* (a) The function conferred upon the President in section 403(j) of the Agricultural Trade Development Act [7 U.S.C. 1733(j)] is hereby delegated to the Secretary of State.

(b) The functions conferred upon the President by section 411 of the Agricultural Trade Development Act

[7 U.S.C. 1736e] are hereby delegated to the Secretary, in consultation with the Council and the Department of the Treasury.

(c) The functions conferred upon the President by section 412(c) of the Agricultural Trade Development Act [7 U.S.C. 1736f(c)] are hereby delegated to the Director, who shall consult with the Council on these functions.

(d) The functions conferred upon the President by title V of the Agricultural Trade Development Act [7 U.S.C. 1737] are hereby delegated to the Administrator.

(e) The functions conferred upon the President by the Food for Progress Act, as amended [7 U.S.C. 1736*o*], are hereby delegated to the Secretary.

SEC. 5. *Regulatory Review*. Policies, regulations, and analyses required by this Executive order shall be fully consistent with the standards and criteria, analyses and procedures set forth in Executive Order Nos. 12291 and 12498 [formerly 5 U.S.C. 601 notes].

SEC. 6. *Revocations*. Executive Order No. 12220 of June 27, 1980, and Executive Order No. 12583 of February 19, 1987, are revoked.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1727, 1727b, 1727e of this title.

§ 1691a. Food aid to developing countries

(a) Policy

In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

(b) Sense of Congress

It is the sense of Congress that—

(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

(July 10, 1954, ch. 469, § 3, as added Pub. L. 94–161, title II, § 202, Dec. 20, 1975, 89 Stat. 851; amended Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633; Pub. L. 104–127, title II, § 201(a), Apr. 4, 1996, 110 Stat. 951.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''Food aid to developing countries'' for ''Global food aid needs'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''In view of the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above 1990 levels of about 10,000,000 metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

''(1) increase the contributions of food aid by the United States, and encourage other donor countries to increase their contributions toward meeting new food aid requirements; and

''(2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.''

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions urging President to maintain United States food assistance and encourage other countries to increase their contributions, in order to meet annual goal of World Food Conference of providing 10,000,000 tons of food assistance annually for needy nations.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

WORLD FOOD CONFERENCE RECOMMENDATIONS

Pub. L. 94–161, title II, § 213, Dec. 20, 1975, 89 Stat. 855, directed the President to strengthen the efforts of the United States to carry out the recommendations of the World Food Conference and to submit a detailed report to the Congress not later than Nov. 1, 1976, prior to repeal by Pub. L. 97–113, title VII, § 734(a)(7), Dec. 29, 1981, 95 Stat. 1560.

SUBCHAPTER I—BARTER

§ 1692. Transferred

CODIFICATION

Section, act July 10, 1954, ch. 469, title III, § 310, formerly § 303, 68 Stat. 459, as amended and renumbered, which related to bartering authority of Secretary, was transferred to section 1727g of this title.

§§ 1693 to 1697. Repealed. Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535

Section 1693, acts July 10, 1954, ch. 469, title III, § 304, 68 Stat. 459; Aug. 13, 1957, Pub. L. 85–128, § 1(6), 71 Stat. 345; Oct. 8, 1964, Pub. L. 88–638, § 1(16), 78 Stat. 1037, provided for assistance to friendly nations in being independent of Russian or Communist Chinese trade, prevention of increased availability of commodities to unfriendly nations, and nonauthorization of transactions with Russia or Communist China. See section 1703(j) of this title.

Section 1694, acts July 10, 1954, ch. 469, title III, § 305, 68 Stat. 459; Sept. 21, 1959, Pub. L. 86–341, title I, § 10, 73 Stat. 607, provided for identification of packages and containers by appropriate markings. See section 1722 of this title.

Section 1695, act July 10, 1954, ch. 469, title III, § 306, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 11, 73 Stat. 608, provided for distribution of surplus food commodities to needy persons in United States: authorization, term of program, and cost limitation; duties of Secretary of Agriculture; issuance of food stamps and their redemption; receipt of benefits not deemed income or resources under provisions of other laws; availability of surplus foods for distribution; definition of needy person; report to Congress; and authorization of appropriations. See Food Stamp Program classified to chapter 51 of this title.

Section 1696, act July 10, 1954, ch. 469, title III, § 307, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 12, 73 Stat. 609, provided for availability of surplus commodities for distribution to needy families and persons in United States. See Food Stamp Program classified to chapter 51 of this title and provisions of section 1721 et seq. of this title relating to donations of food on a government-to-government basis and through voluntary organizations.

Section 1697, act July 10, 1954, ch. 469, title III, § 308, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 13, 73 Stat. 609; amended Sept. 27, 1962, Pub. L. 87–703, title II, § 203, 76 Stat. 611, related to disposal of animal fats and edible oils. See section 1721 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

SUBCHAPTER II—TRADE AND DEVELOPMENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1731, 1734, 1736a, 1736e, 1736f, 1736g–3, 1736*o*, 1738c, 1743, 1766b, 5676 of this title; title 22 sections 2103, 2431e, 6041; title 46 App. section 1241f.

§ 1701. Trade and development assistance

(a) In general

The President shall establish a program under this subchapter to provide for the sale of agricultural commodities to developing countries and private entities for dollars on credit terms, or for local currencies (including for local currencies on credit terms) for use under this subchapter. Such program shall be implemented by the Secretary.

(b) General authority

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Secretary may negotiate and execute agreements with developing countries and private entities to finance the sale and exportation of agricultural commodities to such countries and entities.

(July 10, 1954, ch. 469, title I, § 101, 68 Stat. 455; Pub. L. 85–931, § 1, Sept. 6, 1958, 72 Stat. 1790; Pub. L. 87–128, title II, § 201(1), Aug. 8, 1961, 75 Stat. 306; Pub. L. 88–205, pt. IV, § 403(a), Dec. 16, 1963, 77 Stat. 390; Pub. L. 88–638, § 1(1), (2), Oct. 8, 1964, 78 Stat. 1035; Pub. L. 89–808, § 2(B), Nov. 11, 1966, 80 Stat. 1526; Pub. L. 97–113, title IV, § 401(1), Dec. 29, 1981, 95 Stat. 1537; Pub. L. 99–198, title XI, § 1111(c), Dec. 23, 1985, 99 Stat. 1474; Pub. L. 100–202, § 8, Dec. 22, 1987, 101 Stat. 1329–447; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633; Pub. L. 104–127, title II, § 202, Apr. 4, 1996, 110 Stat. 951.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 202(1), inserted ''and private entities'' after ''developing countries''.

Subsec. (b). Pub. L. 104–127 inserted ''and private entities'' after ''developing countries'' and ''and entities'' after ''such countries''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing President to negotiate agreements with friendly countries for sales of commodities for dollars on credit terms, or for foreign currencies, on credit or on terms permitting conversion to dollars, setting minimum level for sales in foreign currencies, limiting extent of sales for foreign currency to amounts that can be productively used in private sector of foreign country, and requiring that sales for foreign currency through financial intermediaries be on terms and conditions specified in agreements.

1987—Subsec. (b)(1). Pub. L. 100–202, § 8(1), inserted provisions which required for each of fiscal years 1988 through 1990 that each agreement provide for some sale of foreign currencies for use under section 1708 of this title unless the President determines that the level of agricultural commodities furnished under this subchapter will be significantly reduced as a result of this sentence.

Subsec. (b)(2). Pub. L. 100–202, § 8(2), inserted '', or enter into sales agreements not providing for sales for foreign currencies for use under section 1708 of this title,'' after ''currencies''.

1985—Pub. L. 99–198 in amending section generally, incorporated existing text in provisions designated subsec. (a) and added subsecs. (b) to (d).

1981—Pub. L. 97–113 substituted '', to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement'' for ''for foreign currencies''.

1966—Pub. L. 89–808 substituted ''agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies'' for ''agreements with friendly nations or organizations of friendly nations to provide for the sale of surplus agricultural commodities for foreign currencies'' and struck out subsecs. (a) to (d), (f), and (g), relating to safeguarding usual marketings and disruption of world prices and normal patterns of commercial trade with friendly countries, use of private channels to maximum extent practicable, development and expansion of foreign markets, restrictive commitments from participating countries, exchange rates, and currency conversion, now covered by section 1703(c), (e) to (h), and (m)(1) of this title, respectively, and subsec. (e), relating to maximum opportunity for friendly nation to purchase surplus agricultural commodities.

1964—Subsec. (f). Pub. L. 88–638, § 1(1), inserted '', and which are not less favorable than the highest of exchange rates obtainable by any other nation'', and struck out ''from the government or agencies thereof'' before ''in the respective countries''.

Subsec. (g). Pub. L. 88–638, § 1(2), added subsec. (g).

1963—Subsec. (f). Pub. L. 88–205 substituted ''the highest of exchange rates legally obtainable from the Government or agencies thereof'' for ''the rates at which United States Government agencies can buy currencies from the United States disbursing officers''.

1961—Subsec. (f). Pub. L. 87–128 added subsec. (f).

1958—Subsec. (a). Pub. L. 85–931 required President to take reasonable precautions to assure that sales of surplus commodities would not disrupt normal patterns of commercial trade with friendly countries.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EMERGENCY FOOD ASSISTANCE TO INDIA

Pub. L. 90–7, Apr. 1, 1967, 81 Stat. 7, provided: ''That the Congress approves the participation of the United States in cooperation with other countries and with multilateral organizations, including the International Bank for Reconstruction and Development, the Organization for Economic Cooperation and Development, the Food and Agriculture Organization, and others, in urgent international efforts designed to—

''(a) develop a comprehensive self-help approach to the war on hunger based on a fair sharing of the burden among the nations of the world;

''(b) encourage and assist the Government of India in achieving food self-sufficiency; and

''(c) help meet India's critical food and nutritional needs by making available agricultural commodities or other resources needed for food procurement or production.

''Because uncertainty in connection with Public Law 480 transactions tends to depress market prices, it is the sense of Congress that, in carrying out this Aid to India program, the Administration should, subject to the requirement of section 401 of Public Law 480 [section 1731 of this title] with respect to the availability of the commodity at the time of exportation, make announcements of intention, purchases and shipments of commodities on schedules and under circumstances which will protect and strengthen farm market prices to the maximum extent possible.

''The Congress endorses the President's policy of equal participation on the part of the United States with all other nations, under terms and conditions set forth in Public Law 480, as amended [this chapter], in assisting the Government of India to meet these needs.

''Further, the Congress recommends, on the basis of estimates now available, that the United States provide an additional amount of food grain not to exceed three million tons at an estimated cost of $190,000,000 as the United States share toward meeting the India food deficit, provided it is appropriately matched, and specifically extends its support to the allocation of approximately $190,000,000 of funds available to the Commodity Credit Corporation in calendar year 1967 which will be required to accomplish this purpose.

''The Congress further recommends that the President provide an additional $25,000,000 of emergency food relief for distribution by CARE and other American voluntary agencies.''

COTTON AND COTTON PRODUCTS

Section 8 of Pub. L. 85–931 as amended by Pub. L. 89–808, §3(d), Nov. 11, 1966, 80 Stat. 1538, provided that: ''In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended [this chapter], extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act [this subchapter] in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act [this subchapter] as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act [this chapter].''

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

CARGO PREFERENCE LAW EXEMPTION

Section 3 of act Aug. 3, 1956, ch. 933, 70 Stat. 988, provided that: ''Sales of fresh fruit and the products thereof under title I of the Act [sections 1701 to 1704, 1705 to 1707, 1708 to 1711 of this title] shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress [46 App. U.S.C. 1241–1] and section 901(b) of the Merchant Marine Act, 1936 [46 App. U.S.C. 1241(b)]).''

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for sale of agricultural commodities to developing countries to be implemented by Secretary of Agriculture, see Ex. Ord. No. 12752, §1(a), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

§ 1702. Agreements regarding eligible countries and private entities

(a) Priority

In selecting agreements to be entered into under this subchapter, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

(3) demonstrate the greatest need for food.

(b) Private entities

An agreement entered into under this subchapter with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

(c) Agricultural market development plan

(1) "Agricultural trade organization" defined

In this subsection, the term ''agricultural trade organization'' means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

(2) Plan

The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a) of this section.

(3) Requirements

(A) In general

To be approved by the Secretary, an agricultural market development plan shall—

(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 1701 of this title;

(iii) provide for any matching funds that are required by the Secretary for the project or program;

(iv) provide for a results-oriented means of measuring the success of the project or program; and

(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

(B) Agricultural trade organization

The project or program shall be designed and carried out by the agricultural trade organization.

(C) Additional requirements

An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

(4) Administrative costs

(A) In general

The Secretary may make funds made available to carry out this subchapter avail-

able for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

(B) Duration

The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

(C) Termination

The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.

(July 10, 1954, ch. 469, title I, § 102, 68 Stat. 455; Apr. 25, 1955, ch. 27, 69 Stat. 44; Pub. L. 88–638, § 1(3), Oct. 8, 1964, 78 Stat. 1035; Pub. L. 89–808, § 2(B), Nov. 11, 1966, 80 Stat. 1526; Pub. L. 90–436, § 9, July 29, 1968, 82 Stat. 451; Pub. L. 95–88, title II, § 201(a), Aug. 3, 1977, 91 Stat. 545; Pub. L. 95–113, title XII, § 1201, Sept. 29, 1977, 91 Stat. 955; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3634; Pub. L. 104–127, title II, § 203, Apr. 4, 1996, 110 Stat. 951.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions outlining eligibility of developing countries for assistance under this subchapter and factors in determining priority for assistance.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing Commodity Credit Corporation to finance sales from its own and private stocks, and allowing it, upon request, to serve as purchasing and/or shipping agent.

1977—Pub. L. 95–113 inserted provisions authorizing the Corporation, when requested by the purchaser of commodities, to serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of the commodities.

Pub. L. 95–88 struck out proviso prohibiting the financing by the Commodity Credit Corporation of the sale and export of agricultural commodities where the exporter had engaged in any sales, trade, or commerce with North Vietnam, or with any resident thereof, or which owned or controlled any company so engaged either directly or indirectly, and struck out an additional proviso requiring that financing applications be accompanied by statements in which were listed the branches, etc., in which the applicant had a controlling interest and the companies which had a controlling interest in the applicant company.

1968—Pub. L. 90–436 inserted proviso that the Commodity Credit Corporation should not finance the sale and export of any agricultural commodities where the exporter has engaged in any sales, trade or commerce with North Vietnam, or with any resident thereof, or which owns or controls any company so engaged, or which is owned or controlled by any company or person so engaged either directly or indirectly, and the further proviso that the financing application be accompanied by a statement in which are listed the branches, etc., in which the applicant has a controlling interest and the companies which have a controlling interest in the applicant company.

1966—Pub. L. 89–808 incorporated provisions formerly constituting subsec. (a)(2), and struck out other provisions of subsec. (a) and (a)(1) relating to availability of stocks acquired in price support operations and ocean freight charges, such charges now covered by section 1708 of this title, and subsec. (b) for letters of commitment against funds or guaranties and establishment of accounts.

1964—Subsec. (a). Pub. L. 88–638 authorized Commodity Credit Corporation to finance ocean freight charges incurred under agreements entered into after Dec. 31, 1964, to extent such charges are higher because of requirement that commodities be shipped in United States flag vessels, and provided that such agreements require balance of such charges to be paid in dollars.

1955—Subsec. (a). Act Apr. 25, 1955, struck out requirement that exporters of privately owned stocks acquire an equivalent quantity of Commodity Credit Corporation stocks.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

Section 215 of Pub. L. 95–88 provided that: ''The provisions of this title [enacting sections 1712 to 1714 and 1727 to 1727f of this title, amending this section and sections 1427, 1431, 1692, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of this title, and enacting provisions set out as notes under sections 1708 and 1722 of this title] shall become effective October 1, 1977.''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

§ 1703. Terms and conditions of sales

(a) Payment

(1) Dollars

Except as provided in paragraph (2), agreements under this subchapter shall require that payment for agricultural commodities be made in dollars.

(2) Local currencies

(A) In general

The Secretary may permit payment under an agreement under this subchapter in the local currency of the appropriate country in order to use the proceeds from such payments to carry out activities under section 1704 of this title.

(B) Rates of exchange

Payments in local currency shall be at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the country and that are no less favorable than the highest exchange rate obtainable by any other country.

(b) Interest

Such agreements shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

(c) Duration

Payments required under such agreements may be made in reasonable annual amounts over the period (not more than 30 years from the date of the last delivery of commodities in each year

under such agreement) specified in the agreement.

(d) Deferral of payments

The Secretary may defer the date on which the developing country or private entity is required to begin making payment, under such agreements, for a period of not in excess of 5 years after the date of the last delivery of commodities in each year under the agreement, and interest shall be computed from the date of such last delivery.

(e) Delivery of commodities

Delivery of the commodities shall be made in accordance with the terms of the agreement.

(July 10, 1954, ch. 469, title I, § 103, 68 Stat. 456; Aug. 12, 1955, ch. 873, § 1, 69 Stat. 721; May 28, 1956, ch. 327, title II, § 208(a), 70 Stat. 201; Aug. 3, 1956, ch. 933, § 1, 70 Stat. 988; Pub. L. 85–128, § 1(2), Aug. 13, 1957, 71 Stat. 345; Pub. L. 85–931, § 2, Sept. 6, 1958, 72 Stat. 1790; Pub. L. 86–341, title I, § 2, Sept. 21, 1959, 73 Stat. 606; Pub. L. 87–28, May 4, 1961, 75 Stat. 64; Pub. L. 87–128, title II, § 201(2), Aug. 8, 1961, 75 Stat. 306; Pub. L. 88–638, § 1(4), (5), Oct. 8, 1964, 78 Stat. 1035; Pub. L. 89–808, § 2(B), Nov. 11, 1966, 80 Stat. 1526; Pub. L. 90–436, §§ 4, 5, July 29, 1968, 82 Stat. 450; Pub. L. 91–524, title VII, § 703, Nov. 30, 1970, as added Pub. L. 93–86, § 1(26), Aug. 10, 1973, 87 Stat. 237; Pub. L. 93–125, § 1(e), Oct. 18, 1973, 87 Stat. 450; Pub. L. 94–161, title II, § 203, Dec. 20, 1975, 89 Stat. 851; Pub. L. 95–88, title II, §§ 201(b), 211(b)(1), Aug. 3, 1977, 91 Stat. 545, 551; Pub. L. 95–424, title I, § 102(b)(2)(B), Oct. 6, 1978, 92 Stat. 941; Pub. L. 96–53, title II, § 201, Aug. 14, 1979, 93 Stat. 368; Pub. L. 97–113, title IV, § 401(2)–(4), Dec. 29, 1981, 95 Stat. 1537; Pub. L. 99–198, title XI, § 1111(d), Dec. 23, 1985, 99 Stat. 1475; Pub. L. 100–202, § 9, Dec. 22, 1987, 101 Stat. 1329–448; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3634; Pub. L. 104–127, title II, § 204, Apr. 4, 1996, 110 Stat. 953.)

AMENDMENTS

1996—Subsec. (a)(2)(A). Pub. L. 104–127, § 204(1), struck out ''a recipient country to make'' after ''may permit'' and substituted ''the appropriate country'' for ''such country''.

Subsec. (c). Pub. L. 104–127, § 204(2), struck out ''less than 10 nor'' before ''more than 30''.

Subsec. (d). Pub. L. 104–127, § 204(3), substituted ''developing country or private entity'' for ''recipient country'' and ''5 years'' for ''7 years''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions requiring President to consider efforts of recipients to increase agricultural production, determine amount needed in foreign currencies, protect other markets for United States commodities, make sales only to friendly countries, use private trade channels whenever practicable, consider expansion of markets, prevent resale by recipients, obtain favorable exchange rates, emphasize production of food crops, assist friendly countries in avoiding Communist domination, require payment of at least 5 per centum of purchase price upon delivery in dollars or convertible currency, obtain commitments from recipients to publicize source of food, require convertibility of foreign currencies, avoid displacement of sales that would otherwise have been made, assure United States obtains fair share in increase of commercial purchases by recipients, assure convertibility of foreign currencies at uniform exchange rates, and favor countries promoting private sector in allocation of commodities.

1987—Subsec. (r). Pub. L. 100–202 added subsec. (r).

1985—Subsec. (b). Pub. L. 99–198, § 1111(d)(1), inserted '', in section 1708 of this title,'' after ''section 1704 of this title''.

Subsec. (d). Pub. L. 99–198, § 1111(d)(2), struck out ''for dollars on credit terms'' after ''agricultural commodities''.

Subsec. (m). Pub. L. 99–198, § 1111(d)(3), inserted introductory text ''except as provided in section 1708 of this title,'' substituted a period for the semicolon at end of cl. (2), and inserted provisions respecting period for convertibility of foreign currencies into dollars and establishment in the agreement for sale of a schedule for conversion without specifying the exchange rate.

Subsec. (n). Pub. L. 99–198, § 1111(d)(4), struck out ''for dollars on credit terms'' after ''sales'' and ''for cash dollars'' after ''made''.

Subsec. (*o*). Pub. L. 99–198, § 1111(d)(5), substituted ''take'' for ''Take''.

Subsecs. (p), (q). Pub. L. 99–198, § 1111(d)(6), (7), substituted ''except as provided in section 1708 of this title, assure convertibility'' for ''Assure convertibility''.

1981—Subsec. (b). Pub. L. 97–113, § 401(2), struck out requirement that President take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2151t of title 22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by Dec. 31, 1971; and struck out reference to subsec. (c) of section 1704 of this title.

Subsec. (d). Pub. L. 97–113, § 401(3), in defining ''friendly country'', struck out provision excluding from term ''for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government''.

Subsec. (*l*). Pub. L. 97–113, § 401(4), struck out requirement that President obtain commitments from friendly purchasing countries that will insure, insofar as practicable, that food commodities sold for foreign currencies under this subchapter shall be marked or identified at point of distribution or sale as being provided on a concessional basis to the recipient government through the generosity of the people of the United States of America.

1979—Subsec. (f). Pub. L. 96–53 substituted provisions requiring Presidential consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs, for provisions requiring special Presidential consideration to the development and expansion of foreign markets for United States agricultural commodities.

1978—Subsec. (b). Pub. L. 95–424 substituted ''section 2151t of title 22'' for ''section 2161 of title 22''.

1977—Subsec. (b). Pub. L. 95–88, § 211(b)(1), substituted ''and in subchapters I and III–A of this chapter'' for ''and in section 1706(b)(2) of this title'' after ''uses specified in subsections (a), (b), (c), (e), and (h) of section 1704''.

Subsec. (d). Pub. L. 95–88, § 201(b), struck out provisions that ''friendly country'' not include, for the purpose only of sales of agricultural commodities under this subchapter, any nation which sold or furnished or permitted ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they were governed by a Communist regime: *Provided*, That this exclusion from the definition of ''friendly country'' could be waived by the President if he determined that such waiver was in the national interest and reported such determination to the Congress within 10 days of the date of such determination, and struck out provisions that ''friendly country'' also not include, for the purposes only of sales under this subchapter, the United Arab Republic, unless the President determined that

such sale was in the national interest of the United States, that no sales to the United Arab Republic be based upon the requirements of that nation for more than one fiscal year, and that the President keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter.

1975—Subsec. (a). Pub. L. 94–161, § 203(1), substituted ''efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth'' for ''efforts to meet their problems of food production and population growth''.

Subsec. (b). Pub. L. 94–161, § 203(2), substituted ''section 1704 and in section 1706(b)(2) of this title'' for ''section 1704 of this title''.

Subsec. (d). Pub. L. 94–161, § 203(3), substituted second proviso ''*Provided*, That this exclusion from the definition of 'friendly country' may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination'' for ''*Provided*, That with respect to furnishing, selling, or selling and transporting to Cuba medical supplies, non-strategic raw materials for agriculture, and non-strategic agricultural or food commodities, sales agreements may be entered into if the President finds with respect to each such country and so informs the Senate and the House of Representatives of the reasons therefor, that the making of each such agreement would be in the national interest of the United States and all such findings and reasons therefor shall be published in the Federal Register''.

1973—Subsec. (*o*). Pub. L. 93–125 made technical correction to Pub. L. 93–86, see 1973 Amendment note below.

Pub. L. 91–524, § 703, as added by Pub. L. 93–86 as amended by Pub. L. 93–125, inserted ''and that commercial supplies are available to meet demands developed through programs carried out under this chapter.'' before the semicolon at end.

1968—Subsec. (b). Pub. L. 90–436, § 4, made mandatory, except when determined by President to be inconsistent with objectives of this chapter, proviso that President, in agreements for credit sales, require immediate payment in dollars or in foreign currencies upon delivery of agricultural commodities, such payment to be considered as an advance payment of earliest obligations.

Subsecs. (*o*) to (q). Pub. L. 90–436, § 5, added subsecs. (*o*) to (q).

1966—Subsec. (a). Pub. L. 89–808 substituted provisions respecting self-help measures for meeting problems of food production and population growth for former provisions for appropriations for reimbursement of Commodity Credit Corporation, advance use of other funds, and classification of expenditures, now provided for in part by section 1733 of this title.

Subsec. (b). Pub. L. 89–808 substituted provisions respecting taking steps to assure a progressive transition from sales for foreign currencies to sales for dollars (such transition to be completed by December 31, 1971) but authorizing payment in foreign currencies for purposes of section 1704(a) to (c), (e), and (h) of this title for former limitation on transactions, now provided for by section 1710 of this title.

Subsec. (c). Pub. L. 89–808 redesignated provisions of former section 1701(a) of this title as subsec. (c), substituting ''subchapter'' for ''chapter''.

Subsec. (d). Pub. L. 89–808 redesignated provisions of former section 1707 of this title as subsec. (d), provided for sales agreements only with friendly countries and for periodic reports to Congress of status of such countries, deleted from definition of ''friendly country'' (formerly ''friendly nation'') clause ''(1) the U.S.S.R.'', redesignated cls. (2) to (4) as (1) to (3), substituted ''country'' for ''nation'', struck out ''or controlled'' after ''dominated'' in cl. (2), amended cl. (3) to include North Vietnam, insert selling or furnishing ships or aircraft, substitute ''so long as they are governed by a Communist regime'' for '', so long as Cuba is governed by the Castro regime'', and provided for entry into sales agreements when in the national interest for furnishing, selling, or selling and transporting to Cuba medical supplies, etc., upon information to Congress and publication in Federal Register, designated existing provisions as cl. (4), and substituted requirement of information to the President of the Senate of sales to United Arab Republic rather than the Foreign Relations Committee and Appropriations Committee of the Senate.

Subsec. (e). Pub. L. 89–808 redesignated provisions of former section 1701(b) of this title as subsec. (e), inserting provision for the taking of steps to assure that small business has adequate and fair opportunity to participate in sales made under authority of this chapter.

Subsec. (f). Pub. L. 89–808 redesignated provisions of former section 1701(c) of this title as subsec. (f), substituting ''the development and expansion of foreign markets for United States agricultural commodities'' for ''utilizing the authority and funds provided by this chapter, in order to develop and expand continuous market demand abroad for agricultural commodities'' and ''emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth'' for ''emphasis on underdeveloped and new market areas''.

Subsec. (g). Pub. L. 89–808 redesignated provisions of former section 1701(d) of this title as subsec. (g), substituted ''obtain'', ''purchasing countries'', and ''subchapter'' for ''seek and secure'', ''participating countries'', and ''chapter'' and struck out ''surplus'' before ''agricultural commodities''.

Subsec. (h). Pub. L. 89–808 redesignated provisions of former section 1701(f) of this title as subsec. (h).

Subsec. (i). Pub. L. 89–808 added subsec. (i).

Subsec. (j). Pub. L. 89–808 incorporated in provisions added as subsec. (j) former section 1693 of this title, substituting ''to be independent of domination or control by any world Communist movement'' for ''to be independent of trade with the Union of Soviet Socialist Republics or the Communist regime in China and with nations dominated or controlled by the Union of Soviet Socialist Republics'' and ''sales agreements under this subchapter with any government or organization controlling a world Communist movement or with any country with which the United States does not have diplomatic relations'' for ''transactions under this subchapter or subchapter I of this title with the Union of Soviet Socialist Republics or any of the areas dominated or controlled by the Communist regime in China'' and struck out provision for prevention of increased availability of commodities to unfriendly nations.

Subsec. (k). Pub. L. 89–808 added subsec. (k).

Subsec. (*l*). Pub. L. 89–808 added subsec. (*l*).

Subsec. (m). Pub. L. 89–808 redesignated provisions of former section 1701(g) of this title as par. (1) and added par. (2).

Subsec. (n). Pub. L. 89–808 incorporated in provisions added as subsec. (n) part of former section 1734 of this title requiring the Secretary to take such reasonable precautions as he determines necessary to avoid replacing any sales which the Secretary found and determined would otherwise be made for cash dollars.

1964—Subsec. (a). Pub. L. 88–638, § 1(4), directed the President to classify expenditures under this chapter as for international affairs and finance rather than for agriculture and agricultural resources.

Subsec. (b). Pub. L. 88–638, § 1(5), substituted ''1965'' for ''1962'', ''1966'' for ''1964'', and ''$2,700,000,000 plus any amount by which agreements entered into in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years by this chapter as in effect during such years'' for ''$4,500,000,000''.

1961—Subsec. (b). Pub. L. 87–128 substituted authorization provision of $4,500,000,000 for period beginning January 1, 1962, and ending December 31, 1964, with a limitation of $2,500,000,000 for any one calendar year, for authorization provision of $1,500,000,000 plus any amount by which agreements entered into in the preceding calendar year called for appropriations in amount less than authorized for such preceding year by this chapter as in effect during the preceding year for period beginning January 1, 1960, and ending December 31, 1961.

Pub. L. 87–28 authorized agreements during the calendar year 1961 calling for appropriations of not more than $3,500,000,000 plus any unused authority carried over from 1960.

1959—Subsec. (b). Pub. L. 86–341 substituted ''in any calendar year during the period beginning January 1, 1960, and ending December 31, 1961'' for ''during the period beginning July 1, 1958, and ending December 31, 1959'', ''$1,500,000,000'' for ''$2,250,000,000'', ''in the preceding calendar year'' for ''in prior fiscal years'', ''for such preceding year'' for ''for such prior fiscal years'', and ''during such preceding year'' for ''during such fiscal years''.

1958—Subsec. (b). Pub. L. 85–931 amended subsec. (b) generally, substituting ''Agreements entered into'' for ''Transactions carried out'', providing for $2,250,000,000 for sales between July 1, 1958, and Dec. 31, 1959, and for carrying over unused authorizations from one fiscal to succeeding fiscal years, and striking out clause that limitation on sales shall not be apportioned by year or by country and shall be considered as an objective to be reached as rapidly as possible within the safeguards of this chapter.

1957—Subsec. (b). Pub. L. 85–128 substituted ''$4,000,000,000'' for ''$3,000,000,000''.

1956—Subsec. (a). Act May 28, 1956, authorized appropriations equal to all Commodity Credit Corporation funds expended for ocean freight costs.

Subsec. (b). Act Aug. 3, 1956, increased from $1,500,000,000 to $3,000,000,000 the limitation on sales.

1955—Subsec. (b). Act Aug. 12, 1955, increased from $700,000,000 to $1,500,000,000 the limitation on sales, and provided that this limitation shall not be apportioned by year or by country.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(5) of Pub. L. 88–638 provided that the amendment made by that section is effective Jan. 1, 1965.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 201(2) of Pub. L. 87–128 provided that the amendment made by that section is effective Jan. 1, 1962.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86–341 provided that the amendment made by that section is effective Jan. 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1736*o* of this title.

§ 1704. Use of local currency payment

(a) In general

Agreements under this subchapter may provide that the Secretary shall use payments made in local currencies by the developing country or private entity in accordance with this section.

(b) Special account

Foreign currencies received by the Secretary under this subchapter shall be deposited in a separate account, that may be interest-bearing, to the credit of the United States and such currencies and interest thereon shall be used as provided for in this section.

(c) Activities

The proceeds from the payments referred to in subsection (a) of this section may be used in the appropriate developing country for the following:

(1) Trade development

To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the appropriate developing country.

(2) Agricultural development

To support—

(A) increased agricultural production, including availability of agricultural inputs, with emphasis on small farms, processing of agricultural commodities, forestry management, and land and water management;

(B) credit policies for private-sector agriculture development;

(C) establishment and expansion of institutions for basic and applied agricultural research and the use of such research through development of extension services; and

(D) programs to control rodents, insects, weeds, and other animal or plant pests.

(3) Agricultural business development loans

To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such appropriate developing countries.

(4) Agricultural facilities loans

To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization or distribution of, or otherwise increasing the consumption of and markets for, United States agricultural products.

(5) Trade promotion

To promote agricultural trade development, under procedures established by the Secretary,

by making loans or through other activities (including trade fairs) that the Secretary determines to be appropriate.

(6) Private sector agricultural trade development

To conduct private sector agricultural trade development activities in the appropriate developing country, as determined appropriate by the Secretary.

(7) Research

To conduct research in agriculture, forestry, and aquaculture, including collaborative research which is mutually beneficial to the United States and the appropriate developing country.

(8) United States obligations

To make payments of United States obligations (including obligations entered into pursuant to other laws).

(d) Fiscal requirements regarding use of local currencies

(1) Exemption

Section 1306 of title 31 shall not apply to local currencies used by the President under paragraphs (1) through (7) of subsection (c) of this section.

(2) Use of currencies by other agencies

Any department or agency of the Federal Government other than the Department of Agriculture using any such local currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

(July 10, 1954, ch. 469, title I, § 104, 68 Stat. 456; Aug. 26, 1954, ch. 937, title V, § 544(h), (i), as added July 18, 1956, ch. 627, § 11(a), 70 Stat. 564, 565; amended Aug. 3, 1956, ch. 933, § 2, 70 Stat. 988; Pub. L. 85–128, § 1(4), Aug. 13, 1957, 71 Stat. 345; Aug. 26, 1954, ch. 937, title V, § 544(c), as added Pub. L. 85–141, § 11(b)(2), Aug. 14, 1957, 71 Stat. 365; Pub. L. 85–477, ch. V, § 502(*l*), June 30, 1958, 72 Stat. 275; Pub. L. 85–931, § 3, Sept. 6, 1958, 72 Stat. 1790; Pub. L. 86–108, ch. VII, § 701(d), July 24, 1959, 73 Stat. 258; Pub. L. 86–341, title I, §§ 4–9, Sept. 21, 1959, 73 Stat. 606, 607; Pub. L. 87–128, title II, § 201(3), Aug. 8, 1961, 75 Stat. 306; Pub. L. 87–195, pt. III, § 612(b), pt. IV, § 704, Sept. 4, 1961, 75 Stat. 443, 463; Pub. L. 87–839, § 2, Oct. 18, 1962, 76 Stat. 1074; Pub. L. 88–205, pt. III, § 301(d)(2), Dec. 16, 1963, 77 Stat. 386; Pub. L. 88–638, §§ 1(6)–(10), 2, Oct. 8, 1964, 78 Stat. 1035–1038; Pub. L. 89–106, § 5, Aug. 4, 1965, 79 Stat. 432; Pub. L. 89–808, § 2(B), Nov. 11, 1966, 80 Stat. 1528; Pub. L. 90–436, §§ 2(a), 3, 6, July 29, 1968, 82 Stat. 450, 451; Pub. L. 91–524, title VII, § 702, Nov. 30, 1970, 84 Stat. 1379; Pub. L. 94–161, title II, § 204, Dec. 20, 1975, 89 Stat. 852; Pub. L. 96–53, title I, § 121, Aug. 14, 1979, 93 Stat. 366; Pub. L. 97–113, title IV, §§ 401(5), 402, Dec. 29, 1981, 95 Stat. 1537; Pub. L. 100–418, title IV, § 4401, Aug. 23, 1988, 102 Stat. 1400; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3635; Pub. L. 104–127, title II, § 205, Apr. 4, 1996, 110 Stat. 953.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 205(1), substituted ''developing country or private entity'' for ''recipient country''.

Subsec. (c). Pub. L. 104–127, § 205(2), substituted ''appropriate developing country'' for ''recipient country'' in introductory provisions and pars. (1), (6), and (7), and ''appropriate developing countries'' for ''recipient countries'' in par. (3).

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing President to use local currencies received as payments to pay United States obligations, for agricultural market development, for educational and cultural exchange, for scientific activities, for purchase of real property abroad, for purchase of foreign books, periodicals, etc., for United States libraries, to meet emergency relief requirements, for loans to United States businesses for trade expansion and to firms for development of facilities increasing market for commodities, for loans to recipients to improve food production and marketing, to purchase goods and services for other friendly countries, to pay for food production assistance programs, for sale for dollars to United States citizens, to pay for animal and plant pest control, and provisions relating to application of section 1306 of title 31, and to use of currencies of which United States has amounts in excess of needs for next two fiscal years.

1988—Subsec. (b)(1). Pub. L. 100–418 inserted ''(including wood and processed wood products of the United States)'' after first reference to ''agricultural commodities''.

1981—Pub. L. 97–113, § 401(5)(A), (B), substituted in introductory text ''agreements for such sales entered into prior to January 1, 1972,'' for ''this subchapter'' and struck out from penultimate proviso, par. (3), ''except as provided in subsection (c) of this section),'' after ''foreign currencies''.

Subsec. (d). Pub. L. 97–113, § 402, increased fiscal year limitation to $10,000,000 from $5,000,000.

1979—Subsec. (f). Pub. L. 96–53 substituted ''Agency for International Development'' for ''Advisory Committee on Voluntary Foreign Aid''.

1975—Pub. L. 94–161 inserted references to the House Committee on International Relations and the Senate Committee on Foreign Relations in first proviso of subsec. (b)(1), in par. (3) of penultimate proviso following subsec. (k), and in last sentence of section and repealed subsec. (c) which read: ''To procure equipment, materials, facilities, and services for the common defense including internal security;'', respectively.

1970—Pub. L. 91–524 inserted provision allowing appropriation acts to specifically authorize the use of foreign currencies in the educational and cultural exchange program without requiring the appropriation of dollars for the purchase of those same foreign currencies.

1968—Subsec. (b)(2). Pub. L. 90–436, § 3, authorized the financing with at least 2 percent of the total sales proceeds each year in each country of additional activities to strengthen the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research pursuant to programs authorized by title VI of the National Defense Education Act, the Mutual Educational and Cultural Exchange Act of 1961, the International Education Act of 1966, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the National Foundation on the Arts and the Humanities Act of 1965, and the Public Broadcasting Act of 1967.

Subsec. (h). Pub. L. 90–436, § 2(a), inserted provision that not less than 5 percent of the total sales proceeds, if requested by the foreign country, be used for voluntary programs to control population growth.

Subsec. (k). Pub. L. 90–436, § 6, added subsec. (k).

1966—Pub. L. 89–808, in introductory text, struck out ''section 724 of title 31, or'' after ''Notwithstanding'', substituted ''foreign countries or international organizations'' for ''friendly nations, or organizations of nations'', and inserted ''in connection with sales for foreign currencies'' after ''accrue''.

Subsec. (a). Pub. L. 89–808 redesignated subsec. (f) as (a), struck out ''abroad'' after ''obligations'' and in-

serted ''(including obligations entered into pursuant to other legislation)''. Former subsec. (a) redesignated (b)(1).

Subsec. (b). Pub. L. 89–808 struck out subsec. (b) which provided for purchase, in such amounts as may be specified from time to time in appropriation acts, strategic or other materials for a supplemental stockpile of such materials as the president may determine from time to time.

Subsec. (b)(1). Pub. L. 89–808 redesignated former subsec. (a) as (b)(1), inserted ''For carrying out programs of United States Government agencies to—'' preceding par. (1) and restriction against making a release until expiration of requisite number of days following transmittal to congressional committees, struck out ''after September 21, 1959,'' before ''shall be set aside'' and ''*Provided further*, That no such funds shall be allocated under this subsection after June 30, 1960, except as may be specified from time to time, in appropriation acts'' before convertibility of proceeds provision, substituted ''as he determines cannot be effectively used for agricultural market development purposes under this section'' for ''as he determines not to be needed, within a reasonable period of time, for such purpose:'' and ''sale of agricultural commodities'' for ''sale of surplus agricultural commodities'' and inserted provisions of utilization of nonprofit agricultural trade organizations to maximum extent possible in carrying out agricultural market development activities and inclusion as a purpose of subsec. (b) such representation of agricultural industries as may be required during course of discussions on trade programs relating either to individual commodities or groups of commodities.

Subsec. (b)(2). Pub. L. 89–808 incorporated in provisions designated as par. (2) provisions of subsec. (h) which provided for financing of international exchange activities under programs authorized by section 1641(b)(2) of Appendix to title 50 and for financing in such amounts as may be specified from time to time in appropriation acts of programs for interchange of persons under section 1446 of title with a particular effort for allocation of funds with regard to countries where adequate funds are not available from other sources for such purposes and countries where agreements can be negotiated to establish a fund to be available over a period of years for such purposes, including setting aside of such amounts from sale proceeds and loan repayments not in excess of $1,000,000 a year in any one country for not more than 5 years in advance, as determined to be required for such purposes by the Secretary of State.

Subsec. (b)(3). Pub. L. 89–808 redesignated subsec. (k) as par. (3), included use of foreign currencies for family planning programs, and struck out proviso for availability of foreign currencies for subsec. (k) purposes (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts.

Subsec. (b)(4). Pub. L. 89–808 redesignated subsec. (*l*) as par. (4), striking out subsec. (*l*) proviso for availability of foreign currencies for subsec. (*l*) purposes (in addition to funds otherwise made available for such purposes) in such amounts as may be specified from time to time in appropriation acts.

Subsec. (b)(5). Pub. L. 89–808 redesignated subsec. (n)(1) to (3) as par. (5)(A) to (C), striking out provision for use of foreign currencies ''in such amounts as may be specified from time to time in appropriation acts''.

Subsec. (c). Pub. L. 89–808 reenacted existing provisions.

Subsec. (d). Pub. L. 89–808 redesignated subsec. (q) as (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 89–808 substituted provisions for use of foreign currencies to maximum extent and for due consideration to be given to the continued expansion of markets for United States agricultural commodities or products thereof in proviso for former provisions for availability of such currencies to maximum usable extent and for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof in the proviso, authorized loans to cooperatives and for private home construction in foreign countries, struck out introductory phrase for uses of such currencies ''For promoting balanced economic development and trade among nations'', and that loans be mutually agreeable to the agency and the country making the agreement, and inserted ''intended'' in proviso.

Subsec. (f). Pub. L. 89–808 redesignated subsec. (g) as (f), provided for promotion of agricultural development, establishment of procedures by the President, use of funds in any other manner than loans as determined by the President to be in the national interest, assistance to programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food-deficit countries friendly to the United States, and utilization for such purpose to extent practicable the services of registered and approved nonprofit voluntary agencies, prohibited use of funds to promote religious activities, and struck out provisions for loans made through established banking facilities of the friendly nation from which the foreign currency was obtained or in any other manner which the President may deem to be appropriate and authorization for acceptance of strategic materials, services, or foreign currencies in payment of such loans. Former subsec. (f) redesignated (a).

Subsec. (g). Pub. L. 89–808 redesignated former subsec. (d) as (g), struck out ''financing'' before ''the purchase''. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 89–808 added subsec. (h) Former subsec. (h) redesignated (b)(2).

Subsec. (i). Pub. L. 89–808 substituted provisions respecting use of foreign currencies for paying costs outside the United States of carrying out food production assistance programs for former provisions for financing ($5,000,000 fiscal year limitation) translation, publication, and distribution of books and periodicals, including Government publications, abroad.

Subsec. (j). Pub. L. 89–808 redesignated subsec. (t) as (j), authorized sale of foreign currencies to nonprofit organizations, and struck out provisions making the currencies available for sale at United States embassies or other convenient locations, describing such currencies as acquired through operations under Foreign Assistance Act of 1961, as amended, Mutual Security Act of 1954, as amended, or any Act repealed thereby, or Agricultural Trade Development and Assistance Act of 1954, as amended, prohibiting such sales for travel purposes under agreement entered into with another country or when so committed by agreement to other uses, depositing dollars from such sales into United States Treasury as miscellaneous receipts, and treating dollars deposited into the CCC account as a reimbursement under section 1705 of this title. Former subsec. (j) provided for assistance to schools, libraries, and community centers abroad founded or sponsored by United States citizens and serving as demonstration centers, and is now covered by subsec. (b)(2) of this section.

Subsecs. (k), (*l*). Pub. L. 89–808 redesignated subsecs. (k) and (*l*) as (b)(3) and (4).

Subsec. (m). Pub. L. 89–808 struck out subsec. (m) which provided for financing in such amounts as may be specified from time to time in appropriation acts trade fair participation and related activities and agricultural and horticultural fair participation and related activities.

Subsec. (n). Pub. L. 89–808 redesignated subsec. (n) as (b)(5).

Subsecs. (*o*), (p). Pub. L. 89–808 struck out subsec. (*o*) which provided for assistance, in such amounts as may be specified from time to time in appropriation acts, in expansions or operation in foreign countries of schools, colleges, or universities founded or sponsored by United States citizens for carrying out programs of vocational, professional, scientific, technological, or general education, and subsec. (p) which provided for supporting workshops in American studies or American educational techniques, and supporting chairs in American studies.

Subsec. (q). Pub. L. 89–808 redesignated subsec. (q) as (d).

Subsec. (r). Pub. L. 89–808 struck out subsec. (r) which provided for financing ($2,500,000 fiscal year limitation) preparation, distribution, and exhibition of audio-visual informational and educational materials abroad without limiting or affecting use of foreign currencies for such materials in connection with trade fairs and other market development activities under subsec. (a) of this section.

Subsecs. (s), (t). Pub. L. 89–808 incorporated subsecs. (s) and (t) in subsec. (j), and struck out from former subsec. (s) ''under such terms and conditions as the President may prescribe''.

Penultimate proviso. Pub. L. 89–808 incorporated part of existing proviso following subsec. (t) in provisions designated as par. (1) and inserted reference to subsec. (b).

Pub. L. 89–808 incorporated part of existing initial proviso and second proviso following subsec. (t) in provisions designated as par. (2), substituted references to subsecs. (f) and (g) for (d) and (e), and struck out a third proviso restricting the availability of foreign currencies pursuant to subsecs. (k), (p), and (r) to such amounts as may be specified from time to time in appropriation Acts.

Pub. L. 89–808 redesignated penultimate par. as par. (3) and struck out ''and then only if, between the date of transmittal and the expiration of such period there has not been passed by either of the two Committees a resolution stating in substance that that Committee does not favor such agreement or proposal'' after ''sessions.''.

Pub. L. 89–808 redesignated last par. as par. (4) and substituted ''after consultation with the advisory committee established under section 1736a of this title'' for ''upon the recommendation of the advisory committee herein established''.

Ultimate proviso. Pub. L. 89–808 inserted ultimate proviso making pars. (2) to (4) of penultimate proviso inapplicable in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of Federal departments and agencies for expenditures in such nations for two fiscal years following fiscal year in which such determination is made.

Concluding text. Pub. L. 89–808 inserted provisions for devotion of excess foreign currencies to acquisition of sites, buildings, and grounds under subsec. (b)(4) of this section, for assistance in self-help measures, and for reports to congressional committees of determinations of existence of excess foreign currencies with respect to any nation, uses for such excess, and effects of such use.

Pub. L. 89–808 struck out pars. for establishment of an advisory committee and for consultations with such committee respecting loan, currency convertibility, and currency reservations (in sales agreements) policies and for establishment of higher than minimum interest rate for dollar sales. Advisory committee provisions are now covered in section 1736a of this title.

1965—Subsec. (a). Pub. L. 89–106 authorized the Secretary of Agriculture to release such amounts of the foreign currencies set aside for the market development program as he determined not to be needed, within a reasonable period of time, for that purpose.

1964—Subsec. (c). Pub. L. 88–638, §1(6), inserted ''including internal security'' and struck out ''military'' before ''equipment''.

Subsec. (e). Pub. L. 88–638, §1(7), substituted ''currencies shall also be available to the maximum usable extent'' for ''not more than 25 per centum of the currencies received pursuant to each such agreement shall be available''.

Subsec. (t). Pub. L. 88–638, §2, redesignated subsec. (b) of section 612 of Pub. L. 87–195, as subsec. (t) of this section, inserted ''For sale to United States citizens as provided herein'', substituted ''the Foreign Assistance Act of 1961, as amended'' for ''this chapter'', and provided that except in the case of foreign currencies acquired under this subchapter, dollars received from the sale of foreign currencies shall be deposited to the account of the Commodity Credit Corporation and shall be treated as a reimbursement to such Corporation.

Pub. L. 88–638, §1(8)–(10), established an advisory committee, specified its composition, directed it to review the status and usage of foreign currencies accruing under this subchapter and to make various recommendations, provided that the committee be consulted with respect to various matters, for the transmittal of certain proposals to congressional committees, and that any loan under this section shall bear interest as the President shall determine, within certain limits and taking various matters into consideration, and inserted ''pursuant to agreements entered into on or before December 31, 1964 and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter'' in first proviso.

1963—Subsec. (t). Pub. L. 88–205 added subsec. (b) to section 612 of Pub. L. 87–195, which was designated as subsec. (t) of this section by Pub. L. 88–638.

1962—Subsec. (m). Pub. L. 87–839 inserted ''or section 1122b of title 46''.

1961—Pub. L. 87–128, §201(3)(a), inserted '', including principal and interest from loan repayments,'' after ''foreign currencies'', in opening provisions.

Subsec. (a). Pub. L. 87–128, §201(3)(d), inserted, in second sentence, ''each year'' after ''made'' and ''set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and'' after ''be'', where ''made'' and ''be'' first appear; substituted, in third sentence, ''Provision shall be made'' for ''Particular regard shall be given to provide'' and ''the Secretary of Agriculture determines to'' for ''may'' and inserted ''(not less than 2 per centum)'' after ''thereof''; inserted sentence concerning conversion of monies into foreign currencies and deposit in special Treasury account; and substituted, in last sentence, ''the Secretary of Agriculture is authorized and directed to enter into agreements'' for ''agreements may be entered into''.

Subsec. (e). Pub. L. 87–195 substituted ''procedures established by such agency as the President shall direct for loans mutually agreeable to said agency'' for ''procedures established by the Export-Import Bank for loans mutually agreeable to said bank''.

Subsec. (s). Pub. L. 87–128, §201(3)(c), added subsec. (s).

Pub. L. 87–128, §201(3)(b), substituted in final proviso ''pursuant to'' for ''for the purpose of subsection (p) of this section, except in such amounts as may be specified from time to time in appropriation Acts, and no foreign currencies shall be allocated under any provision of this chapter after June 30, 1960, for the purposes specified in''.

1959—Subsec. (a). Pub. L. 86–341, §4, provided that from sale proceeds and loan repayments under this subchapter not less than the equivalent of 5 per centum of the total sales made under this subchapter after September 21, 1959, shall be made available in advance for use as provided by this subsection over such period of years as the Secretary of Agriculture determines will most effectively carry out the purposes of this subsection, prohibited the allocation of such funds after June 30, 1960, except as may be specified in appropriation acts, required particular regard to be given for provisions in sale and loan agreements for the convertibility of such amount of the proceeds thereof as may be needed to carry out the purpose of this subsection in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities, and permitted the entering into agreements for the sale of surplus agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this subsection in cases where sufficient foreign currencies for carrying out the purpose of this subsection in such countries are not otherwise available.

Subsec. (b). Pub. L. 86–341, §5, among other changes, substituted ''strategic or other materials'' for ''strategic and critical materials'' in two places, limited purchases or contracts to purchase to such amounts as may be specified from time to time in appropriation acts, and eliminated provisions which authorized contracts, including advance payment contracts, for supply extending over periods up to ten years, and which permitted the strategic and critical materials acquired under authority of this subchapter to be additional to the amounts acquired under authority of the Strategic and Critical Materials Stockpile Act.

Subsec. (k). Pub. L. 86–341, §6, authorized the use of foreign currencies to promote and support programs of medical and scientific research, cultural and educational development, health, nutrition, and sanitation.

Pub. L. 86–108 substituted ''conduct research and support'' for ''conduct and support'', and '': *Provided*, That foreign currencies shall be available for the purposes of this subsection (in addition to funds otherwise made available for such purposes) only in such amounts as may be specified from time to time in appropriation Acts;'' for '', but no foreign currencies shall be used for the purposes of this subsection unless specific appropriations be made therefor;''.

Subsec. (*o*). Pub. L. 86–341, §7, struck out provisions which permitted the use of foreign currencies in the supporting of workshops in American studies or American educational techniques, and supporting chairs in American studies. See subsec. (p) of this section.

Subsecs. (p) to (r). Pub. L. 86–341, §8, added subsecs. (p) to (r).

Pub. L. 86–341, §9, inserted proviso in closing provisions limiting availability of foreign currencies for the purpose of subsec. (p) of this section to such amounts as may be specified from time to time in appropriation Acts, and prohibiting allocation of foreign currencies after June 30, 1960, for the purposes specified in subsections (k), (p), and (r) of this section to such amounts as may be specified from time to time in appropriation Acts.

1958—Subsec. (h). Pub. L. 85–931, §3(a), authorized use of foreign currencies to finance programs for interchange of persons between United States and foreign countries.

Subsec. (k). Pub. L. 85–477 added subsec. (k).

Subsecs. (*l*) to (*o*). Pub. L. 85–931, §3(b), added subsecs. (*l*) to (*o*).

1957—Subsec. (e). Pub. L. 85–128 provided that not more than 25 percent of the currencies received pursuant to each agreement be available through the Export-Import Bank for loans mutually agreeable to said bank and the country with which the agreement is made for business development in such countries and for loans to domestic or foreign firms for facilities to aid markets for United States agricultural products, provided no such loans be made for the manufacture of products to be exported to United States in competition with United States products or for manufacture or production of any commodity to be marketed in competition with United States agricultural commodities or products thereof, and that foreign currencies may be accepted in repayment of such loans.

Subsec. (h). Pub. L. 85–141, §11(b)(2), added section 544(c) to act Aug. 26, 1954, which section inserted provisions in this subsection authorizing the setting aside of amounts from sale proceeds and loan repayments.

1956—Subsec. (h). Act July 18, 1956, added section 544(h) to act Aug. 26, 1954, which section inserted provisions in this section relating to allocation of funds and to the special and particular effort to be made to provide for the purposes of this subsection.

Subsec. (i). Act Aug. 26, 1954, §544(i), as added by act July 18, 1956, added subsec. (i).

Subsec. (j). Act Aug. 3, 1956, added subsec. (j).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

REPEALS

Section 704 of Pub. L. 87–195, cited as a credit to this section, was repealed by section 401 of Pub. L. 87–565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 704 affected this section.

Pub. L. 85–477, ch. IV, §401(h), June 30, 1958, 72 Stat. 270, repealed section 544(c) of act Aug. 26, 1954, cited as a credit to this section, except insofar as such section 544(c) affected this section.

Pub. L. 85–141, §11(b)(1), repealed section 544(h), (i) of act Aug. 26, 1954, cited as a credit to this section, except insofar as such section 544(h), (i) affected this section.

PAYMENT FROM FOREIGN CURRENCIES FOR FAMILY HOUSING PROJECTS OR COMMUNITY FACILITIES CONSTRUCTED OR ACQUIRED BY DEPARTMENT OF DEFENSE

Section 509 of Pub. L. 86–500, title V, June 8, 1960, 74 Stat. 186, provided that: ''Notwithstanding the provisions of any other law, at least 75 per centum of the total cost of any family housing project or community facility hereafter constructed or acquired in any foreign country by the Department of Defense or any military department shall be paid for from foreign currencies acquired by the Commodity Credit Corporation pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 [this chapter]; except that the following projects authorized pursuant to this Act shall not be subject to this requirement:

''Air Force activities, Japan, one hundred fifty units;

''Cigli Air Base, Turkey, community facilities;

''Clark Air Force Base, Philippine Islands, one hundred units;

''Iraklion Air Station, Crete, community facilities;

''Kirknewton RAF, United Kingdom, fifty units;

''Naval Air Station, Naha, Okinawa, two hundred; and

''Site I–5, Italy, one hundred units and community facilities.''

LIMITATION ON USE OF FOREIGN CURRENCIES FOR PARTICIPATION IN TRADE, AGRICULTURAL AND HORTICULTURAL FAIRS

Pub. L. 86–30, title I, §101, May 20, 1959, 73 Stat. 35, provided that: ''Subject to allocation in such manner as may now or hereafter be prescribed by the President, foreign currencies which have accrued under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704) [this section] may be used without fiscal year limitation for the purposes of section 104(m) of that Act [former subsec. (m) of this section], including administrative expenses directly related thereto, in an amount not to exceed the equivalent of $1,275,000.''

INTERNATIONAL COOPERATION IN HEALTH RESEARCH, RESEARCH TRAINING, AND RESEARCH PLANNING

Use of foreign currencies accruing under this subchapter to carry out purposes of International Health Research Act of 1960, see section 2103 of Title 22, Foreign Relations and Intercourse.

USE OF FOREIGN CURRENCIES

Foreign currencies accruing to United States under this subchapter may be used for purposes set forth in this section, see Ex. Ord. No. 12752, §2(b)(1), (2), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1856 of this title; title 50 section 98c.

§ 1704a. Agreements for use of foreign currencies; reports to Congress

Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof.

(Pub. L. 85–128, § 1(5), Aug. 13, 1957, 71 Stat. 345.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

TRANSMISSION OF REPORTS

For provisions requiring Secretary of Agriculture and Administrator of Agency for International Development to transmit reports required by this section as related to use of foreign currencies accruing under subchapters II and III–A of this chapter, see section 2(b)(3) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§ 1704b. Repealed. Pub. L. 97–214, § 7(4), July 12, 1982, 96 Stat. 173

Section, Pub. L. 86–149, title IV, § 420, Aug. 10, 1959, 73 Stat. 324, related to utilization of foreign currencies for construction of military projects and reimbursement of Commodity Credit Corporation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§ 1704c. Payments by Secretary of Defense in liquidation of amount due for foreign currencies

The Secretary of Defense shall pay to the Commodity Credit Corporation an amount not to exceed $6,000,000 per year until the amount due for foreign currencies used for housing constructed or acquired under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721–1726) has been liquidated.

(Pub. L. 97–214, § 9(a), July 12, 1982, 96 Stat. 174.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721–1726), referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 457, as amended. Title II of the Agricultural Trade Development and Assistance Act is classified generally to subchapter III (§ 1721 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Section consists of section 9(a) of Pub. L. 97–214. Section 9(b) of Pub. L. 97–214 is classified as a note set out under section 1594k of Title 42, The Public Health and Welfare. Section was enacted as part of the Military Construction Codification Act, and not as part of the Agricultural Trade and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on or after such date, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of Title 10, Armed Forces.

§§ 1705, 1706. Repealed. Pub. L. 104–127, title II, §§ 206, 265(a), Apr. 4, 1996, 110 Stat. 953, 974

Section 1705, acts July 10, 1954, ch. 469, title I, § 105, 68 Stat. 457; Dec. 16, 1963, Pub. L. 88–205, pt. IV, § 403(b), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89–808, § 2(B), 80 Stat. 1532; Dec. 23, 1985, Pub. L. 99–198, title XI, § 1111(e), 99 Stat. 1475; Nov. 28, 1990, Pub. L. 101–624, title XV, § 1512, 104 Stat. 3636, set out congressional declaration of policy with regard to value-added foods.

Section 1706, Pub. L. 101–624, title XV, § 1517, Nov. 28, 1990, 104 Stat. 3664, related to debt-for-health-and-protection swap.

A prior section 1706, acts July 10, 1954, ch. 469, title I, § 106, 68 Stat. 457; Aug. 12, 1955, ch. 873, § 2, 69 Stat. 721; Aug. 8, 1961, Pub. L. 87–128, title II, § 201(4), 75 Stat. 307; Dec. 16, 1963, Pub. L. 88–205, pt. IV, § 403 (c)(1), 77 Stat. 390; Nov. 11, 1966, Pub. L. 89–808, § 2(B), 80 Stat. 1532; Dec. 20, 1975, Pub. L. 94–161, title II, § 205, 89 Stat. 852; Aug. 3, 1977, Pub. L. 95–88, title II, § 211(b)(2), 91 Stat. 551; Oct. 6, 1978, Pub. L. 95–424, title I, § 102(b)(2)(C), 92 Stat. 941; Dec. 29, 1981, Pub. L. 97–113, title IV, § 401(6), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99–198, title XI, § 1111(f), (g), 99 Stat. 1475, related to payments for commodities and use of proceeds prior to the general revision of this chapter by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

§ 1707. Omitted

CODIFICATION

Section, acts July 10, 1954, ch. 469, title I, § 107, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88–638, § 1(11), 78 Stat. 1036; Sept. 6, 1965, Pub. L. 89–171, pt. III, § 401, 79 Stat. 662; Nov. 11, 1966, Pub. L. 89–808, § 2(B), 80 Stat. 1532, relating to policy of encouraging overseas sales of commodities, was omitted in the general revision of this chapter by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

§ 1707a. Repealed. Pub. L. 101–624, title XV, § 1574, Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 89–808, § 4, Nov. 11, 1966, 80 Stat. 1538; Pub. L. 95–501, title I, § 101, Oct. 21, 1978, 92 Stat. 1685; Pub. L. 97–98, title XII, § 1201, Dec. 22, 1981, 95 Stat. 1274; Pub. L. 98–623, title IV, § 405(c), Nov. 8, 1984, 98 Stat. 3409; Pub. L. 99–198, title XI, §§ 1130, 1131, Dec. 23, 1985, 99 Stat. 1486; Pub. L. 100–418, title IV, § 4402(b), Aug. 23, 1988, 102 Stat. 1400, provided for an export credit sales program. See section 5621 et seq. of this title.

§§ 1707b to 1707d. Omitted

CODIFICATION

Sections were omitted as part of the complete revision of the Agricultural Trade Act of 1978 (Pub. L. 95–501) by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668. See chapter 87 (§ 5601 et seq.) of this title.

Section 1707b, Pub. L. 95–501, title II, § 201, Oct. 21, 1978, 92 Stat. 1686, provided for a program of deferred payment sales of agricultural commodities.

Section 1707c, Pub. L. 95–501, title II, § 202, Oct. 21, 1978, 92 Stat. 1687, provided for a program of credit sales to People's Republic of China.

Section 1707d, Pub. L. 95–501, title II, § 203, Oct. 21, 1978, 92 Stat. 1687, defined ''agricultural commodity''.

§§ 1708 to 1715. Omitted

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

Section 1708, act July 10, 1954, ch. 469, title I, §108, as added Dec. 23, 1985, Pub. L. 99–198, title XI, §1111(h), 99 Stat. 1476; amended Aug. 23, 1988, Pub. L. 100–418, title II, §2309, 102 Stat. 1346, related to agreements with financial intermediaries in developing countries for purchase of commodities.

A prior section 1708, acts July 10, 1954, ch. 469, title I, §108, 68 Stat. 457; Oct. 8, 1964, Pub. L. 88–638, §1(12), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89–808, §2(B), 80 Stat. 1533, which authorized Commodity Credit Corporation to finance ocean freight charges pursuant to agreements for sales of agricultural commodities for foreign currencies, was repealed by Pub. L. 97–113, title IV, §401(7), Dec. 29, 1981, 95 Stat. 1537.

Section 1709, acts July 10, 1954, ch. 469, title I, §109, 68 Stat. 457; Aug. 13, 1957, Pub. L. 85–128, §1(1), 71 Stat. 345; Sept. 6, 1958, Pub. L. 85–931, §4, 72 Stat. 1791; Sept. 21, 1959, Pub. L. 86–341, title I, §1, 73 Stat. 606; Aug. 8, 1961, Pub. L. 87–128, title II, §201(5), 75 Stat. 307; Oct. 8, 1964, Pub. L. 88–638, §1(15), 78 Stat. 1037; Nov. 11, 1966, Pub. L. 89–808, §2(B), 80 Stat. 1533; July 29, 1968, Pub. L. 90–436, §2(b), 82 Stat. 450; Dec. 20, 1975, Pub. L. 94–161, title II, §206, 89 Stat. 853; Dec. 22, 1981, Pub. L. 97–98, title XII, §1210, 95 Stat. 1281; Dec. 29, 1981, Pub. L. 97–113, title IV, §401(8), 95 Stat. 1537; Dec. 23, 1985, Pub. L. 99–198, title XI, §1112(a)(1), 99 Stat. 1478; Dec. 22, 1987, Pub. L. 100–202, §10, 101 Stat. 1329–448, related to self-help measures developing countries should take before entering into agreements for purchases of commodities.

Section 1710, act July 10, 1954, ch. 469, title I, §110, as added Nov. 11, 1966, Pub. L. 89–808, §2(B), 80 Stat. 1534, limited agreements under this subchapter so that they would not call for appropriations of more than $1,900,000,000 for any calendar year.

Section 1711, act July 10, 1954, ch. 469, title I, §111, as added Dec. 20, 1975, Pub. L. 94–161, title II, §207, 89 Stat. 853; amended Aug. 3, 1977, Pub. L. 95–88, title II, §202, 91 Stat. 545, restricted 75% of food aid under this subchapter to countries meeting International Development Association poverty criterion.

Section 1712, act July 10, 1954, ch. 469, title I, §112, as added Aug. 3, 1977, Pub. L. 95–88, title II, §203, 91 Stat. 545; amended H. Res. 89, Feb. 5, 1979; Dec. 16, 1980, Pub. L. 96–533, title VII, §701(c), 94 Stat. 3156, prohibited financing of commodity sales to foreign governments engaging in gross violations of human rights.

Section 1713, act July 10, 1954, ch. 469, title I, §113, as added Aug. 3, 1977, Pub. L. 95–88, title II, §204, 91 Stat. 546, required priority to be given to financing sales of food and fiber commodities.

Section 1714, act July 10, 1954, ch. 469, title I, §114, as added Aug. 3, 1977, Pub. L. 95–88, title II, §205, 91 Stat. 546, related to provision of high protein, blended and fortified foods to developing countries, and waiver of repayments.

Section 1715, act July 10, 1954, ch. 469, title I, §115, as added Sept. 29, 1977, Pub. L. 95–113, title XII, §1202, 91 Stat. 955; amended H. Res. 89, Feb. 5, 1979; Dec. 22, 1981, Pub. L. 97–98, title XII, §1211, 95 Stat. 1281, related to commodity sale procedures.

SUBCHAPTER III—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1431, 1704c, 1731, 1732, 1734, 1736, 1736a, 1736f, 1736f–1, 1743 of this title; title 10 section 2681; title 46 App. sections 1241f, 1241u.

§ 1721. General authority

The President shall establish a program under this subchapter to provide agricultural commodities to foreign countries on behalf of the people of the United States to—

(1) address famine or other urgent or extraordinary relief requirements;

(2) combat malnutrition, especially in children and mothers;

(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

(4) promote economic and community development;

(5) promote sound environmental practices; and

(6) carry out feeding programs.

Such program shall be implemented by the Administrator.

(July 10, 1954, ch. 469, title II, §201, 68 Stat. 457; May 28, 1956, ch. 327, title II, §208(b), 70 Stat. 201; Aug. 3, 1956, ch. 933, §4, 70 Stat. 988; Pub. L. 89–808, §2(C), Nov. 11, 1966, 80 Stat. 1534; Pub. L. 94–161, title II, §208, Dec. 20, 1975, 89 Stat. 853; Pub. L. 95–88, title II, §206, Aug. 3, 1977, 91 Stat. 547; Pub. L. 97–113, title IV, §404, Dec. 29, 1981, 95 Stat. 1538; Pub. L. 99–83, title X, §1002, Aug. 8, 1985, 99 Stat. 270; Pub. L. 99–198, title XI, §§1102, 1103, Dec. 23, 1985, 99 Stat. 1465; Pub. L. 101–624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3636.)

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions requiring President to furnish commodities to meet famine, combat malnutrition, promote economic development in friendly countries, and for needy persons and school lunch and preschool feeding programs, setting minimum quantity for distribution, requiring use of certain distribution networks, requiring President to consider benefits of distributing processed and protein-fortified foods, nutritional needs of recipients, cost effectiveness of particular commodities, and purposes of this subchapter, requiring that 75 percent of commodities distributed be in form of processed or fortified products or bagged commodities, and authorizing waiver of such 75 percent requirement.

1985—Subsec. (b). Pub. L. 99–198, §1102, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The minimum quantity of agricultural commodities distributed under this subchapter—

''(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

''(2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and

''(3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,200,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program, except that for fiscal year 1986 the minimum quantity distributed shall be 1,800,000 metric tons, of which not less than 1,300,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program, and for fiscal year 1987 the minimum quantity distributed shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies and the World Food Program;

unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.''

Pub. L. 99–83 inserted provisions relating to minimum quantities for fiscal years 1986 and 1987.

Subsec. (c). Pub. L. 99–198, § 1103, added subsec. (c).

1981—Subsec. (b)(3). Pub. L. 97–113 substituted ''1,200,000 metric tons for nonemergency programs'' for ''1,400,000 metric tons''.

1977—Subsec. (b). Pub. L. 95–88 substituted provisions increasing and setting specific minimums for commodities to be distributed for fiscal years 1978 through 1980, for 1981, and for fiscal year 1982 and each fiscal year thereafter, for provisions which had set a fixed minimum of 1,300,000 tons of agricultural commodities each fiscal year, of which the minimum to be distributed through nonprofit voluntary agencies and the World Food Program was 1,000,000 tons each fiscal year.

1975—Pub. L. 94–161 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89–808 expanded scope of assistance to include emergency relief without regard to recipient being a friendly people, combating malnutrition in children, promotion of economic and community development in friendly developing areas, and for nonprofit school lunch and preschool feeding programs outside the United States and to be furnished from available commodities rather than surplus agricultural commodities.

1956—Act Aug. 3, 1956, inserted ''or extraordinary'' after ''urgent'' wherever appearing.

Act May 28, 1956, struck out ''f.o.b. vessels in United States ports,'' before ''as he may request''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

NONEMERGENCY FOOD ASSISTANCE PROGRAMS

Pub. L. 105–385, title II, § 201, Nov. 13, 1998, 112 Stat. 3465, provided that:

''(a) IN GENERAL.—In providing nonemergency assistance under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), the Administrator of the United States Agency for International Development shall ensure that—

''(1) in planning, decisionmaking, and implementation in providing such assistance, the Administrator takes into consideration local input and participation directly and through United States and indigenous private and voluntary organizations;

''(2) each of the nonemergency activities described in paragraphs (2) through (6) of section 201 of such Act (7 U.S.C. 1721), including programs that provide assistance to people of any age group who are otherwise unable to meet their basic food needs (including feeding programs for the disabled, orphaned, elderly, sick and dying), are carried out; and

''(3) greater flexibility is provided for program and evaluation plans so that such assistance may be developed to meet local needs, as provided for in section 202(f) of such Act (7 U.S.C. 1722(f)).

''(b) OTHER REQUIREMENTS.—In providing assistance under the Agriculture Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], the Secretary of Agriculture and the Administrator of United States Agency for International Development shall ensure that commodities are provided in a manner that is consistent with sections 403(a) and (b) of such Act (7 U.S.C. 1733(a) and (b)).''

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this subchapter, see note set out under section 1431 of this title.

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to foreign countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, § 1(b), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§ 1722. Provision of agricultural commodities

(a) Emergency assistance

Notwithstanding any other provision of law, the Administrator may provide agricultural commodities to meet emergency food needs under this subchapter through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

(b) Nonemergency assistance

(1) In general

The Administrator may provide agricultural commodities for nonemergency assistance under this subchapter through eligible organizations (as described in subsection (d) of this section) that have entered into an agreement with the Administrator to use the commodities in accordance with this subchapter.

(2) Limitation

The Administrator may not deny a request for funds submitted under this subsection because the program for which the funds are requested—

(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

(B) is not part of a development plan for the country prepared by the Agency.

(c) Uses of assistance

Agricultural commodities provided under this subchapter may be made available for direct distribution, sale, barter, or other appropriate disposition.

(d) Eligible organizations

To be eligible to receive assistance under subsection (b) of this section an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

(2) an intergovernmental organization, such as the World Food Program.

(e) Support for eligible organizations

(1) In general

Of the funds made available in each fiscal year under this subchapter to the Adminis-

trator, not less than $10,000,000, and not more than $28,000,000, shall be made available in each fiscal year to eligible organizations described in subsection (d) of this section, to assist the organizations in—

(A) establishing new programs under this subchapter; and

(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this subchapter.

(2) Request for funds

To receive funds made available under paragraph (1), an eligible organization described in subsection (d) of this section shall submit a request for the funds that is subject to approval by the Administrator.

(3) Assistance with respect to sale

Upon the request of an eligible organization, the Administrator may provide assistance to the eligible organization with respect to the sale of agricultural commodities made available to it under this subchapter.

(f) Effective use of commodities

To ensure that agricultural commodities made available under this subchapter are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

(2) assess and take into account nutritional and other needs of beneficiary groups;

(3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this subchapter; and

(6) periodically evaluate the effectiveness of projects undertaken under this subchapter.

(g) Labeling

Commodities provided under this subchapter shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

(July 10, 1954, ch. 469, title II, §202, 68 Stat. 458; Pub. L. 86–472, ch. VI, §601 (a)(1), May 14, 1960, 74 Stat. 140; Pub. L. 88–205, pt. IV, §403(d), Dec. 16, 1963, 77 Stat. 390; Pub. L. 89–808, §2(C), Nov. 11, 1966, 80 Stat. 1534; Pub. L. 95–88, title II, §§207, 208(a), Aug. 3, 1977, 91 Stat. 547; Pub. L. 96–53, title I, §121, title II, §202, Aug. 14, 1979, 93 Stat. 366, 368; Pub. L. 99–83, title X, §§1003, 1004(a), 1005, Aug. 8, 1985, 99 Stat. 270, 271; Pub. L. 100–202, §11, Dec. 22, 1987, 101 Stat. 1329–448; Pub. L. 101–508, title I, §1204(b)(1), Nov. 5, 1990, 104 Stat. 1388–11; Pub. L. 101–624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3636; Pub. L. 104–127, title II, §207(a), Apr. 4, 1996, 110 Stat. 953.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, §207(a)(1), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''The Administrator may provide agricultural commodities for non-emergency assistance under this subchapter through eligible organizations (as described in subsection (d) of this section) that have entered into an agreement with the Administrator to use such commodities in accordance with this subchapter.''

Subsec. (e). Pub. L. 104–127, §207(a)(2)(A), substituted ''eligible organizations'' for ''private voluntary organizations and cooperatives'' in heading.

Subsec. (e)(1). Pub. L. 104–127, §207(a)(2)(B), in introductory provisions, substituted ''$28,000,000'' for ''$13,500,000'' and ''eligible organizations described in subsection (d) of this section, to assist the organizations'' for ''private voluntary organizations and cooperatives to assist such organizations and cooperatives''.

Subsec. (e)(2). Pub. L. 104–127, §207(a)(2)(C), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this subchapter. Such request for funds shall include a specific explanation of—

''(A) the program costs to be offset by such funds;

''(B) the reason why such funds are needed in carrying out the particular assistance program; and

''(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).''

Subsec. (e)(3). Pub. L. 104–127, §207(a)(2)(D), substituted ''an eligible organization, the Administrator may provide assistance to the eligible organization'' for ''a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to furnishing commodities through friendly governments, agencies, and organizations, assistance for community and other self-help activities, and multiyear agreements for distribution of commodities through nonprofit voluntary agencies and cooperatives.

Subsec. (e)(1). Pub. L. 101–508, in introductory provisions, substituted ''the Administrator, not less than $10,000,000, and not more than $13,500,000, shall be made available in each fiscal year to private voluntary organizations and cooperatives'' for ''private voluntary organizations and cooperatives, not less than $10,000,000 and not more than $13,500,000 shall be made available by the Administrator''.

1987—Subsec. (a). Pub. L. 100–202 inserted ''or cooperatives'' after ''voluntary agencies''.

1985—Subsec. (a). Pub. L. 99–83, §1003, inserted provisions relating to appropriate disposition under section 1721 of this title.

Subsec. (b)(4). Pub. L. 99–83, §1004(a), added par. (4).

Subsec. (c). Pub. L. 99–83, §1005, added subsec. (c).

1979—Subsec. (a). Pub. L. 96–53, §121, substituted ''Agency for International Development'' for ''Advisory Committee on Voluntary Foreign Aid'', and ''Advisory Committee'' wherever appearing.

Subsec. (b)(2). Pub. L. 96–53, §202, substituted provisions relating to encouragement of entities distributing commodities to work with indigenous institutions and to employ indigenous workers, for provisions relating to employment of indigenous workers.

1977—Subsec. (a). Pub. L. 95–88, §§207(1), (2), 208(a), designated existing provisions as subsec. (a), struck out requirement that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance, and inserted pro-

visions authorizing the President to utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee on Voluntary Foreign Aid if no United States nonprofit voluntary agency registered with and approved by the Advisory Committee is available.

Subsec. (b). Pub. L. 95–88, § 207(3), added subsec. (b).

1966—Pub. L. 89–808 substituted provisions for furnishing commodities for prescribed purposes through use of friendly governments, agencies, and organizations, using to extent practicable registered and approved nonprofit voluntary agencies, identification of source of commodities, determination by the President of the manner and terms and conditions of furnishing the commodities and for directions of the assistance toward community and self-help activities for former provisions for transfer of commodities on a grant bases to assist the prescribed programs.

1963—Pub. L. 88–205 substituted ''economic and community development'' for ''economic developments''.

1960—Pub. L. 86–472 substituted ''In order to facilitate the utilization of surplus agricultural commodities in meeting the requirements of needy peoples, and in order to promote economic development in underdeveloped areas in addition to that which can be accomplished under sections 1701 to 1704 and 1705 to 1709 of this title, the'' for ''The''.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

REGISTRATION OF FOREIGN NONPROFIT VOLUNTARY AGENCIES

Section 208(b) of Pub. L. 95–88 provided that: ''For purposes of implementing the amendment made by subsection (a) [providing for the utilization by the President of foreign nonprofit voluntary agencies], the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies.''

CONTINUATION OF AUTHORITY

Section 601(a)(2) of Pub. L. 86–472, which provided that the amendment of this section by section 601(a)(1) shall expire June 30, 1961, was repealed by Pub. L. 87–92, July 20, 1961, 75 Stat. 211.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1724, 1725, 1736f–1 of this title.

§ 1723. Generation and use of foreign currencies by private voluntary organizations and cooperatives

(a) Local sale and barter of commodities

An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this subchapter may provide for the sale or barter in the recipient country, or in a country in the same region, of the commodities to be provided under such agreement.

(b) Minimum level of local sales

In carrying out agreements of the type referred to in subsection (a) of this section, the Administrator shall permit private voluntary organizations and cooperatives to sell, in recipient countries, or in countries in the same region, an amount of commodities equal to not less than 15 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this subchapter for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

(c) Description of intended uses

A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this subchapter shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, or in a country in the same region, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

(d) Use

Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this subchapter may—

(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this subchapter;

(2) be used to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country or within a country in the same region; or

(3) be invested and any interest earned on such investment may be used for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

(July 10, 1954, ch. 469, title II, § 203, 68 Stat. 458; May 28, 1956, ch. 327, title II, § 208(c), 70 Stat. 201; Pub. L. 85–128, § 1(3), Aug. 13, 1957, 71 Stat. 345; Pub. L. 86–341, title I, § 3, Sept. 21, 1959, 73 Stat. 606; Pub. L. 86–472, ch. VI, § 601(b), May 14, 1960, 74 Stat. 140; Pub. L. 87–128, title II, § 202(1), Aug. 8, 1961, 75 Stat. 307; Pub. L. 88–638, § 1(13), (14), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89–808, § 2(C), Nov. 11, 1966, 80 Stat. 1535; Pub. L. 95–88, title II, § 209, Aug. 3, 1977, 91 Stat. 548; Pub. L. 98–473, title III, § 305, Oct. 12, 1984, 98 Stat. 2195; Pub. L.

101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3638; Pub. L. 104–127, title II, § 208, Apr. 4, 1996, 110 Stat. 954.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 208(1), inserted '', or in a country in the same region,'' after ''in the recipient country''.

Subsec. (b). Pub. L. 104–127, § 208(2), inserted ''or in countries in the same region,'' after ''in recipient countries,'' and substituted ''15 percent'' for ''10 percent''.

Subsec. (c). Pub. L. 104–127, § 208(3), inserted ''or in a country in the same region,'' after ''recipient country,''.

Subsec. (d)(2). Pub. L. 104–127, § 208(4), inserted ''or within a country in the same region'' after ''recipient country''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to the payment of costs and charges by the Commodity Credit Corporation for packaging, enrichment, preservation, processing, transportation, handling, and other incidental charges relating to commodities.

1984—Pub. L. 98–473 inserted following cl. (4): ''in the case of commodities for urgent and extraordinary relief requirements, including pre-positioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;''.

1977—Pub. L. 95–88 substituted ''transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports'' for '', or, in the case of landlocked countries, transportation from United States ports to designated points of entry abroad''.

1966—Pub. L. 89–808 reenacted, with linguistic changes, existing provisions for payment of costs and charges, included costs of acquisition, packaging, enrichment, preservation, fortification, processing, handling, other incidents, struck out provisions for authorization of appropriations for reimbursement of CCC, limitation on amount, and use of funds for purchase of foreign currencies, now covered by section 1724 of this title, and deleted other provisions for use of agencies, organizations, and facilities in making transfers, now covered by section 1722 of this title, and provision for transfer of funds from the CCC to such other Federal agency designated by the President for payment of ocean freight costs or for purchase of foreign currencies under this subchapter.

1964—Pub. L. 88–638 substituted ''1965''; for ''1961'', ''1966'' for ''1964'', and ''$400,000,000'' for ''$300,000,000'', inserted ''or donated under said section 1431, or section 1431b or 1697 of this title'', provisions authorizing use of funds available under subchapter III, not exceeding $7,500,000 annually, to purchase foreign currencies accruing under subchapter II in order to meet costs designed to assure that commodities available under subchapters I or III are used to carry out more effectively the purposes for which such commodities are made available or to promote activities to alleviate the causes of the need for such assistance, provided that such funds are used to supplement, not substitute for, funds normally available for such purposes from other non-United States Government sources, and ''or for the purchase of foreign currencies'' after ''ocean freight costs''.

1961—Pub. L. 87–128 substituted authorization provision for period beginning January 1, 1961, and ending December 31, 1964, for authorization provision beginning January 1, 1960, and ending December 31, 1961, and made the annual limitation applicable to the amount programed rather than to the amount spent.

1960—Pub. L. 86–472 authorized payment for transportation from United States ports to designated points of entry abroad in the case of landlocked countries, and permitted the payment of charges for general average contributions arising out of the ocean transport of transferred commodities.

1959—Pub. L. 86–341 amended first sentence generally. Prior to amendment, first sentence read as follows: ''Not more than $800,000,000 (including the Corporation's investment in such commodities) shall be expended for all such transfers and for other costs authorized by this subchapter.''

1957—Pub. L. 85–128 increased limitation on expenditures from $500,000,000 to $800,000,000.

1956—Act May 28, 1956, increased limitation on expenditures from $300,000,000 to $500,000,000, and authorized payment of ocean freight charges.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(13) of Pub. L. 88–638 provided that the substitution of ''1965'' for ''1961'', ''1966'' for ''1964'', and ''$400,000,000'' for ''$300,000,000'' are not effective until Jan. 1, 1965.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86–341 provided that the amendment made by that section is effective Jan. 1, 1960.

§ 1724. Levels of assistance

(a) Minimum levels

(1) Minimum assistance

Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this subchapter in an amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.

(2) Minimum non-emergency assistance

Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 1722 of this title in an amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons.

(3) Exception

The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this subchapter or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing

the reasons for the waiver. No waiver shall be made before the beginning of the applicable fiscal year.

(b) Use of value-added commodities

(1) Minimum levels

Except as provided in paragraph (2), in making agricultural commodities available under this subchapter, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) of this section be in the form of processed, fortified, or bagged commodities and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States.

(2) Waiver of minimum

The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this subchapter will not be best served by the enforcement of such requirement under such paragraph.

(July 10, 1954, ch. 469, title II, § 204, 68 Stat. 458; Pub. L. 85–128, § 1(1), Aug. 13, 1957, 71 Stat. 345; Pub. L. 85–931, § 5, Sept. 6, 1958, 72 Stat. 1791; Pub. L. 86–341, title I, § 1, Sept. 21, 1959, 73 Stat. 606; Pub. L. 87–128, title II, § 202(2), Aug. 8, 1961, 75 Stat. 307; Pub. L. 88–638, § 1(15), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89–808, § 2(C), Nov. 11, 1966, 80 Stat. 1535; Pub. L. 95–113, title XII, § 1203, Sept. 29, 1977, 91 Stat. 956; Pub. L. 97–98, title XII, § 1212, Dec. 22, 1981, 95 Stat. 1281; Pub. L. 99–198, title XI, § 1101, Dec. 23, 1985, 99 Stat. 1465; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3639; Pub. L. 104–127, title II, § 209, Apr. 4, 1996, 110 Stat. 954.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–127, § 209(1)(A), substituted ''amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.'' for ''amount that—

''(A) for fiscal year 1991, is not less than 1,925,000 metric tons;

''(B) for fiscal year 1992, is not less than 1,950,000 metric tons;

''(C) for fiscal year 1993, is not less than 1,975,000 metric tons;

''(D) for fiscal year 1994, is not less than 2,000,000 metric tons; and

''(E) for fiscal year 1995, is not less than 2,025,000 metric tons.''

Subsec. (a)(2). Pub. L. 104–127, § 209(1)(B), substituted ''amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons.'' for ''an amount that—

''(A) for fiscal year 1991, is not less than 1,450,000 metric tons;

''(B) for fiscal year 1992, is not less than 1,475,000 metric tons;

''(C) for fiscal year 1993, is not less than 1,500,000 metric tons;

''(D) for fiscal year 1994, is not less than 1,525,000 metric tons; and

''(E) for fiscal year 1995, is not less than 1,550,000 metric tons.''

Subsec. (a)(3). Pub. L. 104–127, § 209(1)(C), inserted at end ''No waiver shall be made before the beginning of the applicable fiscal year.''

Subsec. (b)(1). Pub. L. 104–127, § 209(2), inserted before period at end ''and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to authorization of appropriations for reimbursement of Commodity Credit Corporation for costs incurred in connection with programs of assistance undertaken under this subchapter, and appropriations for purchase of foreign currencies.

1985—Pub. L. 99–198 substituted ''fiscal'' for ''calendar'' in two places in first sentence and authorized a waiver of limitation on assistance when the President determines waiver is necessary to undertake programs of assistance to meet humanitarian needs.

1981—Pub. L. 97–98 substituted ''$1,000,000,000'' for ''$750,000,000''.

1977—Pub. L. 95–113 substituted ''$750,000,000'' for ''$600,000,000''.

1966—Pub. L. 89–808 substituted part of provisions of former section 1723 of this title relating to authorization of appropriations for reimbursement of the CCC, limitations on amount, and use of funds for purchase of foreign currencies for former provisions for termination date for assistance under this subchapter (Dec. 31, 1966), now provided for by section 1736c of this title.

1964—Pub. L. 88–638 extended termination date from Dec. 31, 1964, to Dec. 31, 1966.

1961—Pub. L. 87–128 extended termination date from Dec. 31, 1961, to Dec. 31, 1964.

1959—Pub. L. 86–341 extended termination date from Dec. 31, 1959, to Dec. 31, 1961.

1958—Pub. L. 85–931 extended termination date from June 30, 1958, to Dec. 31, 1959.

1957—Pub. L. 85–128 extended termination date from June 30, 1957, to June 30, 1958.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1101 of Pub. L. 99–198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1736f–1 of this title.

§ 1725. Food Aid Consultative Group

(a) Establishment

There is established a Food Aid Consultative Group (hereinafter referred to in this section as

the ''Group'') that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this subchapter, and the implementation of other provisions of this subchapter that may involve eligible organizations described in section 1722(d)(1) of this title.

(b) Membership

The Group shall be composed of—

(1) the Administrator;

(2) the Under Secretary of Agriculture for Farm and Foreign Agricultural Services;

(3) the Inspector General of the Agency for International Development;

(4) a representative of each private voluntary organization and cooperative participating in a program under this subchapter, or receiving planning assistance funds from the Agency to establish programs under this subchapter;

(5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator; and

(6) representatives from agricultural producer groups in the United States.

(c) Chairperson

The Administrator shall be the chairperson of the Group.

(d) Consultations

In preparing regulations, handbooks, or guidelines implementing this subchapter, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment. The Administrator shall consult and, when appropriate (but at least twice per year), meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

(e) Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

(f) Termination

The Group shall terminate on December 31, 2002.

(July 10, 1954, ch. 469, title II, § 205, as added Pub. L. 89–808, § 2(C), Nov. 11, 1966, 80 Stat. 1535; amended Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3639; Pub. L. 104–127, title II, § 210, Apr. 4, 1996, 110 Stat. 955.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 210(1), substituted ''eligible organizations described in section 1722(d)(1) of this title'' for ''private voluntary organizations, cooperatives and indigenous non-governmental organizations''.

Subsec. (b)(2). Pub. L. 104–127, § 210(2)(A), substituted ''of Agriculture for Farm and Foreign Agricultural Services'' for ''for International Affairs and Commodity Programs''.

Subsec. (b)(6). Pub. L. 104–127, § 210(2)(B)–(D), added par. (6).

Subsec. (d). Pub. L. 104–127, § 210(3), inserted ''(but at least twice per year)'' after ''when appropriate''.

Subsec. (f). Pub. L. 104–127, § 210(4), substituted ''2002'' for ''1995''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions declaring sense of Congress that President should encourage advanced nations to increase contributions for combating hunger, particularly through expansion of international food and agricultural assistance programs, and that United States should work for expansion of United Nations World food program.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§ 1726. Maximum level of expenditures

(a) Maximum expenditures

Except as provided in subsection (b) of this section, programs of assistance shall not be undertaken under this subchapter during any fiscal year if such programs necessitate an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

(b) Waiver by President

The President may waive the limitation contained in subsection (a) of this section if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

(July 10, 1954, ch. 469, title II, § 206, as added Pub. L. 94–161, title II, § 209, Dec. 20, 1975, 89 Stat. 854; amended Pub. L. 95–88, title II, § 210, Aug. 3, 1977, 91 Stat. 548; Pub. L. 96–53, title II, § 203, Aug. 14, 1979, 93 Stat. 368; Pub. L. 99–198, title XI, § 1112(a)(2), Dec. 23, 1985, 99 Stat. 1478; Pub. L. 100–202, §§ 12, 13, Dec. 22, 1987, 101 Stat. 1329–448; Pub. L. 100–418, title IV, § 4610(d), Aug. 23, 1988, 102 Stat. 1411; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3640.)

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions prohibiting assistance, except to meet famine or other emergencies, or for non-emergency programs conducted by non-profit entities, generating foreign currency proceeds, unless recipient country is undertaking self-help measures, specific uses for currencies are set forth in agreement, and agreement provides that currencies will go to alleviating causes of need for assistance, to improving food distribution, and increasing availability of commodities to neediest persons, or to health programs, and provisions requiring annual report by President to Congress on sales and barter and use of foreign currency proceeds.

1988—Pub. L. 100–418 amended directory language of Pub. L. 100–202, § 13. See 1987 Amendment note below.

1987—Subsec. (a). Pub. L. 100–202, as amended by Pub. L. 100–418, designated existing provisions as subsec. (a), inserted ''or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,'' after ''requirements,'', and added subsec. (b).

1985—Pub. L. 99–198 in cl. (3) added subcl. (C).

1979—Pub. L. 96–53 in cl. (3) added subcl. (A) and designated existing provisions as subcl. (B).

1977—Pub. L. 95–88 substituted ''used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries'' for ''used for purposes specified in section 2151a of title 22''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

§ 1726a. Administration

(a) Proposals

(1) Time for decision

Not later than 45 days after the receipt by the Administrator of a proposal submitted—

(A) by an eligible organization, with the concurrence of the appropriate United States field mission, for commodities; or

(B) by a United States field mission to make commodities available to an eligible organization;

under this subchapter, the Administrator shall make a decision concerning such proposal.

(2) Denial

If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

(b) Notice and comment

Not later than 30 days prior to the issuance of a final guideline to carry out this subchapter, the Administrator shall—

(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment, to eligible organizations that participate in programs under this subchapter, and to other interested persons;

(2) make the proposed guideline available, on request, to the eligible organizations and other persons referred to in paragraph (1); and

(3) take any comments received into consideration prior to the issuance of the final guideline.

(c) Regulations

(1) In general

The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this subchapter.

(2) Requirements

The Administrator shall develop regulations with the intent of—

(A) simplifying procedures for participation in the programs established under this subchapter;

(B) reducing paperwork requirements under such programs;

(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this subchapter, taking into consideration the problems associated with carrying out programs in developing countries; and

(D) providing flexibility for carrying out programs under this subchapter.

(3) Handbooks

Handbooks developed by the Administrator to assist in carrying out the program under this subchapter shall be designed to foster the development of programs under this subchapter by eligible organizations.

(d) Deadline for submission of commodity orders

Not later than 15 days after receipt from a United States field mission of a call forward for agricultural commodities for programs that meet the requirements of this subchapter, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(July 10, 1954, ch. 469, title II, § 207, as added Pub. L. 99–198, title XI, § 1104(a), Dec. 23, 1985, 99 Stat. 1466; amended Pub. L. 100–202, § 14, Dec. 22, 1987, 101 Stat. 1329–449; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3640; Pub. L. 104–127, title II, § 207(b), Apr. 4, 1996, 110 Stat. 954.)

AMENDMENTS

1996—Subsec. (a)(1)(A), (B). Pub. L. 104–127, § 207(b)(1), substituted ''an eligible organization'' for ''a private voluntary organization or cooperative''.

Subsec. (b)(1). Pub. L. 104–127, § 207(b)(2)(A), substituted ''eligible organizations'' for ''private voluntary organizations and cooperatives''.

Subsec. (b)(2). Pub. L. 104–127, § 207(b)(2)(B), substituted ''eligible organizations'' for ''organizations, cooperatives,''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to requests by nonprofit voluntary agency or cooperative for nonemergency food assistance agreements, and uses of foreign currency proceeds.

1987—Subsec. (a). Pub. L. 100–202, § 14(1), inserted ''or cooperative'' after ''agency''.

Subsec. (b). Pub. L. 100–202, § 14(2), substituted ''10 percent'' for ''5 percent''.

Subsec. (c). Pub. L. 100–202, § 14(3), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section 1104(b) of Pub. L. 99–198 provided that: ''Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (as added by subsection (a)) [this section] shall apply with respect to agreements entered into after December 31, 1985.''

§ 1726b. Omitted

CODIFICATION

Section, act July 10, 1954, ch. 469, title II, § 208, as added Dec. 22, 1987, Pub. L. 100–202, § 15, 101 Stat.

1329–449, which related to periods for review of proposals for famine relief and promulgation of guidelines for such proposals, was omitted in the general revision of this chapter by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

SUBCHAPTER III–A—FOOD FOR DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1431, 1734, 1736, 1736a, 1736f, 1736g of this title; title 22 section 6041.

§ 1727. Bilateral grant program

(a) In general

The President shall establish a program under which agricultural commodities are donated in accordance with this subchapter to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

(b) General authority

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

(July 10, 1954, ch. 469, title III, § 301, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 548; amended Pub. L. 96–53, title II, § 204(a), Aug. 14, 1979, 93 Stat. 369; Pub. L. 99–198, title XI, § 1112(a)(3), Dec. 23, 1985, 99 Stat. 1478; Pub. L. 100–576, § 4(a)(1), Oct. 31, 1988, 102 Stat. 2898; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3641.)

PRIOR PROVISIONS

A prior section 301 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1427 of this title, was renumbered section 308 by Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions outlining Congressional purpose with regard to Food for Development Program, establishment of program, goal of assistance under program, range of assistance and emphasized activities, and use of funds for disaster assistance.

1988—Subsec. (c). Pub. L. 100–576 added subsec. (c).

1985—Subsec. (b). Pub. L. 99–198 inserted ''(including immunization of children)'' after ''health services''.

1979—Subsec. (a). Pub. L. 96–53 inserted '', or the dollar sales value of the commodities themselves,'' after ''the local sale of such commodities'', and substituted ''in the participating country of funds from the sale of such commodities or of the commodities themselves'' for ''of funds from the sale of such commodities in the participating country''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

AMENDMENT OF FOOD FOR DEVELOPMENT AGREEMENTS; DISASTER ASSISTANCE FOR BANGLADESH

Section 4(a)(2), (3) of Pub. L. 100–576 provided that:

''(2) Food for Development agreements entered into under title III of that Act [this subchapter] before the date of enactment of this Act [Oct. 31, 1988] may be amended in order to implement the amendment made by paragraph (1) [amending this section].

''(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.''

INCREASED IMMUNIZATIONS OF CHILDREN; REPORTING REQUIREMENT

Section 1112(b) of Pub. L. 99–198 provided that: ''In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954 [this chapter], it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394], including a report on the estimated number of immunizations provided each year pursuant to this subsection.''

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to least developed countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, § 1(c), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§ 1727a. Eligible countries

(a) Least developed countries

A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this subchapter if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b) of this section.

(b) Indicators of food deficit countries

To make a finding under subsection (a)(2) of this section that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must determine that the country meets all of the following indicators of national food deficit and malnutrition:

(1) Calorie consumption

That the daily per capita calorie consumption of the country is less than 2300 calories.

(2) Food security requirements

That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

(3) Child mortality rate

That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1000 births.

(c) Priority

In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this subchapter, the Administrator shall give priority to countries that—

(1) demonstrate the greatest need for food;

(2) demonstrate the capacity to use food assistance effectively;

(3) have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

(4) have a long-term plan for broad-based, equitable, and sustainable development.

(July 10, 1954, ch. 469, title III, § 302, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 549; amended Pub. L. 96–53, title II, § 205, Aug. 14, 1979, 93 Stat. 369; Pub. L. 99–83, title X, § 1004(b), Aug. 8, 1985, 99 Stat. 271; Pub. L. 99–198, title XI, § 1108, Dec. 23, 1985, 99 Stat. 1467; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 302 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1431 of this title, was renumbered section 309 by Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions setting out criteria for eligibility of developing countries for distribution of commodities, minimum aggregate value of agreements for such distribution, waiver of minimum, and participatory requirements.

1985—Subsec. (c)(1)(C). Pub. L. 99–198 substituted ''10'' for ''15'' percent.

Subsec. (c)(4). Pub. L. 99–83 inserted ''and of United States nonprofit voluntary agencies and cooperatives''.

1979—Subsec. (c)(4). Pub. L. 96–53 added par. (4).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727b. Grant programs

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

(July 10, 1954, ch. 469, title III, § 303, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 550; amended Pub. L. 96–53, title II, § 204(c), Aug. 14, 1979, 93 Stat. 369; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1692 of this title, was renumbered section 310 by Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to a multiyear utilization proposal regarding value and amount of commodities proposed to be distributed, integration with other forms of development assistance, and non-replacement of other programs.

1979—Subsec. (a). Pub. L. 96–53 struck out ''for each year such funds are to be disbursed'' after ''on an annual basis''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1731 of this title.

§ 1727c. Direct uses or sales of commodities

Agricultural commodities provided to a least developed country under this section—

(1) may be used in such country for—

(A) direct feeding programs, including programs that include activities that deal directly with the special health needs of children and mothers consistent with section 2151b(c)(2) of title 22, relating to the Child Survival Fund; or

(B) the development of emergency food reserves; or

(2) may be sold in such country by the government of the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this subchapter.

(July 10, 1954, ch. 469, title III, § 304, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 550; amended Pub. L. 95–424, title II, § 202, Oct. 6, 1978, 92 Stat. 955; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3642.)

PRIOR PROVISIONS

A prior section 304 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, enacted section 1693 of this title, prior to repeal by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to furnishing of credit by Commodity Credit Corporation to participating country for purchase of commodities, payment by recipient government, waiver of requirements to meet humanitarian or developmental objectives, and payment of freight charges of relatively least developed countries.

1978—Subsec. (d). Pub. L. 95–424 added subsec. (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1727d, 1727e of this title.

§ 1727d. Local currency accounts

(a) Retention of proceeds

To the extent determined to be appropriate by the Administrator, revenues generated from the sale, under section 1727c(2) of this title, of agricultural commodities provided under this subchapter shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the Administrator. The Administrator may determine not to deposit such revenues in a separate account if—

(1) local currencies are to be programmed for specific economic development purposes listed in section 1727e(a) of this title; and

(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the Administrator and the recipient country.

(b) Ownership and programming of accounts

The proceeds of sales pursuant to section 1727c(2) of this title shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the Administrator and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the Administrator and that government.

(c) Overall development strategy

The Administrator shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

(July 10, 1954, ch. 469, title III, § 305, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 550; amended Pub. L. 95–424, title II, § 203, Oct. 6, 1978, 92 Stat. 955; Pub. L. 96–53, title II, §§ 204(b), 206, Aug. 14, 1979, 93 Stat. 369; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3643.)

PRIOR PROVISIONS

A prior section 305 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, enacted section 1694 of this title, prior to repeal by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing deposit of funds generated from sale of commodities into special account, providing that disbursements shall be considered payment by recipient government or as full forgiveness of repayment obligations, consideration of disbursements as payment with respect to credit obligations or annual repayment obligations, and application of dollar sales value of commodities against repayment obligations.

1979—Subsec. (a). Pub. L. 96–53, § 206, inserted provisions relating to disbursements from the special account equal to the dollar value of credit furnished by the Commodity Credit Corporation under section 1727c(a) of this title.

Subsec. (c). Pub. L. 96–53, § 204(b), added subsec. (c).

1978—Subsecs. (a), (b). Pub. L. 95–424 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727e of this title.

§ 1727e. Use of local currency proceeds

(a) In general

The local currency proceeds of sales pursuant to section 1727c(2) of this title shall be used in

the recipient country for specific economic development purposes, including—

(1) the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;

(2) the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal and child health care, oral rehydration therapy, and other child survival objectives consistent with section 2151b(c)(2) of title 22, relating to the Child Survival Fund;

(3) the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and incomes within the country;

(4) the promotion of free and open markets through specific policies and programs;

(5) support for United States private voluntary organizations and cooperatives and encouragement of the development and utilization of indigenous nongovernmental organizations;

(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country—

(A) to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or

(B) to develop emergency food reserves;

(7) the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

(8) the payment, to the extent practicable, of the costs of carrying out the program authorized in subchapter V of this chapter;

(9) private sector development activities designed to further the policies set forth in section 1691 of this title, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

(10) activities of the Peace Corps that relate to agricultural production;

(11) the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

(12) research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available under this section to address the problem of malnutrition; and

(13) support for research (including collaborative research which is mutually beneficial to the United States and the recipient country), education, and extension activities in agricultural sciences.

Section 1306 of title 31 shall not apply to the use under this subsection of local currency proceeds that are owned by the United States.

(b) Support of nongovernmental organizations

To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 1727d(a) of this title shall be used by such country to support the development and utilization of nongovernmental organizations and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, other measures to assist poor people, and environmental protection projects within such country.

(c) Investment of local currencies by nongovernmental organizations

A nongovernmental organization may invest local currencies that accrue to that organization as a result of assistance under subsection (a) of this section, and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization without further appropriation by the Congress.

(d) Support for certain educational institutions

If the Administrator determines that local currencies deposited in a special account pursuant to this subchapter are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) of this section or for any other specific economic development purpose in the recipient country, the Administrator may use those currencies to provide support for any institution (other than an institution whose primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

(July 10, 1954, ch. 469, title III, § 306, as added Pub. L. 95–88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 551; amended Pub. L. 96–53, title II, § 207(a), Aug. 14, 1979, 93 Stat. 369; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3643; Pub. L. 104–127, title II, § 211(a), Apr. 4, 1996, 110 Stat. 955.)

PRIOR PROVISIONS

A prior section 306 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 11, 73 Stat. 608, enacted section 1695 of this title, prior to repeal by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 amended heading and struck out ''indigenous'' before ''nongovernmental'' in text.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions requiring submission of annual report by recipient countries to President on activities and progress of Food for Development Program.

1979—Pub. L. 96–53 inserted provisions relating to detailed description of the use of the commodities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under

section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

USE OF FOREIGN CURRENCIES

Foreign currencies accruing to United States under this subchapter may be used for purposes set forth in this section, see Ex. Ord. No. 12752, §2(b)(1), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727d of this title.

§§ 1727f, 1727g. Omitted

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 101–624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3633.

Section 1727f, act July 10, 1954, ch. 469, title III, §307, as added Aug. 3, 1977, Pub. L. 95–88, title II, §211(a)(2), 91 Stat. 551; amended Aug. 14, 1979, Pub. L. 96–53, title II, §207(b), 93 Stat. 369, related to annual presidential review of agreements for use of proceeds from sales of commodities.

A prior section 307 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, §12, 73 Stat. 609, which enacted section 1696 of this title, was repealed by Pub. L. 89–808, §2(D), Nov. 11, 1966, 80 Stat. 1535.

Section 1727g, acts July 10, 1954, ch. 469, title III, §310, formerly §303, 68 Stat. 459; Sept. 6, 1958, Pub. L. 85–931, §6, 72 Stat. 1791; July 29, 1968, Pub. L. 90–436, §7, 82 Stat. 451; renumbered §310, Aug. 3, 1977, Pub. L. 95–88, title II, §211(a)(1), 91 Stat. 548; Dec. 23, 1985, Pub. L. 99–198, title XI, §1167(c), 99 Stat. 1503, related to authority of Secretary to barter agricultural commodities for strategic and other materials.

BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

Section 1167(a) of Pub. L. 99–198 provided for findings by Congress concerning the barter or exchange of agricultural commodities for strategic and critical materials for the national defense stockpile, prior to repeal by Pub. L. 101–624, title XV, §1572(3), Nov. 28, 1990, 104 Stat. 3702.

SUBCHAPTER III–B—EMERGENCY FOOD ASSISTANCE

§ 1728. Findings regarding emergency food assistance

The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crises are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

(Pub. L. 98–473, title III, §302, Oct. 12, 1984, 98 Stat. 2194.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

SHORT TITLE

Section 301 of title III of Pub. L. 98–473 provided that: ''This title [enacting this subchapter and amending section 1723 of this title] may be cited as the 'President's Emergency Food Assistance Act of 1984'.''

§ 1728a. President's Emergency Food Assistance Fund

(a) Establishment; authority of President to furnish assistance from Fund

There is hereby established the President's Emergency Food Assistance Fund (hereafter in this subchapter referred to as the ''Fund''). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this subchapter, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Types of assistance authorized

Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) Authorization of appropriations

There are authorized to be appropriated to the President $50,000,000 each for fiscal year 1985 and fiscal year 1986 to carry out the purposes of this subchapter, to remain available until expanded.[1]

(d) Authority of President

The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this subchapter.

(Pub. L. 98–473, title III, §303, Oct. 12, 1984, 98 Stat. 2194.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

[1] So in original. Probably should be ''expended.''

§ 1728b. Reports on emergency food assistance

Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this subchapter during the previous fiscal year.

(Pub. L. 98–473, title III, § 304, Oct. 12, 1984, 98 Stat. 2195.)

CODIFICATION

Section was not enacted as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

SUBCHAPTER IV—GENERAL AUTHORITIES AND REQUIREMENTS

§ 1731. Commodity determinations

(a) Availability of commodities

No agricultural commodity shall be available for disposition under this chapter if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this chapter.

(b) Ineligible commodities

(1) Alcoholic beverages

Alcoholic beverages shall not be made available for disposition under this chapter.

(2) Tobacco

Tobacco or the products thereof shall not be made available under section 1727b of this title or subchapter III of this chapter.

(c) Market development activities

Subsection (b)(1) of this section shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under subchapter II of this chapter.

(July 10, 1954, ch. 469, title IV, § 401, as added Pub. L. 86–341, title I, § 14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87–703, title II, § 201(1), Sept. 27, 1962, 76 Stat. 610; Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1535; Pub. L. 95–88, title II, § 212, Aug. 3, 1977, 91 Stat. 551; Pub. L. 95–113, title XII, § 1204, Sept. 29, 1977, 91 Stat. 956; Pub. L. 96–53, title II, § 208, Aug. 14, 1979, 93 Stat. 370; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3645; Pub. L. 104–127, title II, § 212, Apr. 4, 1996, 110 Stat. 955.)

AMENDMENTS

1996—Pub. L. 104–127 added subsec. (a) and struck out former subsec. (a) which authorized Secretary, after consultation with other affected Federal agencies, to determine agricultural commodities and quantities thereof available for disposition, redesignated subsec. (e) as (b) and struck out former subsec. (b) which provided for modification of determination by Secretary, redesignated subsec. (f) as (c) and substituted ''(b)(1)'' for ''(e)(1)'', struck out former subsec. (c) which provided for nonavailability of commodities if domestic supply of such commodities was adversely affected, and struck out subsec. (d) which outlined policies for distribution of commodities to developing countries.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing Secretary to determine types and quantities of commodities available for distribution, limiting distribution where domestic supply is threatened, and requiring available storage facilities in recipient country prior to making commodities available to such country as well as finding that distribution will not result in interference with production or marketing in that country.

1979—Subsec. (b)(2). Pub. L. 96–53 substituted ''to or interference with domestic production or marketing in'' for ''to domestic production in''.

1977—Subsec. (a). Pub. L. 95–113 inserted provisions under which commodities may be made available for disposition if the Secretary of Agriculture determines that some part of the supply of commodities should be used to carry out urgent humanitarian purposes, even though such disposition would reduce the domestic supply of those commodities below that needed to meet domestic requirements, provide adequate carryover, and allow for anticipated exports.

Pub. L. 95–88 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95–88 added subsec. (b).

1966—Pub. L. 89–808 substituted provisions relating to determination and criteria for such determination by the Secretary of Agriculture of agricultural commodities available for disposition for former statement of purpose of provisions relating to long-term supply contracts, now covered by subchapter II of this chapter.

1962—Pub. L. 87–703 included in the statement of purpose the stimulation and increase of sales of surplus agricultural commodities for dollars through long-term supply contracts and through the extension of credit for the purchase of such commodities, by agreements with friendly nations or with private trade.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

EXPORT SALES OF DAIRY PRODUCTS

Pub. L. 99–198, title XI, § 1163, Dec. 23, 1985, 99 Stat. 1499, as amended by Pub. L. 100–435, title I, § 107, Sept. 19, 1988, 102 Stat. 1651; Pub. L. 101–624, title I, § 111, Nov. 28, 1990, 104 Stat. 3380; Pub. L. 103–465, title IV, § 411(c), Dec. 8, 1994, 108 Stat. 4963, provided that:

''(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the dis-

position of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade.

''(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

''(c) Through September 30, 1995, the Secretary shall report semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.''

[Amendment of section 1163 of Pub. L. 99–198, set out above, by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.]

[Amendment of section 1163 of Pub. L. 99–198, set out above, by Pub. L. 100–435 effective and implemented on Oct. 1, 1988, see section 701 of Pub. L. 100–435, set out as a note under section 2012 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1736, 1736f–1, 1736*o* of this title.

§ 1732. Definitions

As used in this chapter:

(1) Administrator

The term ''Administrator'' means the Administrator of the Agency for International Development, unless otherwise specified in this chapter.

(2) Agricultural commodity

The term ''agricultural commodity'', unless otherwise provided for in this chapter, includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of subchapter III of this chapter, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

(3) Cooperative

The term ''cooperative'' means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

(4) Developing country

The term ''developing country'' means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

(5) Food security

The term ''food security'' means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(6) Nongovernmental organization

The term ''nongovernmental organization'' means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.

(7) Private voluntary organization

The term ''private voluntary organization'' means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of title 26) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

(8) Secretary

The term ''Secretary'' means the Secretary of Agriculture, unless otherwise specified in this chapter.

(July 10, 1954, ch. 469, title IV, § 402, as added Pub. L. 86–341, title I, § 14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87–703, title II, § 201(2), Sept. 27, 1962, 76 Stat. 611; Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 92–42, July 1, 1971, 85 Stat. 99; Pub. L. 95–113, title XII, § 1205, Sept. 29, 1977, 91 Stat. 956; Pub. L. 96–72, § 24, Sept. 29, 1979, 93 Stat. 536; Pub. L. 97–98, title XII, § 1213, Dec. 22, 1981, 95 Stat. 1281; Pub. L. 98–623, title IV, § 405(b), Nov. 8, 1984, 98 Stat. 3409; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3645; Pub. L. 104–127, title II, § 211(b), Apr. 4, 1996, 110 Stat. 955.)

AMENDMENTS

1996—Par. (6). Pub. L. 104–127 added par. (6) and struck out heading and text of former par. (6). Prior to amendment, text read as follows: ''The term 'indigenous nongovernmental organization' means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.''

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions defining agricultural commodity.

1984—Pub. L. 98–623 inserted ''(including fish, without regard to whether such fish are harvested in aquacultural operations)'' and struck out provision that subject to the availability of appropriations therefor, any domestically produced fishery product could be made available under this chapter.

1981—Pub. L. 97–98 substituted ''wine, beer, distilled spirits, or other alcoholic beverage'' for ''wine or beer''.

1979—Pub. L. 96–72 inserted reference to beer.

1977—Pub. L. 95–113 required that in allocation of funds made available under subchapter II of this chapter priority be given to financing the sale of food and fiber commodities.

1971—Pub. L. 92–42 inserted sentence that proviso excluding alcoholic beverages from term ''agricultural commodity'' shall not be construed as prohibiting domestic wine industry from participating in market development activities for expansion of export sales of domestic agricultural commodities.

1966—Pub. L. 89–808 substituted definition of agricultural commodity and provisions as to availability of

fishery products for former provisions respecting agreements for delivery of surplus agricultural commodities, period, and security for payments in relation to long-term supply contracts, now covered by subchapter II of this chapter. See section 1707 of this title.

1962—Pub. L. 87–703 authorized executive agreements with financial institutions acting in behalf of friendly nations and administrative sales agreements with foreign and United States private trade with provision for security for payments.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–623 to be considered as having taken effect before Sept. 8, 1982, for purposes of section 135 of Pub. L. 97–253 (set out as a note under section 612c of this title), see section 405(d) of Pub. L. 98–623, set out as a note under section 1707a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1736*o* of this title.

§ 1733. General provisions

(a) Prohibition

No agricultural commodity shall be made available under this chapter unless it is determined that—

(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

(b) Impact on local farmers and economy

The Secretary or the Administrator, as appropriate, shall ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

(c) Transshipment

The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments designed to prevent or restrict the resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities donated or purchased under this chapter.

(d) Private trade channels and small business

Private trade channels shall be used under this chapter to the maximum extent practicable in the United States and in the recipient countries with respect to—

(1) sales from privately owned stocks;

(2) sales from stocks owned by the Commodity Credit Corporation; and

(3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

(e) World prices

In carrying out this chapter, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

(f) Publicity

Commitments shall be obtained from countries or private entities, as appropriate, receiving commodities under this chapter that such countries or private entities will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

(g) Participation of private sector

The Secretary or the Administrator, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this chapter.

(h) Safeguard usual marketings

In carrying out this chapter, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

(i) Military distribution of food aid

(1) In general

The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this chapter will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2) Prohibition on handling of commodities by military

(A) In general

Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this chapter to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

(B) Exception

Notwithstanding subparagraph (A), the Secretary or the Administrator, as appro-

priate, may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

(i) nonmilitary channels are not available for such handling or distribution;

(ii) such action is consistent with the requirements of paragraph (1); and

(iii) the Secretary or the Administrator, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

(3) Encouragement of safe passage

When entering into agreements under this chapter that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the Administrator, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

(j) Violations of human rights

(1) Ineligible countries

The Secretary or the Administrator, as appropriate, shall not enter into any agreement under this chapter to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

(B) the prolonged detention of individuals without charges;

(C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

(D) other flagrant denials of the right to life, liberty, and the security of persons.

(2) Waiver

Paragraph (1) shall not prohibit the provision of assistance to such a country if the assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

(k) Abortion prohibition

Local currencies that are made available for use under this chapter may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(July 10, 1954, ch. 469, title IV, §403, as added Pub. L. 86–341, title I, §14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87–703, title II, §201(3), Sept. 27, 1962, 76 Stat. 611; Pub. L. 88–638, §1(17), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89–808, §2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 95–113, title XII, §1206, Sept. 29, 1977, 91 Stat. 956; Pub. L. 96–533, title IV, §407, Dec. 16, 1980, 94 Stat. 3151; Pub. L. 97–98, title XII, §1214, Dec. 22, 1981, 95 Stat. 1282; Pub. L. 101–624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3646; Pub. L. 102–237, title III, §321, Dec. 13, 1991, 105 Stat. 1857; Pub. L. 104–127, title II, §213, Apr. 4, 1996, 110 Stat. 956.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, §213(1), inserted heading and struck out former heading ''Consultations'' and in text struck out ''consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to'' before ''ensure that''.

Subsec. (c). Pub. L. 104–127, §213(2), struck out ''from countries'' after ''require commitments'' and substituted ''or use for other'' for ''for use for other''.

Subsec. (f). Pub. L. 104–127, §213(3), inserted ''or private entities, as appropriate,'' after ''from countries'' and ''or private entities'' after ''such countries''.

Subsec. (i)(2)(C). Pub. L. 104–127, §213(4), struck out heading and text of subpar. (C). Text read as follows: ''Not later than 30 days after an authorization is provided under subparagraph (B), the Secretary or the Administrator, as appropriate, shall prepare and submit to the appropriate committees of Congress a report concerning such authorization and include in any such report the reason for the authorization, including an explanation of why no alternatives to such handling or distribution were available.''

1991—Subsec. (i)(2)(C). Pub. L. 102–237 substituted ''committees'' for ''Committees''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing appropriations necessary for this chapter, classifying such expenditures under international affairs and finance rather than agriculture, valuing commodity, for purpose of reimbursing Commodity Credit Corporation, at price not greater than export market price at time commodity was made available, and authorizing President to transfer up to 15 percent of funding for any fiscal year from any subchapter of this chapter to any other subchapter.

1981—Subsec. (b). Pub. L. 97–98 inserted ''a price not greater than''.

1980—Subsec. (c). Pub. L. 96–533 added subsec. (c).

1977—Pub. L. 95–113 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89–808 substituted provisions for authorization of appropriations, including reimbursement of Commodity Credit Corporation, and classification of expenditures, formerly covered in former section 1703(a) of this title, for provision for payment for commodities, now provided for by section 1706(a) of this title.

1964—Pub. L. 88–638 substituted ''less than the minimum rate required by section 2161 of Title 22 for loans made under that section'' for ''more than the cost of the funds to the United States Treasury as determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturities of loans made by the President under this section''.

1962—Pub. L. 87–703 substituted ''reasonable'' for ''approximately equal'' annual amounts and provided for deferral of date for beginning annual payment.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (j) of this section delegated to Secretary of State by section 4(b) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736*o* of this title; title 46 App. section 1241h.

§ 1734. Agreements

(a) In general

Before entering into agreements with foreign countries under subchapters II and III–A of this chapter for the provision of commodities, the Secretary or the Administrator, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

(b) Terms of agreement

An agreement entered into under this chapter shall—

(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

(2) with respect to agreements entered into with foreign countries under subchapters II and III–A of this chapter, include a statement of the manner in which the agricultural commodities provided under the agreement or the revenues generated by the sale of such commodities (if such commodities are sold), will be integrated into the overall development plans of the country to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable agriculture and broad-based economic growth;

(3) with respect to agreements entered into under subchapters II and III–A of this chapter, include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this chapter will be encouraged;

(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

(5) contain such other terms and conditions as the Secretary or the Administrator, as appropriate, determines to be necessary.

(c) Multi-year agreements

(1) In general

Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

(A) may be made available under subchapters II and III–A of this chapter; and

(B) shall be made available under subchapter III of this chapter.

(2) Exception

The Secretary or the Administrator, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

(A) the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

(B) it is anticipated that the need of the country or organization for food aid does not extend beyond 1 year; or

(C) other circumstances, as determined by the Secretary or the Administrator, as appropriate, indicate there is only a need for a 1 year agreement.

(d) Review of agreements

The Secretary or the Administrator, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the Administrator determines that such country is not fulfilling the objectives or requirements of this chapter. In making such a determination, the Secretary or the Administrator, as appropriate, may consider the extent to which the country is—

(1) making significant economic development reforms;

(2) promoting free and open markets for food and agricultural producers; and

(3) fostering increased food security.

(July 10, 1954, ch. 469, title IV, § 404, as added Pub. L. 86–341, title I, § 14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 96–53, title II, § 209, Aug. 14, 1979, 93 Stat. 370; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3648; Pub. L. 104–127, title II, § 214, Apr. 4, 1996, 110 Stat. 956.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 214(1), inserted ''with foreign countries'' after ''Before entering into agreements''.

Subsec. (b)(2). Pub. L. 104–127, § 214(2), inserted ''with foreign countries'' after ''agreements entered into'' and ''and broad-based economic growth'' before semicolon at end.

Subsec. (c)(1). Pub. L. 104–127, § 214(3), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''Agreements to provide assistance on a multi-year basis under this chapter shall be made available to recipient countries or to eligible organizations.''

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions outlining aims of assistance programs, namely humanitarian and national interest objectives, and requiring assessments

of recipient countries to determine types and quantities of commodities needed, conditions under which distribution should take place, most suitable timing for delivery, etc.

1979—Pub. L. 96–53 designated existing provisions as subsec. (a), substituted provisions relating to aims of programs of assistance conducted under this chapter and sections 1427 and 1431 of this title and the types and quantities of agricultural commodities to be made available, for provisions relating to aims of assistance programs undertaken pursuant to this chapter and sections 1427 and 1431 of this title, and added subsec. (b).

1966—Pub. L. 89–808 substituted provision declaratory of aims of assistance programs as the attainment of humanitarian objectives and the national interest for provisions requiring the Secretary of Agriculture to maximize the sale of commodities and avoid displacement of cash sales, now provided for by sections 1703(n) and 1707(b) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

§ 1735. Consultation

The Secretary and the Administrator shall cooperate and consult in the implementation of this chapter.

(July 10, 1954, ch. 469, title IV, § 405, as added Pub. L. 86–341, title I, § 14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87–703, title II, § 201(4), Sept. 27, 1962, 76 Stat. 611; Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3650.)

AMENDMENTS

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions requiring funds and authority under this chapter be used to assist friendly countries determined to increase their self-reliance in food production and managing population growth.

1966—Pub. L. 89–808 substituted provisions respecting self-help in meeting food requirements and in resolving problems relative to population growth for provisions respecting entry into agreements for participation in supply and assistance program on a proportionate and equitable basis.

1962—Pub. L. 87–703 substituted ''In the case of such agreements, the Secretary may enter into agreements with other friendly and historic supplying nations'' for ''In entering into such agreements, the Secretary shall endeavor to reach agreement with other exporting nations''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

§ 1736. Use of Commodity Credit Corporation

(a) In general

The Commodity Credit Corporation may acquire and make available such agricultural commodities (that have been determined to be available under section 1731(a) of this title) as necessary to carry out agreements under this chapter.

(b) Included expenses

With respect to commodities made available under subchapters III and III–A of this chapter, the Commodity Credit Corporation may pay—

(1) the cost of acquiring such commodities;

(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

(4) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

(A) of landlocked countries;

(B) of ports that cannot be used effectively because of natural or other disturbances;

(C) of the unavailability of carriers to a specific country; or

(D) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(c) Commodity Credit Corporation

The funds, facilities, and authorities of the Commodity Credit Corporation may be used to carry out this chapter.

(d) Availability of funds

Funds shall be available under this chapter only to the extent provided in advance in appropriation Acts.

(July 10, 1954, ch. 469, title IV, § 406, as added Pub. L. 86–341, title I, § 14, Sept. 21, 1959, 73 Stat. 610; amended Pub. L. 87–703, title II, § 201(5), Sept. 27, 1962, 76 Stat. 611; Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1536; Pub. L. 94–161, title II, § 214, Dec. 20, 1975, 89 Stat. 855; Pub. L. 101–508, title I, § 1204(b)(2), Nov. 5, 1990, 104 Stat. 1388–11; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3650; Pub. L. 102–237, title III, § 323, Dec. 13, 1991, 105 Stat. 1857; Pub. L. 104–127, title II, § 215, Apr. 4, 1996, 110 Stat. 956.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 215(1), substituted ''may'' for ''shall'' after ''Corporation''.

Subsec. (b). Pub. L. 104–127, §215(2)(A), in introductory provisions, substituted ''subchapters III and III–A of this chapter'' for ''this chapter''.

Subsec. (b)(4). Pub. L. 104–127, §215(2)(B), added par. (4) and struck out former par. (4) which read as follows: ''the ocean freight charges from United States ports to designated ports of entry abroad;''.

1991—Subsec. (b)(5)(D). Pub. L. 102–237 substituted ''time'' for ''items''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing appropriations and authorizing the President to administer a program of farmer-to-farmer assistance, enter into agreements or make grants to train farmers in recipient countries, seek exchange of farm youth and farm leaders with developing countries, conduct research in tropical and subtropical agriculture, coordinate program with other foreign assistance programs, establish conditions for eligibility in farmer-to-farmer program, and pay costs of program through use of foreign currencies accruing from sale of commodities.

Subsec. (d). Pub. L. 101–508 added subsec. (d).

1975—Subsec. (a). Pub. L. 94–161, §214(1), substituted ''the President'' for ''the Secretary of Agriculture''.

Subsec. (a)(1). Pub. L. 94–161, §214(2), struck out ''through existing agencies of the Department of Agriculture'' after ''establish and administer''.

Subsec. (a)(5). Pub. L. 94–161, §214(3), substituted ''with other foreign assistance activities of the United States'' for ''with the activities of the Peace Corps, the Agency for International Development, and other agencies of the United States and to assign, upon agreement with such agencies, such persons to work with and under the administration of such agencies: *Provided*, That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State''.

1966—Pub. L. 89–808 substituted food production assistance provisions for provision respecting applicability of other laws, now provided for by section 1707(d) of this title.

1962—Pub. L. 87–703 made section 1701(b) and (c) applicable to this subchapter.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–808 effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as a note under section 1691 of this title.

FARMER-TO-FARMER PROGRAMS FOR FISCAL YEARS 1986 THROUGH 1990

Pub. L. 99–198, title XI, §1107, Dec. 23, 1985, 99 Stat. 1467, as amended by Pub. L. 100–277, §6, Apr. 4, 1988, 102 Stat. 69, provided that:

''(a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986 through September 30, 1990, to carry out the Agricultural Trade Development and Assistance Act of 1954 [this chapter] shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act [7 U.S.C. 1736(a)(1), (2)]. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961 [22 U.S.C. 2220a–2220e].

''(b) Not later than 120 days after the date of enactment of this Act [Dec. 23, 1985], the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall submit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736(a)(1), (2)] with the funds made available under subsection (a).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736*o* of this title; title 22 section 5423.

§ 1736–1. Special Assistant for Agricultural Trade and Food Assistance

(a) Appointment by President

The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance (hereinafter in this section referred to as the ''Special Assistant''). The President shall appoint the initial Special Assistant not later than May 1, 1986.

(b) Service in Executive Office of President

The Special Assistant shall serve in the Executive Office of the President.

(c) Required functions

The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d) Compensation

Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

(Pub. L. 99–198, title XI, §1113(a)–(d), Dec. 23, 1985, 99 Stat. 1479; Pub. L. 99–260, §4(a)(1), (b), (d), Mar. 20, 1986, 100 Stat. 49; Pub. L. 101–624, title XV, §1572(2), Nov. 28, 1990, 104 Stat. 3702.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (d), is set out in section 5314 of Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

Another section 1113(d) of Pub. L. 99–198 amended section 5312 of Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (c)(9)(B), (C). Pub. L. 101–624 redesignated subpar. (C) as (B) and struck out former subpar. (B) which required that report contain identification of at least 15 target countries most likely to emerge as growth markets for commodities in next 5 to 10 years.

1986—Pub. L. 99–260, §4(a)(1)(A), substituted ''Food Assistance'' for ''Food Aid'' in section catchline.

Subsec. (a). Pub. L. 99–260, §4(a)(1)(B), (b), substituted ''Food Assistance'' for ''Food Aid'' and inserted provision that the President appoint the initial Special Assistant not later than May 1, 1986.

Subsec. (d). Pub. L. 99–260, §4(d), amended subsec. (d) generally, substituting provision relating to compensation of the Special Assistant for provision relating to additional required functions of the Special Assistant.

§ 1736a. Administrative provisions

(a) Subchapter II programs

(1) Acquisitions

The importing country or private entity that enters into an agreement under subchapter II of this chapter shall acquire the agricultural commodities to be financed under subchapter II of this chapter.

(2) Invitation for bid

No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under subchapter II of this chapter unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under subchapter II of this chapter shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary. Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.

(b) Agents

(1) Authority of Secretary or Commodity Credit Corporation

(A) General rule

Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importer or importing country in arranging the purchase or shipping of commodities financed under subchapter II of this chapter.

(B) Exception

Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this chapter.

(C) Avoidance of conflict of interest of contractors

Freight agents employed by the Secretary or the Commodity Credit Corporation under subchapter II of this chapter shall not represent any foreign government during the period of their contract with the United States Government.

(2) Reasonable fees and commissions

(A) Fees

Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importer or importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

(B) Prohibition on commissions

Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under subchapter II of this chapter.

(3) Limitations

No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under subchapter II of this chapter may—

(A) be paid in excess of an amount determined appropriate by the Secretary; and

(B) be shared by such person with the importer or importing country or any agent thereof.

(4) Avoidance of conflict of interest

A person may not be an agent, broker, consultant, or other representative of the United

States Government, an importer, or an importing country in connection with agricultural commodities provided under this chapter during a fiscal year in which such person provides or acts as an agent, broker, consultant, or other representative of a person engaged in providing ocean transportation or transportation-related services for such commodities. For the purpose of this paragraph, the term ''transportation-related services'' means lightening, stevedoring, bagging, or inland transportation to the destination point.

(c) Subchapters III and III–A program

(1) Acquisition

The Administrator shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under subchapter III and subchapter III–A of this chapter.

(2) Freight procurement

Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under subchapters III and III–A of this chapter may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate.

(3) Avoidance of conflict of interest

Freight agents employed by the Agency for International Development under subchapters III and III–A of this chapter shall not represent any foreign government during the period of their contract with the United States Government.

(d) Timing of shipments

In determining the timing of the shipment of agricultural commodities to be provided under this chapter, the Secretary or the Administrator, as appropriate, shall consider—

(1) the time of harvest of any competing commodities in the recipient country; and

(2) such other concerns determined to be appropriate.

(e) Deadline for agreements under subchapters II and III–A of this chapter

An agreement under subchapters II and III–A of this chapter shall, to the extent practicable, be entered into not later than—

(1) November 30 of the first fiscal year in which agricultural commodities are to be shipped under the agreement; or

(2) 60 days after the date of enactment of the annual Rural Development, Agriculture, and Related Agencies Appropriations Act for the first fiscal year in which agricultural commodities are to be shipped under the agreement,

whichever is later.

(f) Annual reports

(1) In general

The President shall prepare an annual report concerning the programs and activities implemented under this chapter for the preceding fiscal year.

(2) Contents

Each report shall include—

(A) the countries and organizations receiving food and other assistance provided to each country and organization under this chapter;

(B) a general description of the projects or activities implemented under this chapter, including local currency funded activities;

(C) a statement of the amount of agricultural commodities made available to each country pursuant to section 1431(b) of this title and the Food for Progress Act of 1985 [7 U.S.C. 1736*o*]; and

(D) an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country.

(3) Submission

The President shall submit such report not later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(July 10, 1954, ch. 469, title IV, § 407, as added Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1537; amended Pub. L. 90–436, § 8, July 29, 1968, 82 Stat. 451; Pub. L. 94–161, title II, § 210, Dec. 20, 1975, 89 Stat. 854; Pub. L. 101–508, title I, § 1204(b)(3), Nov. 5, 1990, 104 Stat. 1388–11; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3650; Pub. L. 102–237, title III, §§ 319, 324, 325, 328, 329, 332, Dec. 13, 1991, 105 Stat. 1857, 1858; Pub. L. 104–66, title I, § 1011(e), Dec. 21, 1995, 109 Stat. 709; Pub. L. 104–127, title II, § 216, Apr. 4, 1996, 110 Stat. 957.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(2), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of the Act relating to procurement procedures are classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

The Food for Progress Act of 1985, referred to in subsec. (f)(2)(C), is Pub. L. 99–198, title XI, § 1110, Dec. 23, 1985, 99 Stat. 1472, as amended, which is classified to section 1736*o* of this title.

AMENDMENTS

1996—Pub. L. 104–127, § 216(2)–(5), which directed amendment of subsecs. (c), (d), (g), and (h), respectively, of this section, was executed to subsecs. (b), (c), (f), and (g), respectively, of this section, to reflect the probable intent of Congress and the intervening amendment by Pub. L. 104–66 which struck out subsec. (b) and redesignated subsecs. (c) to (h) as (b) to (g), respectively. See 1995 Amendment note below.

Subsec. (a)(1). Pub. L. 104–127, § 216(1)(A), inserted ''or private entity that enters into an agreement under subchapter II of this chapter'' after ''importing country''.

Subsec. (a)(2). Pub. L. 104–127, § 216(1)(B), inserted at end ''Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.''

Subsec. (b)(1)(A), (2)(A). Pub. L. 104–127, § 216(2), inserted ''importer or'' before ''importing country''.

Subsec. (c)(2). Pub. L. 104–127, § 216(3)(A), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under subchapters III and III–A of this chapter unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the Administrator.''

Subsec. (c)(4). Pub. L. 104–127, § 216(3)(B), struck out heading and text of par. (4). Text read as follows: ''Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions relating to the making or performance of Federal Government contracts, the Administrator may procure ocean transportation services under this chapter under such full and open competitive procedures as the Administrator determines are necessary and appropriate.''

Subsec. (f)(2)(D). Pub. L. 104–127, § 216(4), added subpar. (D).

Subsec. (g). Pub. L. 104–127, § 216(5), struck out heading and text of subsec. (g). Text read as follows: ''On World Food Day, October 16 of each year, the President shall submit to the appropriate committees of Congress a report, prepared with the assistance of the Secretary and the Administrator, assessing progress towards food security in each country receiving United States Government food assistance. Special emphasis should be given in such report to the nutritional status of the poorest populations in such countries.''

1995—Subsecs. (b) to (h). Pub. L. 104–66 redesignated subsecs. (c) to (h) as (b) to (g), respectively, and struck out former subsec. (b) which required reporting of agricultural commodity or ocean transportation supplier fees.

1991—Subsec. (b)(1). Pub. L. 102–237, § 329, struck out ''or agricultural commodity donated'' after ''ocean transportation financed''.

Subsec. (c)(1)(A). Pub. L. 102–237, § 324, substituted ''subchapter II of this chapter'' for ''this section''.

Subsec. (c)(1)(C). Pub. L. 102–237, § 325, struck out ''other'' before ''foreign government''.

Subsec. (c)(2)(B), (3). Pub. L. 102–237, § 319, inserted ''subchapter II of'' before ''this chapter''.

Subsec. (c)(4). Pub. L. 102–237, § 328(a), inserted ''provides or'' after ''in which such person'' and substituted ''of a person'' for ''if the person is''.

Subsec. (d)(3). Pub. L. 102–237, § 328(b), struck out ''other'' before ''foreign government''.

Subsec. (d)(4). Pub. L. 102–237, § 332, substituted ''the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)'' for ''the Federal Property Act of 1949, as amended,''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which established an Advisory Committee to survey the general policies relating to the administration of this chapter, including implementation of self-help provisions, uses to be made of foreign currencies, amount of currencies to be reserved in sales agreements for loans to private industry, rates of exchange, interest rates, and terms under which dollar credit sales are made.

Subsec. (c)(4). Pub. L. 101–508 substituted ''providing ocean transportation or'' for ''providing ocean''.

1975—Pub. L. 94–161 inserted '', or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate)'' in first sentence.

1968—Pub. L. 90–436 struck out provisions that the vice chairman and one ranking minority member of the specified House committees and the next ranking majority member and one ranking minority member of the specified Senate committees be members of the Advisory Committee, and inserted provisions requiring the Advisory Committee to meet not less than four times during each calendar year and setting forth the order of precedence at such meetings.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (h) [now (g)] of this section delegated to Administrator of the Agency for International Development by section 4(c) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

PREPARATION OF ANNUAL REPORT

For provisions requiring Food Assistance Policy Council to prepare annual report pursuant to subsec. (g)(1) [now (f)(1)] of this section, see Ex. Ord. No. 12752, § 3(c), Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1431 of this title.

§ 1736b. Expiration date

No agreements to finance sales or to provide other assistance under this chapter shall be entered into after December 31, 2002.

(July 10, 1954, ch. 469, title IV, § 408, as added Pub. L. 89–808, § 2(E), Nov. 11, 1966, 80 Stat. 1537; amended Pub. L. 94–161, title II, § 211, Dec. 20, 1975, 89 Stat. 854; Pub. L. 95–88, title II, § 213, Aug. 3, 1977, 91 Stat. 551; Pub. L. 95–113, title XII, § 1207, Sept. 29, 1977, 91 Stat. 957; Pub. L. 96–470, title II, § 213, Oct. 19, 1980, 94 Stat. 2246; Pub. L. 97–98, title XII, § 1215, Dec. 22, 1981, 95 Stat. 1282; Pub. L. 99–83, title X, § 1006, Aug. 8, 1985, 99 Stat. 271; Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3653; Pub. L. 104–127, title II, § 217, Apr. 4, 1996, 110 Stat. 957.)

PRIOR PROVISIONS

Provisions covering the termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III were covered by section 1736c of this title prior to amendment of that section by Pub. L. 101–624, and by sections 1709, 1724 of this title prior to the amendment of those sections by Pub. L. 89–808.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''2002'' for ''1995''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions relating to Presidential reports to Congress concerning activities carried out under this chapter, a global assessment of food production and needs and planned programming of food assistance, and a comparative cross-country evaluation of programs conducted under portions of this chapter, provisions requiring the Secretary to issue revised regulations governing operations of subchapter II of this chapter, and provisions relating to the delivery of bagged commodities.

1985—Subsec. (b). Pub. L. 99–83 inserted reference to subchapter III in two places.

1981—Subsec. (a). Pub. L. 97–98 substituted ''February 15'' for ''April 1''.

1980—Subsec. (b). Pub. L. 96–470 struck out requirement that the President submit a report not later than March 31 of each year.

1977—Subsec. (b). Pub. L. 95–88 substituted provisions that, not later than September 30 of each year, the President submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year, and that, not later than December 31, March 31, and June 30 of each year, the President submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year, for provisions that, in his presentation to the Congress of planned programing of food assistance for each fiscal year, the President include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

Subsec. (c). Pub. L. 95–88 substituted provisions that, beginning Oct. 1, 1978, and at each five-year interval thereafter, the President submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and III–A of this chapter, and that such evaluations cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and Caribbean), and assess the nutritional and other impacts, achievements, problems, and future prospects for programs thereunder, for provisions that, not later than November 1 of each calendar year the President submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programming of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance.

Subsecs. (d), (e). Pub. L. 95–113 added subsecs. (d) and (e).

1975—Pub. L. 94–161 designated existing provisions as subsec. (a), substituted ''fiscal'' for ''calendar'' in first sentence, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as a note under section 1702 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1967, see section 5 of Pub. L. 89–808, set out as an Effective Date of 1966 Amendment note under section 1691 of this title.

§§ 1736c, 1736d. Repealed. Pub. L. 104–127, title II, §§ 218, 219, Apr. 4, 1996, 110 Stat. 957

Section 1736c, act July 10, 1954, ch. 469, title IV, § 409, as added Nov. 11, 1966, Pub. L. 89–808, § 2(E), 80 Stat. 1537; amended July 29, 1968, Pub. L. 90–436, § 1, 82 Stat. 450; Nov. 30, 1970, Pub. L. 91–524, title VII, § 701, 84 Stat. 1379; Aug. 10, 1973, Pub. L. 93–86, § 1(26), 87 Stat. 237; Sept. 29, 1977, Pub. L. 95–113, title XII, § 1208, 91 Stat. 957; Dec. 22, 1981, Pub. L. 97–98, title XII, § 1216, 95 Stat. 1282; Dec. 23, 1985, Pub. L. 99–198, title XI, § 1105, 99 Stat. 1466; Nov. 28, 1990, Pub. L. 101–624, title XV, § 1512, 104 Stat. 3653; Dec. 13, 1991, Pub. L. 102–237, title III, § 322, 105 Stat. 1857, required promulgation of regulations to implement chapter not later than 180 days after Nov. 28, 1990.

Section 1736d, act July 10, 1954, ch. 469, title IV, § 410, as added Nov. 11, 1966, Pub. L. 89–808, § 2(E), 80 Stat. 1538; amended Nov. 28, 1990, Pub. L. 101–624, title XV, § 1512, 104 Stat. 3653; Dec. 13, 1991, Pub. L. 102–237, title III, § 322, 105 Stat. 1857, provided for independent evaluation of programs under subchapters II, III, and III–A of this chapter and report to Congress.

§ 1736e. Debt forgiveness

(a) Authority

The President, taking into account the financial resources of a country, may waive payments of principal and interest that such country would otherwise be required to make to the Commodity Credit Corporation under dollar sales agreements under subchapter II of this chapter if—

(1) that country is a least developed country; and

(2) either—

(A) an International Monetary Fund standby agreement is in effect with respect to that country;

(B) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

(C) a structural adjustment facility, enhanced structural adjustment facility, or similar supervised arrangement with the International Monetary Fund is in effect with respect to that country; or

(D) even though such an agreement, program, facility, or arrangement is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

(b) Request for debt relief by President

The President may provide debt relief under subsection (a) of this section only if a notification is submitted to Congress at least 10 days prior to providing the debt relief. Such a notification shall—

(1) specify the amount of official debt the President proposes to liquidate; and

(2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

(c) Appropriations action required

The aggregate amount of principal and interest waived under this section may not exceed

the amount approved for such purpose in an Act appropriating funds to carry out this chapter.

(d) Limitation on new credit assistance

If the authority of this section is used to waive payments otherwise required to be made by a country pursuant to this chapter, the President may not provide any new credit assistance for that country under this chapter during the 2-year period beginning on the date such waiver authority is exercised, unless the President provides to the Congress, before the assistance is provided, a written justification for the provision of such new credit assistance.

(e) Applicability

The authority of this section applies with respect to credit sales agreements entered into before November 28, 1990.

(July 10, 1954, ch. 469, title IV, § 411, as added Pub. L. 91–524, title VII, § 704, Nov. 30, 1970, as added Pub. L. 93–86, § 1(26), Aug. 10, 1973, 87 Stat. 237; amended Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3654; Pub. L. 102–237, title III, §§ 322, 326, 336, Dec. 13, 1991, 105 Stat. 1857, 1859.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237, § 326, substituted ''subchapter II of this chapter'' for ''this subchapter'' in introductory provisions.

Subsec. (b). Pub. L. 102–237, § 336, inserted ''at least 10 days prior to providing the debt relief'' before period at end of first sentence.

Subsec. (e). Pub. L. 102–237, § 322, substituted ''November 28, 1990'' for ''the date of enactment of this Act''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions prohibiting assistance under subchapters II, III and III–A of this chapter to North Vietnam after July 1, 1973, unless specifically authorized by Act of Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Agriculture, in consultation with Food Assistance Policy Council and Department of the Treasury, by section 4(d) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

RENEGOTIATION OF PAYMENT TERMS OF LOANS FOR SALE OF AGRICULTURAL COMMODITIES

Pub. L. 102–27, title II, Apr. 10, 1991, 105 Stat. 147, provided that: ''Title I of the Public Law 480 [7 U.S.C. 1701 et seq.] program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill [probably means Pub. L. 99–198, see Tables for classification], all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1736e, 1738c] to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.''

§ 1736f. Authorization of appropriations

(a) Reimbursement

There are authorized to be appropriated such sums as may be necessary to carry out—

(1) the concessional credit sales program established under subchapter II of this chapter;

(2) the emergency and private assistance program under subchapter III of this chapter; and

(3) the grant program established under subchapter III–A of this chapter,

including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this chapter for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

(b) Transfer of funds

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any subchapter of this chapter be used to carry out any other subchapter of this chapter.

(2) Subchapter III–A funds

The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out subchapter III–A of this chapter be used to carry out subchapter III of this chapter.

(c) Budget

In presenting the Budget of the United States, the President shall classify expenditures under this chapter as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(d) Value of commodities

Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this chapter, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agricultural Act of 1949 [7 U.S.C. 1441 et seq.] shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this chapter.

(July 10, 1954, ch. 469, title IV, § 412, as added Pub. L. 94–161, title II, § 212, Dec. 20, 1975, 89 Stat. 855; amended Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3655; Pub. L. 104–127, title II, § 220, Apr. 4, 1996, 110 Stat. 958.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title I of the Act is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, § 220(1), added subsec. (b) and struck out heading and text of former sub-

sec. (b). Text read as follows: ''Of the amounts made available in each fiscal year to carry out subchapters II and III–A of this chapter, not less than—

''(1) 40 percent shall be made available to carry out the credit sales program established under subchapter II of this chapter; and

''(2) 40 percent shall be made available to carry out the grant program established under subchapter III–A of this chapter.''

Subsecs. (c) to (e). Pub. L. 104–127, § 220, redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out heading and text of former subsec. (c). Text read as follows: ''Notwithstanding any other provision of law and except as provided in subsection (b) of this section, if the President determines it to be necessary for purposes of this chapter, the President may direct that not in excess of 15 percent of the funds available in any fiscal year for carrying out any subchapter of this chapter be used to carry out any other subchapter of this chapter.''

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions authorizing President to seek agreement for international food reserve, with costs to be shared equitably among nations, and with safeguards against price disruptions.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Director of the Office of Management and Budget by section 4(e) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

§ 1736f–1. Establishment of commodity trust

(a) In general

To provide for a trust solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall establish a trust stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totaling not more than 4,000,000 metric tons for use as described in subsection (c) of this section.

(b) Commodities or funds in trust

(1) In general

The trust established under this section shall consist of—

(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of April 4, 1996;

(B) wheat, rice, corn, and sorghum (referred to in this section as ''eligible commodities'') acquired in accordance with paragraph (2) to replenish eligible commodities released from the trust, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of April 4, 1996;

(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the trust established under this section; and

(D) funds made available under paragraph (2)(B) which shall be used solely to replenish commodities in the trust.

(2) Replenishment of trust

(A) In general

Subject to subsection (h) of this section, commodities of equivalent value to eligible commodities in the trust established under this section may be acquired—

(i) through purchases—

(I) from producers; or

(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

(B) Funds

Any funds used to acquire eligible commodities through purchases from producers or in the market to replenish the trust shall be derived—

(i) with respect to fiscal years 2000 through 2002 from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) that are used to repay or reimburse the Commodity Credit Corporation for the release of eligible commodities under subsections (c)(2) and (f)(2) of this section, except that, of such funds, not more than $20,000,000 may be expended for this purpose in each of the fiscal years 2000 through 2002; and

(ii) from funds authorized for that use by an appropriations Act.

(c) Release of eligible commodities

(1) Emergency assistance

(A) In general

Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

(B) Release for emergency assistance

If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the trust—

(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

(C) Waiver of minimum tonnage requirements

Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricul-

tural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

(2) Emergency food assistance

(A) In general

Notwithstanding any other provision of law, eligible commodities designated or acquired for the trust established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

(B) Limitation

The Secretary may release eligible commodities under subparagraph (A) only to the extent such release is consistent with maintaining the long-term value of the trust.

(3) Processing of eligible commodities

Eligible commodities that are released from the trust established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

(4) Exchange

The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

(5) Use of normal commercial practices

To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

(d) Management of eligible commodities

The Secretary shall provide—

(1) for the management of eligible commodities in the trust established under this section as to location and quality of eligible commodities needed to meet emergency situations;

(2) for the periodic rotation or replacement of stocks of eligible commodities in the trust to avoid spoilage and deterioration of the commodities; and

(3) subject to the need for release of commodities from the trust under subsection (c)(1) of this section, for the management of the trust to preserve the value of the trust through acquisitions under subsection (b)(2) of this section.

(e) Treatment of trust under other law

Eligible commodities in the trust established under this section shall not be—

(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) of this section or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

(2) subject to any quantitative limitation on exports that may be imposed under section 2406 of title 50, Appendix.

(f) Use of Commodity Credit Corporation

(1) In general

Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

(2) Reimbursement of trust

(A) In general

The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and the funds shall be available to replenish the trust under subsection (b) of this section.

(B) Basis for reimbursement

The reimbursement shall be made on the basis of the lesser of—

(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the trust.

(C) Source of funds

The reimbursement may be made from funds appropriated for subsequent fiscal years.

(g) Finality of determination

Any determination by the Secretary under this section shall be final.

(h) Termination of authority

(1) In general

The authority to replenish stocks of eligible commodities to maintain the trust established under this section shall terminate on September 30, 2002.

(2) Disposal of eligible commodities

Eligible commodities remaining in the trust after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.

(Pub. L. 96–494, title III, §302, as added Pub. L. 104–127, title II, §225(a), Apr. 4, 1996, 110 Stat. 959; amended Pub. L. 105–385, title II, §212(a), (b)(3), Nov. 13, 1998, 112 Stat. 3465, 3467.)

REFERENCES IN TEXT

The Food Security Wheat Reserve Act of 1980, referred to in subsec. (b)(1)(A), (B), is title III of the Agri-

cultural Act of 1980, Pub. L. 96–494, Dec. 3, 1980, 94 Stat. 2578, which enacted former section 1736f–1 of this title and provisions set out as notes under that section, prior to the general amendment of title III by Pub. L. 104–127, title II, § 225(a), Apr. 4, 1996, 110 Stat. 959.

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsecs. (b)(2)(B)(i), (c)(1)(A), (2), (e)(1), and (f)(2)(A), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to this chapter (§ 1691 et seq.). Title II of the Act is classified to subchapter III (§ 1721 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Section was enacted as part of the Bill Emerson Humanitarian Trust Act which is title III of the Agricultural Act of 1980, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1736f–1, Pub. L. 96–494, title III, § 302, Dec. 3, 1980, 94 Stat. 2578; Pub. L. 99–198, title X, § 1013, Dec. 23, 1985, 99 Stat. 1456; Pub. L. 101–624, title XI, § 1143, title XV, § 1515(c), Nov. 28, 1990, 104 Stat. 3515, 3663, established food security wheat reserve, prior to general amendment of title III of Pub. L. 96–494 by Pub. L. 104–127, § 225(a).

AMENDMENTS

1998—Pub. L. 105–385, § 212(b)(3)(A), substituted ''trust'' for ''reserve'' in section catchline.

Subsec. (a). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve'' in two places.

Subsec. (b). Pub. L. 105–385, § 212(a)(1)(A), (b)(3)(C)(i), in heading inserted ''or funds'' after ''Commodities'' and substituted ''trust'' for ''reserve''.

Subsec. (b)(1). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 105–385, § 212(b)(3)(C)(ii), substituted ''trust,'' for ''reserve,''.

Subsec. (b)(1)(C). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve''.

Subsec. (b)(1)(D). Pub. L. 105–385, § 212(a)(1)(B), added subpar. (D).

Subsec. (b)(2). Pub. L. 105–385, § 212(b)(3)(C)(iii), substituted ''trust'' for ''reserve'' in heading.

Subsec. (b)(2)(A). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve'' in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 105–385, § 212(a)(1)(C), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: ''Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.''

Subsec. (c)(1)(B). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve'' in introductory provisions.

Subsec. (c)(2). Pub. L. 105–385, § 212(a)(2), (b)(3)(B), designated existing provisions as subpar. (A), inserted heading, substituted ''trust'' for ''reserve'', and added subpar. (B).

Subsecs. (c)(3), (d)(1), (2). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve''.

Subsec. (d)(3). Pub. L. 105–385, § 212(a)(3), added par. (3).

Subsec. (e). Pub. L. 105–385, § 212(b)(3)(B), (D), substituted ''trust'' for ''reserve'' in heading and introductory provisions.

Subsec. (f)(2). Pub. L. 105–385, § 212(a)(4)(A), inserted ''of trust'' after ''Reimbursement'' in heading.

Subsec. (f)(2)(A). Pub. L. 105–385, § 212(a)(4)(B), inserted before period at end ''and the funds shall be available to replenish the trust under subsection (b) of this section''.

Subsecs. (f)(2)(B)(ii), (h)(1), (2). Pub. L. 105–385, § 212(b)(3)(B), substituted ''trust'' for ''reserve''.

EFFECTIVE DATE

Section 303 of title III of Pub. L. 96–494 provided that former section 1736f–1 of this title and provisions set out as a note under that section became effective on Dec. 3, 1980, prior to the general amendment of title III of Pub. L. 96–494 by Pub. L. 104–127, § 225(a).

SHORT TITLE

Section 301 of title III of Pub. L. 96–494, as added by Pub. L. 104–127, title II, § 225(a), Apr. 4, 1996, 110 Stat. 959, and amended by Pub. L. 105–385, title II, § 212(b)(2), Nov. 13, 1998, 112 Stat. 3466, provided that: ''This title [enacting this section] may be cited as the 'Bill Emerson Humanitarian Trust Act'.''

A prior section 301 of title III of Pub. L. 96–494 provided that title III (enacting former section 1736f–1 of this title and provisions set out as a note under that section) could be cited as the ''Food Security Wheat Reserve Act of 1980'', prior to the general amendment of title III of Pub. L. 96–494 by Pub. L. 104–127, § 225(a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4001 of this title; title 46 App. section 1241f.

§ 1736g. Coordination of foreign assistance programs

To the maximum extent practicable, assistance for a foreign country under subchapter III–A of this chapter shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds devoted to, activities that will increase the nutritional impact of programs of assistance under subchapter III–A of this chapter, and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

(July 10, 1954, ch. 469, title IV, § 413, as added Pub. L. 96–53, title II, § 210, Aug. 14, 1979, 93 Stat. 370; amended Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3656; Pub. L. 104–127, title II, § 221, Apr. 4, 1996, 110 Stat. 958.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''subchapter III–A of this chapter'' for ''this chapter'' in two places.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions requiring, to maximum extent practicable, availability of commodities on multiyear basis.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as an Effective Date of 1979 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

§ 1736g–1. Assistance in furtherance of narcotics control objectives of United States

(a) Substantial injury

Local currencies that are made available for use under this chapter may not be used to fi-

nance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) Exception for narcotics control

Notwithstanding subsection (a) of this section, the President may provide assistance under this chapter, including assistance through the use of local currencies generated by the sale of commodities under such chapter, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 2291(i)(2)[1] of title 22), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.

(July 10, 1954, ch. 469, title IV, § 414, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3656.)

EFFECTIVE DATE

Section effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

§ 1736g–2. Micronutrient fortification pilot program

(a) In general

Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this chapter. The purpose of the program shall be to—

(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

(b) Selection of participating countries

From among the countries eligible for assistance under this chapter, the Secretary may select not more than 5 developing countries to participate in the pilot program.

(c) Fortification

Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

(d) Termination of authority

The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.

[1] So in original. Probably should be section ''2291(e)(2)''.

(July 10, 1954, ch. 469, title IV, § 415, as added Pub. L. 104–127, title II, § 222, Apr. 4, 1996, 110 Stat. 958.)

§ 1736g–3. Use of certain local currency

Local currency payments received by the United States pursuant to agreements entered into under subchapter II of this chapter (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 1708 of this title (as in effect on November 27, 1990).

(July 10, 1954, ch. 469, title IV, § 416, as added Pub. L. 104–127, title II, § 223, Apr. 4, 1996, 110 Stat. 958.)

REFERENCES IN TEXT

Section 1708 of this title (as in effect on November 27, 1990), referred to in text, was omitted in the general amendment of this chapter by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

§ 1736h. Congressional consultation on bilateral commodity supply agreements

As soon as practicable before the Government of the United States enters into any bilateral international agreement, other than a treaty, involving a commitment on the part of the United States to assure access by a foreign country or instrumentality thereof to United States agricultural commodities or products thereof on a commercial basis, the President is encouraged to notify and consult with the appropriate committees of Congress for the purpose of setting forth in detail the terms of and reasons for negotiating such agreement.

(Pub. L. 97–98, title XII, § 1202, Dec. 22, 1981, 95 Stat. 1275.)

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§§ 1736i to 1736k. Repealed. Pub. L. 101–624, title XV, § 1573, Nov. 28, 1990, 104 Stat. 3702

Section 1736i, Pub. L. 97–98, title XII, § 1203, Dec. 22, 1981, 95 Stat. 1275, provided for a special standby export subsidy program.

Section 1736j, Pub. L. 97–98, title XII, § 1204, Dec. 22, 1981, 95 Stat. 1276; Pub. L. 99–198, title XI, § 1133(b), Dec. 23, 1985, 99 Stat. 1489, provided for protection against agricultural embargo. See section 5672 of this title.

Section 1736k, Pub. L. 97–98, title XII, § 1205, Dec. 22, 1981, 95 Stat. 1277, provided for development of plans, recommendations, and programs to alleviate the adverse impact of export embargoes on agricultural commodities. See section 5672 of this title.

§ 1736*l*. Consultation on grain marketing

Congress encourages the Secretary of Agriculture, in coordination with other appropriate Federal departments and agencies, to continue to consult with representatives of other major grain exporting nations toward the goal of establishing more orderly marketing of grain and

achieving higher farm income for producers of grain.

(Pub. L. 97–98, title XII, §1206, Dec. 22, 1981, 95 Stat. 1278.)

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§§ 1736m, 1736n. Repealed. Pub. L. 104–127, title II, §§ 226, 266, Apr. 4, 1996, 110 Stat. 962, 974

Section 1736m, Pub. L. 97–98, title XII, §1207, Dec. 22, 1981, 95 Stat. 1278; Pub. L. 99–198, title XI, §1126(c), Dec. 23, 1985, 99 Stat. 1482, related to expansion of international markets for United States agricultural commodities and products.

Section 1736n, Pub. L. 97–98, title XII, §1208, Dec. 22, 1981, 95 Stat. 1280; Pub. L. 101–624, title XV, §1515(a), Nov. 28, 1990, 104 Stat. 3663, directed Secretary of Agriculture to continue investigating potential for increased usage of protein byproducts derived from alcohol fuel production and report results to Congress.

§ 1736*o*. Food for progress

(a) Short title

This section may be cited as the ''Food for Progress Act of 1985''.

(b) Agreements with developing countries and emerging democracies to furnish commodities

In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies, that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President is authorized to enter into agreements with the governments of such countries (including the independent states of the former Soviet Union), or with private voluntary organizations, nonprofit agricultural organizations, cooperatives, intergovernmental organizations, or other private entities, to furnish commodities made available pursuant to subsections (e) and (f) of this section. Such agreements may provide for commodities to be furnished on a multiyear basis.

(c) "Commodities" defined

As used in this section, the term ''commodities'' means agricultural commodities and the products thereof.

(d) Considerations for agreements

In determining whether to enter into an agreement under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

(2) market pricing of commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e) Availability of commodities; financing sale and exportation of commodities; payment of costs and charges

(1) The Commodity Credit Corporation shall make available to the President such commodities determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1731] as the President may request for purposes of furnishing commodities under this section.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1701 et seq.] in carrying out this section with respect to commodities made available under that Act [7 U.S.C. 1691].

(3) The Commodity Credit Corporation may finance the sale and exportation of commodities, made available under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], which are furnished under this section. Payment for commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 103 of that Act [7 U.S.C. 1703].

(4) In the case of commodities made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 406 of that Act [7 U.S.C. 1736] shall apply to commodities furnished on a grant basis under this section and sections 402, 403(a), 403(c), and 403(i) of that Act [7 U.S.C. 1732, 1733(a), (c), (i)] shall apply to all commodities furnished under this section.

(f) Provision to developing countries on grant basis; purchase of commodities by Commodity Credit Corporation; funds for implementation; cost of commodities and expenses

(1) The Commodity Credit Corporation may provide for—

(A) grants, or

(B) sales on credit terms,

of commodities made available under section 1431(b) of this title for use in carrying out this section.

(2) In carrying out section 1431(b) of this title, the Commodity Credit Corporation may pur-

chase commodities for use under this section if—

(A) the Commodity Credit Corporation does not hold stocks of such commodities; or

(B) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

(3) No funds of the Commodity Credit Corporation in excess of $30,000,000 (or, in the case of fiscal year 1999, $35,000,000) (exclusive of the cost of commodities) may be used for each of fiscal years 1996 through 2002 to carry out this section with respect to commodities made available under section 1431(b) of this title unless authorized in advance in appropriation Acts.

(4) The cost of commodities made available under section 1431(b) of this title which are furnished under this section, and the expenses incurred in connection with furnishing such commodities, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] and may not be considered expenditures for international affairs and finance.

(g) Maximum amount of metric tons of commodities to be furnished

Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 2002.

(h) Prohibition on resale of transshipment of commodities

An agreement entered into under this section shall prohibit the resale or transshipment of the commodities provided under the agreement to other countries.

(i) Agreements not to displace other sales of United States commodities

In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j) Agreements for distribution or sale on multiyear basis

In carrying out this section, the President may, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by the recipient on a multiyear basis if the agreements otherwise meet the requirements of this section.

(k) Effective and termination dates

This section shall be effective during the period beginning October 1, 1985, and ending December 31, 2002.

(*l*) Additional assistance in administration of food assistance programs

(1) To enhance the development of private sector agriculture in countries receiving assistance under this section the President may, in each of the fiscal years 1996 through 2002, use in addition to any amounts or commodities otherwise made available under this section for such activities, not to exceed $10,000,000 (or, in the case of fiscal year 1999, $12,000,000) of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs, and to provide technical assistance for monetization programs, to strengthen private sector agriculture in recipient countries.

(2) To carry out this subsection, the President may provide agricultural commodities under agreements entered into under this section in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

(3) The President may use the assistance provided under this subsection and local currencies derived from the sale of commodities under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural commodities.

(m) Agreements for sale of commodities

In carrying out this section, the President shall approve, as determined appropriate by the President, agreements with agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives that provide for—

(1) the sale of commodities, including the marketing of these commodities through the private sector; and

(2) the use of the proceeds generated in the humanitarian and development programs of such agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives.

(n) Private Voluntary Organizations to carry out section

During fiscal year 1999, to the maximum extent practicable, the Secretary shall utilize Private Voluntary Organizations to carry out this section.

(*o*) "Independent states of the former Soviet Union" defined

As used in this section, the term ''independent states of the former Soviet Union'' means the independent states of the former Soviet Union as defined in section 5602(8) of this title.

(Pub. L. 99–198, title XI, §1110, Dec. 23, 1985, 99 Stat. 1472; Pub. L. 100–418, title IV, §4303, Aug. 23, 1988, 102 Stat. 1397; Pub. L. 101–624, title XV, §§1516, 1572(1), Nov. 28, 1990, 104 Stat. 3663, 3702; Pub. L. 102–237, title III, §335, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102–511, title VII, §701, Oct. 24, 1992, 106 Stat. 3348; Pub. L. 104–127, title II, §§227, 265(b), Apr. 4, 1996, 110 Stat. 962, 974; Pub. L. 105–277, div. A, §101(a) [title XI, §1125], Oct. 21, 1998, 112 Stat. 2681, 2681–45.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsecs. (e) and (f)(5), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to this chapter (§1691 et seq.). Title

I of the Act is classified to subchapter II (§ 1701 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Subsec. (f)(3). Pub. L. 105–277, § 101(a) [title XI, § 1125(1)], inserted ''(or, in the case of fiscal year 1999, $35,000,000)'' after ''$30,000,000''.

Subsec. (*l*)(1). Pub. L. 105–277, § 101(a) [title XI, § 1125(2)], inserted ''(or, in the case of fiscal year 1999, $12,000,000)'' after ''$10,000,000''.

Subsecs. (n), (*o*). Pub. L. 105–277, § 101(a) [title XI, § 1125(3), (4)], added subsec. (n) and redesignated former subsec. (n) as (*o*).

1996—Subsec. (b). Pub. L. 104–127, § 227(1), struck out ''(1)'' before ''In order to use'', inserted ''intergovernmental organizations,'' after ''cooperatives,'', and struck out par. (2) which read as follows: ''The annual tonnage limitation contained in subsection (g) of this section shall not apply with respect to commodities furnished to the independent states of the former Soviet Union during fiscal year 1993.''

Subsec. (e)(3). Pub. L. 104–127, § 265(b), substituted ''section 103'' for ''section 106''.

Subsec. (e)(4). Pub. L. 104–127, § 227(2), substituted ''section 406'' for ''section 203''.

Subsec. (f)(1)(B). Pub. L. 104–127, § 227(3)(A), struck out ''in the case of the independent states of the former Soviet Union,'' before ''sales on credit terms,''.

Subsec. (f)(2) to (5). Pub. L. 104–127, § 227(3)(B)–(D), in par. (4), inserted ''for each of fiscal years 1996 through 2002'' after ''may be used'', redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: ''Not less than 75,000 metric tons shall be made available pursuant to section 1431(b)(10)(C) of this title to carry out this section unless the President determines there are an insufficient number of eligible recipients.''

Subsec. (g). Pub. L. 104–127, § 227(4), substituted ''2002'' for ''1995''.

Subsec. (j). Pub. L. 104–127, § 227(5), substituted ''may'' for ''shall''.

Subsec. (k). Pub. L. 104–127, § 227(6), substituted ''2002'' for ''1995''.

Subsec. (*l*)(1). Pub. L. 104–127, § 227(7), substituted ''1996 through 2002'' for ''1991 through 1995'' and inserted '', and to provide technical assistance for monetization programs,'' after ''monitoring of food assistance programs''.

Subsec. (m). Pub. L. 104–127, § 227(8), in introductory provisions, struck out ''with respect to the independent states of the former Soviet Union'' after ''this section'' and substituted ''agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives'' for ''private voluntary organizations and cooperatives'', and in par. (2), struck out ''in the independent states'' after ''the use'' and substituted ''agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives'' for ''private voluntary organizations and cooperatives''.

1992—Subsec. (b). Pub. L. 102–511, § 701(1), designated existing provisions as par. (1), inserted ''(including the independent states of the former Soviet Union)'' after ''such countries'', substituted ''cooperatives, or other private entities'' for ''or cooperatives'', and added par. (2).

Subsec. (f)(1). Pub. L. 102–511, § 701(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Commodities made available under section 1431(b) of this title for use in carrying out this section shall be provided on a grant basis.''

Subsecs. (m) and (n). Pub. L. 102–511, § 701(3), added subsecs. (m) and (n).

1991—Subsec. (k). Pub. L. 102–237, § 335(1), (3), redesignated subsec. (*l*) as (k) and struck out ''September 30,'' before ''December 31''.

Subsecs. (*l*), (m). Pub. L. 102–237, § 335(2), (3), redesignated subsec. (m) as (*l*) and substituted ''this section'' for ''this Act'' wherever appearing.

1990—Subsec. (b). Pub. L. 101–624, § 1516(1), substituted ''developing countries, and countries that are emerging democracies, that'' for ''countries that'', and ''the governments of such countries, or with private voluntary organizations, nonprofit agricultural organizations, or cooperatives,'' for ''developing countries''.

Subsec. (d). Pub. L. 101–624, § 1516(2), struck out ''with countries'' before ''under this section'' in introductory provisions.

Subsec. (e)(3). Pub. L. 101–624, § 1516(3), struck out ''to a developing country'' before ''under this section'', and ''by a developing country'' before ''for commodities''.

Subsec. (e)(4). Pub. L. 101–624, § 1516(4), struck out ''to a developing country'' before ''under this section'' in two places, and substituted ''sections 402, 403(a), 403(c), and 403(i)'' for ''section 401(b)''.

Subsec. (f)(1). Pub. L. 101–624, § 1516(5), struck out ''to developing countries'' before ''on a grant basis''.

Subsec. (g). Pub. L. 101–624, § 1516(6), substituted ''1995'' for ''1990''.

Subsec. (j). Pub. L. 101–624, § 1572(1), redesignated subsec. (k) as (j) and struck out former subsec. (j) which read as follows: ''Within 90 days after the end of each fiscal year in which an agreement under this section is in effect with respect to a country, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of such agreement and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development in such country.''

Pub. L. 101–624, § 1516(7), struck out ''entered into with a country'' before ''under this section'', and inserted ''with respect to a country'' after ''effect''.

Subsec. (k). Pub. L. 101–624, § 1572(1)(B), redesignated subsec. (k) as (j).

Pub. L. 101–624, § 1516(8), substituted ''the recipient'' for ''recipient countries''.

Subsec. (*l*). Pub. L. 101–624, § 1516(9), substituted ''December 31, 1995'' for ''1990''.

Subsec. (m). Pub. L. 101–624, § 1516(10), added subsec. (m).

1988—Subsecs. (k), (*l*). Pub. L. 100–418 added subsec. (k) and redesignated former subsec. (k) as (*l*).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Agriculture, by section 4(g) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

EXECUTIVE ORDER NO. 12583

Ex. Ord. No. 12583, Feb. 19, 1987, 52 F.R. 5427, which related to the delegation of functions relating to entering into agreements with developing countries and waiving minimum tonnage requirements, was revoked by section 6 of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431, 1736a of this title; title 22 sections 5413, 5425.

§ 1736p. Trade policy declaration

It is hereby declared to be the agricultural trade policy of the United States to—

(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

(Pub. L. 99–198, title XI, § 1121, Dec. 23, 1985, 99 Stat. 1480; Pub. L. 104–127, title II, § 267, Apr. 4, 1996, 110 Stat. 974.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104–127 struck out subsec. (a) which stated congressional findings regarding United States agricultural export policy, struck out subsec. designation ''(b)'', and substituted pars. (1) to (4) for former pars. (1) to (4) which read as follows:

''(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

''(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

''(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

''(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States imports of foreign agricultural commodities and their products, as a means to encourage fairer trade;''.

§ 1736q. Repealed. Pub. L. 104–127, title II, § 268, Apr. 4, 1996, 110 Stat. 975

Section, Pub. L. 99–198, title XI, § 1122, Dec. 23, 1985, 99 Stat. 1480, related to liberalization of agricultural trade policy.

§ 1736r. Trade negotiations policy

(a) Findings

Congress finds that—

(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

(B) developing common rules for the application of sanitary and phytosanitary restrictions;

that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

(b) Goals of the United States in agricultural trade negotiations

The objectives of the United States with respect to future negotiations on agricultural trade include—

(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

(4) encouraging government policies that avoid price-depressing surpluses.

(Pub. L. 99–198, title XI, § 1123, Dec. 23, 1985, 99 Stat. 1481; Pub. L. 104–127, title II, § 269, Apr. 4, 1996, 110 Stat. 975.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions relating to initiation and pursuit of agricultural trade consultations among major agricultural producing countries, providing for sense of Congress concerning objectives of such consultations, and requiring annual reports by Secretary of Agriculture on progress of such consultations.

§§ 1736s, 1736t. Repealed. Pub. L. 101–624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702

Section 1736s, Pub. L. 99–198, title XI, § 1124, Dec. 23, 1985, 99 Stat. 1481; Pub. L. 99–260, § 5, Mar. 20, 1986, 100 Stat. 49; Pub. L. 100–418, title IV, § 4304, Aug. 23, 1988, 102 Stat. 1397; Pub. L. 101–239, title I, § 1005(b), Dec. 19, 1989, 103 Stat. 2109, provided for targeted export assistance for fiscal years 1986 through 1990.

Section 1736t, Pub. L. 99–198, title XI, § 1125, Dec. 23, 1985, 99 Stat. 1482; Pub. L. 100–418, title IV, § 4402(a), Aug. 23, 1988, 102 Stat. 1400, provided for short-term export credits.

EXPORT CREDIT GUARANTEE PROGRAM

Pub. L. 100–418, title IV, § 4305, Aug. 23, 1988, 102 Stat. 1398, which stated the sense of Congress that, to the extent that the Commodity Credit Corporation made a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1736t for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation was to be made on a country-only basis and not on a commodity basis or a commodity and country basis, was repealed by Pub. L. 101–624, title XV, § 1571, Nov. 28, 1990, 104 Stat. 3702.

§ 1736u. Cooperator market development program

(a) Sense of Congress

It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) Exemption from requirements of OMB circular

The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(Pub. L. 99–198, title XI, § 1126(a), (b), Dec. 23, 1985, 99 Stat. 1482.)

CODIFICATION

Section consists of subsecs. (a) and (b) of section 1126 of Pub. L. 99–198. Subsec. (c) of section 1126 amended section 1736m(a)(5)(B) of this title.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§§ 1736v to 1736x. Repealed. Pub. L. 101–624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702

Section 1736v, Pub. L. 99–198, title XI, § 1127, Dec. 23, 1985, 99 Stat. 1483; Pub. L. 99–260, § 6, Mar. 20, 1986, 100 Stat. 50; Pub. L. 100–418, title IV, § 4306, Aug. 23, 1988, 102 Stat. 1398, provided for program to develop and expand markets for United States agricultural commodities.

Section 1736w, Pub. L. 99–198, title XI, § 1128, Dec. 23, 1985, 99 Stat. 1485, provided for program of export sales of poultry, beef and pork meats and meat-food products for 1986 through 1989.

Section 1736x, Pub. L. 99–198, title XI, § 1132, Dec. 23, 1985, 99 Stat. 1488; Pub. L. 100–418, title IV, § 4307, Aug. 23, 1988, 102 Stat. 1398, provided for reports by agricultural attachés. See section 1748 of this title.

§ 1736y. Contract sanctity and producer embargo protection

It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act [50 App. U.S.C. 2401 et seq.]; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

(Pub. L. 99–198, title XI, § 1133(a), Dec. 23, 1985, 99 Stat. 1489.)

REFERENCES IN TEXT

The Export Administration Act, referred to in par. (3), probably means the Export Administration Act of 1979, Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

CODIFICATION

Section is comprised of section 1133(a) of Pub. L. 99–198. Section 1133(b) of Pub. L. 99–198 amended section 1736j of this title.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Trade Development and Assistance Act of 1954 which comprises this chapter.

§§ 1736z, 1736aa. Repealed. Pub. L. 101–624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702

Section 1736z, Pub. L. 99–198, title XI, § 1162, Dec. 23, 1985, 99 Stat. 1499, provided for a regular assessment of certain projects and activities administered by the Secretary and Department of Agriculture.

Section 1736aa, Pub. L. 99–198, title XI, § 1167(d), Dec. 23, 1985, 99 Stat. 1503, provided for barter by exporters of agricultural commodities and products for foreign products needed by exporters.

§§ 1736bb to 1736bb–6. Repealed. Pub. L. 104–127, title II, § 271(a), Apr. 4, 1996, 110 Stat. 976

Section 1736bb, Pub. L. 100–202, § 1, Dec. 22, 1987, 101 Stat. 1329–445; Pub. L. 100–418, title IV, § 4610(b), Aug. 23,

1988, 102 Stat. 1411, related to establishment of agricultural aid and trade missions.

Section 1736bb–1, Pub. L. 100–202, § 2, Dec. 22, 1987, 101 Stat. 1329–445, related to required and additional missions and eligible countries.

Section 1736bb–2, Pub. L. 100–202, § 3, Dec. 22, 1987, 101 Stat. 1329–446, related to functions of members of missions to eligible countries.

Section 1736bb–3, Pub. L. 100–202, § 4, Dec. 22, 1987, 101 Stat. 1329–446; Pub. L. 100–418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to mission reports.

Section 1736bb–4, Pub. L. 100–202, § 5, Dec. 22, 1987, 101 Stat. 1329–446; Pub. L. 100–418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to quarterly progress reports on implementing recommendations of missions.

Section 1736bb–5, Pub. L. 100–202, § 6, Dec. 22, 1987, 101 Stat. 1329–447; Pub. L. 100–418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411, related to authorization of appropriations.

Section 1736bb–6, Pub. L. 100–202, § 7, Dec. 22, 1987, 101 Stat. 1329–447; Pub. L. 100–418, title IV, § 4610(b), Aug. 23, 1988, 102 Stat. 1411; Pub. L. 101–624, title XV, § 1515(b), Nov. 28, 1990, 104 Stat. 3663; Pub. L. 102–237, title III, § 307, Dec. 13, 1991, 105 Stat. 1856, provided definitions for former sections 1736bb to 1736bb–6.

INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS

Pub. L. 100–277, § 7, Apr. 4, 1988, 102 Stat. 69, provided that any agricultural aid and trade mission established under this section and any other activity under sections 1736bb to 1736bb–6 of this title were not to be considered advisory committee for purposes of Federal Advisory Committee Act, 5 App. U.S.C., prior to repeal by Pub. L. 104–127, title II, § 271(b), Apr. 4, 1996, 110 Stat. 976.

§ 1736cc. Repealed. Pub. L. 101–624, title XV, § 1577, Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 101–220, § 13, Dec. 12, 1989, 103 Stat. 1884, prohibited duty drawback claims by exporters who used certain export promotion programs.

SUBCHAPTER V—FARMER-TO-FARMER PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1727e of this title.

§ 1737. Farmer-to-farmer program

(a) In general

To further assist developing countries, middle-income countries, and emerging markets to increase farm production and farmer incomes, the President may, notwithstanding any other provision of law—

(1) establish and administer a program of farmer-to-farmer assistance between the United States and such countries to assist in increasing food production and distribution and improving the effectiveness of the farming and marketing operations of farmers;

(2) utilize United States farmers, agriculturalists, land grant universities, private agribusinesses, and nonprofit farm organizations to work in conjunction with farmers and farm organizations in such countries, on a voluntary basis, to facilitate the improvement of farm and agribusiness operations and agricultural systems in such countries, including animal care and health, field crop cultivation, fruit and vegetable growing, livestock operations, food processing and packaging, farm credit, marketing, inputs, agricultural extension, and the strengthening of cooperatives and other farmer groups;

(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on a people-to-people basis, to such countries while enhancing the democratic process by supporting private and public agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

(4) to the extent practicable, enter into contracts or other cooperative agreements with or make grants to private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available pursuant to subsection (c) of this section or has otherwise been provided in advance in appropriation Acts);

(5) coordinate programs established under this section with other foreign assistance activities carried out by the United States; and

(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this chapter, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted.

(b) Definitions

The following definitions apply for purposes of this section:

(1) Emerging market

The term ''emerging market'' means any country that the Secretary determines—

(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

(2) Middle income country

The term ''middle income country'' means a country that has developed economically to the point where it does not receive bilateral development assistance from the United States.

(c) Minimum funding

Notwithstanding any other provision of law, not less than 0.4 percent of the amounts made available for each of the fiscal years 1996 through 2002 to carry out this chapter, in addition to any funds that may be specifically appropriated to carry out this section, shall be used to carry out programs under this section, with not less than 0.2 percent to be used for programs in developing countries.

(July 10, 1954, ch. 469, title V, § 501, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat.

3656; amended Pub. L. 102–237, title III, § 301, Dec. 13, 1991, 105 Stat. 1855; Pub. L. 104–127, title II, §§ 224, 277(c)(1), Apr. 4, 1996, 110 Stat. 959, 979.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 277(c)(1)(A), substituted ''emerging markets'' for ''emerging democracies'' in introductory provisions.

Subsec. (a)(6). Pub. L. 104–127, § 224(1), added par. (6) and struck out former par. (6) which read as follows: ''to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this chapter, and local currencies generated from other types of foreign assistance activities.''

Subsec. (b)(1). Pub. L. 104–127, § 277(c)(1)(B), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The term ''emerging democracy'' means a country that is taking steps toward—

''(A) political pluralism, based on progress toward free and fair elections and a multiparty political system;

''(B) economic reform, based on progress toward a market-oriented economy;

''(C) respect for internationally recognized human rights; and

''(D) a willingness to build a friendly relationship with the United States.''

Subsec. (c). Pub. L. 104–127, § 224(2), substituted ''0.4 percent of the amounts'' for ''0.2 percent of the amounts'', ''1996 through 2002'' for ''1991 through 1995'', and ''0.2 percent to be used'' for ''0.1 percent to be used''.

1991—Subsec. (a)(3). Pub. L. 102–237 struck out comma after ''public''.

EFFECTIVE DATE

Section effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

SUBCHAPTER VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

§ 1738. Establishment of Facility

There is established in the Department of the Treasury an entity to be known as the ''Enterprise for the Americas Facility'' (hereafter referred to in this subchapter as the ''Facility'').

(July 10, 1954, ch. 469, title VI, § 601, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3658.)

EFFECTIVE DATE

Subchapter effective Jan. 1, 1991, see section 1513 of Pub. L. 101–624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

EX. ORD. NO. 12757. IMPLEMENTATION OF ENTERPRISE FOR THE AMERICAS INITIATIVE AND THE TROPICAL FOREST CONSERVATION ACT OF 1998

Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, as amended by Ex. Ord. No. 12823, Dec. 3, 1992, 57 F.R. 57645; Ex. Ord. No. 13028, Dec. 3, 1996, 61 F.R. 64589; Ex. Ord. No. 13131, July 22, 1999, 64 F.R. 40733, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 (''ATDA Act'') [7 U.S.C. 1691 et seq.], as amended by Public Law 101–624 and Public Law 102–237, the Foreign Assistance Act of 1961 (''FAA'') [22 U.S.C. 2151 et seq.], as amended by Public Law 102–549 and Public Law 105–214, and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (''Public Law 104–107'') [110 Stat. 748], it is hereby ordered as follows:

SECTION 1. The functions vested in the President by sections 603, 604, 611, and 614 of the ATDA Act [7 U.S.C. 1738b, 1738c, 1738j, and 1738m], sections 703, 704, 805(b), 806(a), 807(a), 808(a)(1)(A), 808(a)(2), 812 and 813 of the FAA [22 U.S.C. 2430b, 2430c, 2431c(b), 2431d(a), 2431e(a), 2431f(a)(1)(A), (2), 2431j, 2431k], and section 571(a)(1) of Public Law 104–107 are delegated to the Secretary of the Treasury (''Secretary''), who shall exercise such functions in accordance with recommendations of the National Advisory Council on International Monetary and Financial Policies (''Council''), as established by Executive Order No. 11269 of February 14, 1966 [22 U.S.C. 286b note]; except that, with respect to the eligibility determinations required by section 703(a)(1), (2), (3), and (4) of the FAA and the corresponding determinations required by section 805(b) of the FAA,, [sic] the Secretary of the Treasury shall act in accordance with the recommendations of the Secretary of State. The functions vested in the President by sections 808(a)(1)(B) and (C), and 808(a)(4) of the FAA, and by section 571(a)(2), (c) and (d) of Public Law 104–107 are also delegated to the Secretary, who shall exercise such functions in accordance with recommendations of the Council and in consultation with the Secretary of State. The Secretary of State, when necessary, shall report to the Council regarding the need to review the implementation of environmental programs pursuant to section 611 of the ATDA Act.

SEC. 2. (a) For purposes of section 1 of this order only, the membership of the Council shall be expanded to include the following: the Secretary of Agriculture, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency.

(b) Whenever matters being considered by the Council may be of interest to an agency not represented on the Council, the chairperson may invite a representative of such agency to participate in meetings and deliberations of the Council.

(c) In the event of a disagreement among agencies represented on the Council, the Secretary shall refer the issue to the appropriate Cabinet-level body designated by the President.

SEC. 3. (a) The functions vested in the President by section 607 of the ATDA Act [7 U.S.C. 1738f] are delegated to the Secretary of State, in consultation with the Department of the Treasury, the Department of Agriculture, the Department of Commerce, the Council on Environmental Quality, the Environmental Protection Agency, the Agency for International Development, and any other agency determined by the Secretary of State to have an interest in an environmental framework agreement.

(b) Pursuant to section 610(c) of the ATDA Act [7 U.S.C. 1738i(c)] and section 709(1) of the FAA [22 U.S.C. 2430h(1)], the Enterprise for the Americas Board shall advise the Secretary of State on the negotiations of the environmental framework agreements and the Americas Framework Agreements. The Enterprise for the Americas Board, as constituted pursuant to section 811 of the FAA [22 U.S.C. 2431i], shall also advise the Secretary of State and the Administrator of the United States Agency for International Development on the Secretary—s [sic] negotiation of Tropical Forest Agreements.

(c) The Secretary of State shall ensure that the elements and requirements for the Administering Bodies established in section 607(c) of the ATDA Act and sections 708(c) and 809(c) of the FAA [22 U.S.C. 2430g(c), 2431g(c)] shall be included in the environmental framework agreements, the Americas Framework Agreements and the Tropical Forest Agreements, respectively.

SEC. 4. (a) The six U.S. Government members of the Enterprise for the Americas Board (''Board'') established by section 610 of the ATDA Act [7 U.S.C. 1738i]

shall be representatives from the Department of State, the Department of the Treasury, the Department of Agriculture, the Environmental Protection Agency, the Agency for International Development, and the Inter-American Foundation. The two additional U.S. Government members of the Enterprise for the Americas Board appointed pursuant to section 811(b)(1)(A) of the FAA [22 U.S.C. 2431i(b)(1)(A)] shall be a representative of the International Forestry Division of the United States Forest Service and a representative of the Council on Environmental Quality.

(b) The Department of Commerce and other appropriate agencies may each send representatives to the meetings of the Board, and such representatives may participate in the activities of the Board.

(c) The representative from the Department of the Treasury shall be the chairperson of the Board. The representative from the Department of State shall be the vice chairperson of the Board. The representative from the Environmental Protection Agency shall serve as secretary of the Board.

(1) The chairperson shall be responsible for presiding over the meetings of the Board, ensuring that the views of all other participants are taken into account, and coordinating with other appropriate agencies in assisting the Board in its review of the fiscal audits conducted pursuant to section 607(c)(4) of the ATDA Act [7 U.S.C. 1738f(c)(4)] and sections 708(c)(3)(C) and 811(c)(3) of the FAA [22 U.S.C. 2430g(c)(3)(C), 2431i(c)(3)].

(2) The vice chairperson shall be responsible for serving as liaison between the Board and local governments, local nongovernmental organizations, and the local Administering Bodies in Latin America and the Caribbean, and for coordinating the international activities related to programs funded under the ATDA Act and Parts IV and V of the FAA [22 U.S.C. 2430 et seq., 2431 et seq.].

(3) The secretary of the Board shall be responsible for coordinating the preparation of materials for Board discussion, including the technical reviews of the annual programs and reports required to be submitted to the Board under section 607(c)(5) and (c)(6) of the ATDA Act and section 708(c)(3)(E) and (F) of the FAA, and for preparing official minutes of Board discussions.

(d) The five private nongovernmental organization members of the Board appointed pursuant to section 610(b)(1)(B) of the ATDA Act and the two additional members appointed pursuant to section 811(b)(1)(B) of the FAA shall be appointed by the President.

SEC. 5. No new agreement under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended [7 U.S.C. 1701 et seq.], and no new credit agreement under the Food for Progress Act of 1985, as amended [7 U.S.C. 1736*o*], shall be entered into with any country that is in default with respect to the payment of principal or interest on any obligation issued pursuant to section 604 of the ATDA Act [7 U.S.C. 1738c] unless such country meets its obligations or unless the President so authorizes.

SEC. 6. Any references in this order to section 571, or any subsection of section 571, of Public Law 104–107 shall be deemed to include references to any hereinafter-enacted provision of law that is the same or substantially the same as such section 571 or any subsection thereof.

SEC. 7. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 635i–6; title 22 section 2430a.

§ 1738a. Purpose

The purpose of this subchapter is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this subchapter.

(July 10, 1954, ch. 469, title VI, § 602, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3658.)

§ 1738b. Eligibility for benefits under Facility

(a) Requirements

To be eligible for benefits from the Facility under this subchapter, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this subchapter as the ''IMF'') standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this subchapter as the ''World Bank'') or the International Development Association (hereafter referred to in this subchapter as the ''IDA'');

(3) have placed into effect major investment reforms in conjunction with an Inter-American Development Bank (hereafter referred to as the ''IDB'') loan or otherwise be implementing, or making significant progress towards an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) Eligibility determination

The President shall determine whether a country is an eligible country for purposes of subsection (a) of this section.

(July 10, 1954, ch. 469, title VI, § 603, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3658; amended Pub. L. 102–237, title III, § 302, Dec. 13, 1991, 105 Stat. 1855.)

AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102–237 inserted hyphen between ''Inter'' and ''American''.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, set out as a note under section 1738 of this title.

§ 1738c. Reduction of certain debt

(a) Authority to reduce debt

(1) In general

Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under subchapter II of this chapter to a country eligible for benefits from the Facility.

(2) Availability of appropriations

The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

(b) Limitation

A debt reduction authorized under subsection (a) of this section shall be accomplished, at the direction of the Facility, through the exchange of a new obligation under this subchapter for obligations of the type referred to in subsection (a) of this section outstanding as of January 1, 1990.

(c) Exchange of obligations

The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) of this section with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

(July 10, 1954, ch. 469, title VI, § 604, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3658; amended Pub. L. 102–237, title III, § 303, Dec. 13, 1991, 105 Stat. 1855.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237 substituted ''Availability'' for ''Avaliability'' in heading.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, set out as a note under section 1738 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738d, 1738e of this title; title 22 section 2431e.

§ 1738d. Repayment of principal

(a) Currency of payment

The principal amount owed under each new obligation issued under section 1738c of this title shall be repaid in United States dollars.

(b) Deposit of payments

Principal repayments on new obligations issued under section 1738c of this title shall be deposited in Commodity Credit Corporation accounts.

(July 10, 1954, ch. 469, title VI, § 605, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3659.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2431e.

§ 1738e. Interest of new obligations

(a) Rate of interest

New obligations issued to an eligible country under section 1738c of this title shall bear interest at a concessional rate.

(b) Currency of payment, deposits

(1) United States dollars

An eligible country to which a new obligation has been issued under section 1738c of this title that has not entered into an agreement under section 1738f of this title, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

(2) Local currency

If an eligible country to which a new obligation has been issued under section 1738c of this title has entered into an agreement under section 1738f of this title, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 1738g of this title. Such interest shall be the property of the eligible country until such time as it is disbursed under section 1738g of this title. Such local currencies shall be used for the purposes specified in the agreement entered into under section 1738f of this title.

(c) Interest previously paid

If an eligible country to which a new obligation has been issued under section 1738c of this title enters into an agreement under section 1738f of this title subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 1738g(a) of this title but shall be deposited into Commodity Credit Corporation accounts.

(July 10, 1954, ch. 469, title VI, § 606, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3659; amended Pub. L. 102–237, title III, § 304, Dec. 13, 1991, 105 Stat. 1855.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–237 inserted ''accounts'' after ''Corporation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2431e.

§ 1738f. Environmental framework agreements

(a) Authority

The President is authorized to enter into an environmental framework agreement with each country eligible for benefits from the Facility concerning the operation and use of an Enterprise for the Americas Environmental Fund (hereafter referred to in this subchapter as the ''Environmental Fund'') established under section 1738g of this title for that country. The President shall consult with the Board established under section 1738i of this title when entering into such agreements.

(b) Requirements

An environmental framework agreement entered into under this section shall—

(1) require the eligible country to establish an Environmental Fund;

(2) require the eligible country to make interest payments under section 1738g(a) of this title into the Environmental Fund;

(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c) of this section;

(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

(5) specify, in accordance with section 1738k of this title, the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) Administering body

Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

(1) be composed of—

(A) one or more representatives appointed by the President;

(B) one or more representatives appointed by the eligible country; and

(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 1738k of this title;

(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(4) be subject to fiscal audits by an independent auditor on an annual basis;

(5) present an annual program for review by the Board established under section 1738i of this title each year;

(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 1738i of this title, and the government of the eligible country each year; and

(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

(July 10, 1954, ch. 469, title VI, § 607, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3659; amended Pub. L. 102–237, title III, § 305, Dec. 13, 1991, 105 Stat. 1855.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 moved closing quotation marks in parenthetical phrase from after ''Environmental'' to after ''Fund''.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State by section 3(a) of Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, set out as a note under section 1738 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738e, 1738g, 1738h, 1738i, 1738k of this title; title 12 section 635i–6.

§ 1738g. Enterprise for the Americas environmental funds

(a) Establishment

An eligible country shall, under the terms of an environmental framework agreement entered into under section 1738f of this title, establish an Environmental Fund to receive payments in local currency pursuant to section 1738f(b)(1) of this title.

(b) Investment

Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the account of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

(July 10, 1954, ch. 469, title VI, § 608, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3660.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738e, 1738f, 1738*o* of this title; title 12 section 635i–6.

§ 1738h. Disbursement of environmental funds

Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 1738f of this title.

(July 10, 1954, ch. 469, title VI, § 609, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3661.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 635i–6.

§ 1738i. Enterprise for the Americas Board

(a) Establishment

There is established a board to be known as the ''Enterprise for the Americas Board'' (hereafter referred to in this subchapter as the ''Board'').

(b) Membership and chairperson

(1) Membership

The Board shall be composed of—

(A) six representatives from the United States Government, at least one of whom shall be a representative of the Department of Agriculture; and

(B) five representatives from private nongovernmental environmental, child survival and child development, community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean, at least one of

whom shall be a representative from a child survival and child development organization;

to be appointed by the President.

(2) Chairperson

The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

(c) Responsibilities

The Board shall—

(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 1738f of this title;

(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 1738f(c) of this title is identified; and

(3) review the programs, operations, and fiscal audits of the bodies referred to in section 1738f(c) of this title.

(July 10, 1954, ch. 469, title VI, § 610, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3661; amended Pub. L. 102–237, title III, § 339, Dec. 13, 1991, 105 Stat. 1861; Pub. L. 102–549, title VI, § 603, Oct. 28, 1992, 106 Stat. 3669.)

AMENDMENTS

1992—Pub. L. 102–549, § 603(1), substituted ''Enterprise'' for ''Environment'' in section catchline.

Subsec. (a). Pub. L. 102–549, § 603(2), substituted ''Enterprise'' for ''Environment''.

Subsec. (b)(1)(B). Pub. L. 102–549, § 603(3), inserted ''child survival and child development,'' after ''environmental,'' and '', at least one of whom shall be a representative from a child survival and child development organization''.

1991—Subsec. (b)(1)(A). Pub. L. 102–237, § 339(1), substituted ''six'' for ''five'' and inserted '', at least one of whom shall be a representative of the Department of Agriculture'' after ''Government''.

Subsec. (b)(1)(B). Pub. L. 102–237, § 339(2), substituted ''five'' for ''four''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738f of this title; title 12 section 635i–6; title 22 sections 2430a, 2431i.

§ 1738j. Oversight

The President may designate appropriate United States agencies to review the implementation of programs under this subchapter and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

(July 10, 1954, ch. 469, title VI, § 611, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3661.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, set out as a note under section 1738 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 635i–6.

§ 1738k. Eligible activities and grantees

(a) Eligible entities

Activities eligible to receive assistance through the framework agreements entered into under section 1738f of this title, shall include—

(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 2281 et seq.);

(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(3) local community initiatives that promote conservation and sustainable use of the environment.

(b) Regulation

All activities of the type referred to in subsection (a) of this section shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

(c) Setting of priorities

Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

(d) Grants

Grants may be made by the body referred to in section 1738f(c) of this title from the Environmental Fund for environmental purposes to—

(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

(2) other appropriate local or regional entities; or

(3) in exceptional circumstances, the government of the eligible country.

(e) Priority

In providing assistance from an Environmental Fund, the body established under section 1738f(c) of this title within the eligible country shall give priority to projects that are run by nongovernmental organizations and other private entities, and that involve local communities in their planning and execution.

(July 10, 1954, ch. 469, title VI, § 612, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3661; amended Pub. L. 102–237, title III, § 306, Dec. 13, 1991, 105 Stat. 1856.)

REFERENCES IN TEXT

The Global Environmental Protection Assistance Act of 1989, referred to in subsec. (a)(1), is title VII of Pub. L. 101–240, Dec. 19, 1989, 103 Stat. 2521, which is classified generally to part VII (§ 2281 et seq.) of subchapter I of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title of 1989 Amendments note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–237 substituted ''2281 et seq.);'' for ''462), and—''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738f, 1738*o* of this title; title 12 section 635i–6.

§ 1738*l*. Encouraging multilateral debt donations

(a) Encouraging donations from official creditors

The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

(b) Encouraging donations from other sources

The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

(July 10, 1954, ch. 469, title VI, § 613, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3662.)

§ 1738m. Annual report to Congress

(a) In general

Not later than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year. This report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Enviromental[1] Framework Agreement entered into under this subchapter;

(3) a report on what Environmental Funds have been established under this subchapter and on the operations of such Funds; and

(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental[1] Framework Agreement under this subchapter.

(b) Supplemental views in annual report

No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a) of this section. Each member of the Board may prepare and submit supplemental views to the President on the implementation of this subchapter by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

(July 10, 1954, ch. 469, title VI, § 614, as added Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3662; amended Pub. L. 102–237, title III, § 330, Dec. 13, 1991, 105 Stat. 1858; Pub. L. 102–532, § 3, Oct. 27, 1992, 106 Stat. 3512.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–532 inserted at end ''This report shall include—'' and pars. (1) to (4).

1991—Pub. L. 102–237 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, set out as a note under section 1738 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 2077, 2430i.

[1] So in original. Probably should be ''Environmental''.

§ 1738n. Consultations with Congress

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this subchapter and the eligibility of countries for benefits from the Facility under this subchapter.

(July 10, 1954, ch. 469, title VI, § 615, as added Pub. L. 102–237, title III, § 331, Dec. 13, 1991, 105 Stat. 1858.)

§ 1738*o*. Sale of qualified debt to eligible countries

(a) In general

(1) Authorization

The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

(A) not less than 40 percent of the price paid for such debt by such eligible country, or

(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 1738k of this title.

(2) Environmental funds

For purposes of this section, the term ''Environmental Fund'' means an Environmental Fund established under section 1738g of this title. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

(3) Establishment and operation of environmental funds

The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

(b) Terms and conditions

The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

(c) Appropriations requirement

The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(d) Certain prohibitions inapplicable

A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(e) Implementation by Facility

A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

(f) Deposit of proceeds

The proceeds from a sale of qualified debt under this section shall be deposited in the ac-

count or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

(g) Debtor consultation

Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

(July 10, 1954, ch. 469, title VI, § 616, as added Pub. L. 102–532, § 2, Oct. 27, 1992, 106 Stat. 3509.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738p, 1738r of this title.

§ 1738p. Sale, reduction, or cancellation of qualified debt to facilitate certain debt swaps

(a) Authority to sell, reduce, or cancel qualified debt

For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1) of this section) any qualified debt of an eligible country; or

(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2) of this section).

(b) Terms and conditions

The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

(c) Eligible purchasers and eligible payors

(1) Sales of debt

Qualified debt may be sold pursuant to subsection (a)(1) of this section only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

(2) Reduction or cancellation of debt

Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) of this section only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

(d) Debtor consultation and right of first refusal

(1) Consultation

Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

(2) Right of first refusal

The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 1738*o* of this title and has not accepted that offer.

(e) Limitation

In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 1738*o* of this title.

(f) Administration

The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c) of this section, and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

(g) Appropriations requirement

The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(h) Deposit of proceeds

The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

(i) Eligible debt swaps

As used in this section, the term ''eligible debt swap'' means a debt-for-development swap or debt-for-nature swap.

(July 10, 1954, ch. 469, title VI, § 617, as added Pub. L. 102–532, § 2, Oct. 27, 1992, 106 Stat. 3510.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738r of this title.

§ 1738q. Notification to congressional committees

(a) Notice of negotiations

The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this subchapter.

(b) Transmittal of text of agreements

The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this subchapter no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

(c) Annual report

The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this subchapter during the preceding fiscal year.

(d) Designated congressional committees

As used in this section, the term ''designated congressional committees'' means the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(July 10, 1954, ch. 469, title VI, § 618, as added Pub. L. 102–532, § 2, Oct. 27, 1992, 106 Stat. 3511.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738r of this title.

§ 1738r. "Qualified debt" defined

As used in sections 1738*o*, 1738p, and 1738q of this title, the term ''qualified debt'' means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 714c(f) of title 15 or section 1707a(b)[1] of this title—

(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 1738*o* of this title or a debt sale, reduction, or cancellation pursuant to section 1738p of this title (as the case may be).

(July 10, 1954, ch. 469, title VI, § 619, as added Pub. L. 102–532, § 2, Oct. 27, 1992, 106 Stat. 3511.)

REFERENCES IN TEXT

Section 1707a of this title, referred to in text, was repealed by Pub. L. 101–624, title XV, § 1574, Nov. 28, 1990, 104 Stat. 3702. See section 5621 et seq. of this title.

CHAPTER 42—AGRICULTURAL COMMODITY SET-ASIDE

Sec.
1741. Maximum and minimum quantities for set-aside; ''commodity set-aside'' defined.
1742. Determination of commodity value for set-aside.
1743. Reduction of set-aside.
1744. Sale of commodities in set-aside; exemption from pricing limitations.
1745. Computation of carryover.
1746. Records and accounts.
1747. Authorization of appropriations; determination of value of transferred commodity.
1748. Annual reports by agricultural attachés.
(a) In general.
(b) Duties.
(c) Meeting.
1749. Attaché educational program.

§ 1741. Maximum and minimum quantities for set-aside; "commodity set-aside" defined

The Commodity Credit Corporation shall, as rapidly as the Secretary of Agriculture shall determine to be practicable, set aside within its inventories not more than the following maximum quantities and not less than the following minimum quantities of agricultural commodities or products thereof heretofore or hereafter acquired by it from 1954 and prior years' crops and production in connection with its price support operations:

Commodity	Maximum quantity	Minimum quantity
Wheat (bushels)	500,000,000	400,000,000
Upland cotton (bales)	4,000,000	3,000,000
Cottonseed oil (pounds)	500,000,000	0
Butter (pounds)	200,000,000	0
Nonfat dry milk solids (pounds)	300,000,000	0
Cheese (pounds)	150,000,000	0

Such quantities shall be known as the ''commodity set-aside''.

(Aug. 28, 1954, ch. 1041, title I, § 101, 68 Stat. 897.)

SHORT TITLE

Act Aug. 28, 1954, enacting sections 397, 1446b and 1446c of this title, this chapter, chapters 43 and 44 of this title, and section 590h–3 of Title 16, Conservation, and amending sections 602, 608c, 608e–1, 1301, 1326–1330, 1332, 1334–1335, 1340, 1344, 1371, 1374, 1421, 1428, 1441, 1446, 1446d of this title and sections 590h and 590o of Title 16, Conservation, is popularly known as the ''Agricultural Act of 1954''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1745 of this title.

§ 1742. Determination of commodity value for set-aside

Quantities of commodities shall not be included in the commodity set-aside which have an aggregate value in excess of $2,500,000,000. The value of the commodities placed in the commodity set-aside, for the purpose of this section, shall be the Corporation's investment in such commodities as of the date they are included in the commodity set-aside, as determined by the Secretary.

(Aug. 28, 1954, ch. 1041, title I, § 102, 68 Stat. 897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1746 of this title.

§ 1743. Reduction of set-aside

(a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of subchapter III of chapter 41 of this title;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded

[1] See References in Text note below.

markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of subchapter II of chapter 41 of this title;

(3) Donation to school-lunch programs;

(4) Transfer to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), without reimbursement from funds appropriated for the purposes of that Act;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States or to meet any national emergency declared by the President; and

(7) Sale for unrestricted use to meet a need for increased supplies at not less than 105 per centum of the parity price in the case of agricultural commodities and a price reflecting 105 per centum of the parity price of the agricultural commodity in the case of products of agricultural commodities.

The President shall prescribe such terms and conditions for the disposal of commodities in the commodity set-aside as he determines will provide adequate safeguards against interference with normal marketings of the supplies of such commodities outside the commodity set-aside. Strategic materials acquired by the Commodity Credit Corporation under paragraph (2) of this subsection shall be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.], and the Commodity Credit Corporation shall be reimbursed for the value of the commodities bartered for such strategic materials from funds appropriated for purposes of that Act. For the purpose of such reimbursement, the value of any commodity so bartered shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such barter, as determined by the Secretary of Agriculture.

(b) The quantity of any commodity in the commodity set-aside shall be reduced to the extent that the Commodity Credit Corporation inventory of such commodity is reduced, by natural or other cause beyond the control of the Corporation, below the quantity then charged to the commodity set-aside.

(Aug. 28, 1954, ch. 1041, title I, § 103, 68 Stat. 897; Pub. L. 96–41, § 3(a)(1), July 30, 1979, 93 Stat. 324.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (a), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–41 substituted ''the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)'' for ''the national stockpile established pursuant to the Act of June 7, 1939, as amended,'' in par. (4), and in the provisions following par. (7) substituted ''the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act'' for ''the national stockpile established pursuant to the Act of June 7, 1939, as amended,'' and ''funds appropriated for the purposes of that Act'' for ''funds appropriated pursuant to section 8 of such Act of June 7, 1939''.

EXECUTIVE ORDER NO. 10601

Ex. Ord. No. 10601, Mar. 21, 1955, 20 F.R. 1761, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for administration of the commodity set-aside program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1744, 1747 of this title; title 50 section 98c.

§ 1744. Sale of commodities in set-aside; exemption from pricing limitations

(a) The Corporation shall have authority to sell, without regard to section 1743(a)(7) of this title, any commodity covered by the commodity set-aside for the purpose of rotating stocks or consolidating inventories, any such sale to be offset by purchase of the same commodity in a substantially equivalent quantity or of a substantially equivalent value.

(b) Dispositions pursuant to this chapter shall not be subject to the pricing limitations of section 1427 of this title.

(Aug. 28, 1954, ch. 1041, title I, § 104, 68 Stat. 898.)

§ 1745. Computation of carryover

The quantity of any commodity in the commodity set-aside or transferred from the set-aside to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) shall be excluded from the computation of ''carryover'' for the purpose of determining the price support level for such commodity under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], and related legislation, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas under the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], and related legislation. Until such time as the commodity set-aside has been completed, such quantity of the commodity as the Secretary shall determine between the maximum and minimum quantities specified in section 1741 of this title shall be excluded from the computations of ''carryover'' for the purpose of determining the price support level, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas, for the 1955 crop of the commodity, notwithstanding that the quantity so excluded may not have been acquired by the Corporation and included in the commodity set-aside.

(Aug. 28, 1954, ch. 1041, title I, § 105, 68 Stat. 898; Pub. L. 96–41, § 3(a)(2), July 30, 1979, 93 Stat. 324.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in text, is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III

(§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1421 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

AMENDMENTS

1979—Pub. L. 96–41 substituted ''the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.)'' for ''the national stockpile established pursuant to the act of June 7, 1939, as amended''.

§ 1746. Records and accounts

The Commodity Credit Corporation shall keep such records and accounts as may be necessary to show, for each commodity set-aside, the initial and current composition, value (in accordance with section 1742 of this title), current investment, quantity disposed of, method of disposition, and amounts received on disposition.

(Aug. 28, 1954, ch. 1041, title I, § 106, 68 Stat. 898.)

§ 1747. Authorization of appropriations; determination of value of transferred commodity

In order to make payment to the Commodity Credit Corporation for any commodities transferred to the national stockpile pursuant to section 1743(a)(4) of this title, there are authorized to be appropriated amounts equal to the value of any commodities so transferred. The value of any commodity so transferred, for the purpose of this section, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of transfer to the stockpile, as determined by the Secretary of Agriculture

(Aug. 28, 1954, ch. 1041, title I, § 107, 68 Stat. 898.)

§ 1748. Annual reports by agricultural attachés

(a) In general

The Secretary shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

(1) document the nature and extent of—

(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof;

(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

(C) where practicable, the average prices and costs of production in such countries for like commodities exported from the United States to such countries; and

(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

(b) Duties

The Secretary shall—

(1) annually compile the information contained in reports prepared under subsection (a) of this section—

(A) on a country by country basis; and

(B) on a commodity by commodity basis for exports of United States agricultural commodities, as determined appropriate by the Secretary, the export of which is hampered by an unfair trade practice. Where practicable, the report shall include a comparison of the average prices and costs of production for such commodities in the United States and in the importing countries for the previous crop year;

(2) in consultation with the agricultural technical advisory committees established under section 2155(c) of title 19, include in the compilation a priority ranking of those trade barriers identified in subsection (a) of this section by commodity group;

(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

(4) not later than January 15 of each year, make the compilation available to Congress, the agricultural policy advisory committee, and other interested parties.

(c) Meeting

The Secretary and the United States Trade Representative shall convene a meeting, at least once each year, of the Agricultural Policy Advisory Committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (b) of this section; and

(2) expand United States agricultural export opportunities identified in such annual reports.

(Aug. 28, 1954, ch. 1041, title I, § 108, as added Pub. L. 101–624, title XV, § 1532, Nov. 28, 1990, 104 Stat. 3689; amended Pub. L. 102–237, title III, §§ 316–318, Dec. 13, 1991, 105 Stat. 1856, 1857; Pub. L. 104–127, title II, § 272, Apr. 4, 1996, 110 Stat. 976.)

AMENDMENTS

1996—Subsec. (b)(1)(B). Pub. L. 104–127 struck out ''including fruits, vegetables, legumes, popcorn and ducks'' after ''agricultural commodities''.

1991—Pub. L. 102–237, § 316, made technical amendment to directory language of Pub. L. 101–624, § 1532, which enacted this section, resulting in no change in text.

Subsec. (b)(1)(B). Pub. L. 102–237, § 317, substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 102–237, § 318, struck out ''the trade assistance office authorized under section 504 of the Agricultural Trade Act of 1978 (as amended by section 201),'' after ''available to Congress,''.

§ 1749. Attaché educational program

The Administrator of the Foreign Agricultural Service shall establish a program within the Service that directs attachés of the Service who are reassigned from abroad to the United States,

and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

(Aug. 28, 1954, ch. 1041, title I, § 109, as added Pub. L. 101–624, title XV, § 1532, Nov. 28, 1990, 104 Stat. 3690; amended Pub. L. 102–237, title III, § 316, Dec. 13, 1991, 105 Stat. 1856.)

AMENDMENTS

1991—Pub. L. 102–237, § 316, made technical amendment to directory language of Pub. L. 101–624, § 1532, which enacted this section, resulting in no change in text.

CHAPTER 43—FOREIGN MARKET DEVELOPMENT

SUBCHAPTER I—GENERAL PROVISIONS; AGRICULTURAL COUNSELORS AND AGRICULTURAL ATTACHÉS

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SUBCHAPTER I—GENERAL PROVISIONS; AGRICULTURAL COUNSELORS AND AGRICULTURAL ATTACHÉS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1765a, 1765h of this title.

§ 1761. Foreign markets; collection of information

For the purpose of encouraging and promoting the marketing of agricultural commodities of the United States and assisting American farmers, processors, distributors, and exporters to adjust their operations and practices to meet world conditions, the Secretary of Agriculture shall acquire information regarding the competition and demand for United States agricultural commodities, the marketing and distribution of such commodities in foreign countries and shall be responsible for the interpretation and dissemination of such information in the United States and shall make investigations abroad regarding the factors affecting and influencing the export of United States agricultural commodities, and shall conduct abroad any other activities including the demonstration of standards of quality for American agricultural commodities for which the Department of Agriculture now has or in the future may have such standards, as he deems necessary. Nothing contained herein shall be construed as prohibiting the Department of Agriculture from conducting abroad any activity for which authority now exists.

(Aug. 28, 1954, ch. 1041, title VI, § 601, 68 Stat. 908; Pub. L. 95–501, title III, § 301(3), Oct. 21, 1978, 92 Stat. 1688.)

AMENDMENTS

1978—Pub. L. 95–501 substituted ''agricultural commodities'' for ''agricultural products'' in four places and substituted ''such commodities'' for ''said products''.

WORLD LIVESTOCK MARKET PRICE INFORMATION

Pub. L. 101–624, title XV, § 1545, Nov. 28, 1990, 104 Stat. 3695, directed Secretary of Agriculture to develop appropriate methodology for determining world price of livestock and livestock products, to gather and analyze appropriate price and cost of production information concerning such products in foreign countries for purpose of price discovery and to aid in sale of livestock and livestock products in foreign export markets, and to periodically publish such information, prior to repeal by Pub. L. 104–127, title II, § 273, Apr. 4, 1996, 110 Stat. 976.

IMPLEMENTATION OF 1978 AMENDMENT; REGULATIONS

Section 601 of Pub. L. 95–501, which required Secretary of Agriculture to implement provisions of Pub. L. 95–501 as expeditiously as possible, was omitted and a new section 601 of Pub. L. 95–501 added as part of the complete revision of Pub. L. 95–501 by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668. See chapter 87 (§ 5601 et seq.) of this title.

§ 1762. Personnel

(a) Appointment

To effectuate the carrying out of the purposes of this subchapter, the Secretary of Agriculture is authorized to appoint such personnel as he determines to be necessary and, with the concurrence of the Secretary of State, to assign such personnel to service abroad.

(b) Titles; rank and privileges; appointments of Agricultural Counselors

Officers or employees assigned or appointed to posts abroad under this subchapter shall have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privileges as those of other counselors or attachés in United States embassies. An Agricultural Counselor shall be appointed in any nation—

(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such nation assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

(2) in which—

(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

(B) competition with other nations for existing and potential agricultural markets is extremely intense.

Not less than ten Agricultural Counselors shall be appointed within three years after October 21, 1978.

(c) Attachment to diplomatic missions

Upon the request of the Secretary of Agriculture, the Secretary of State shall regularly and officially attach the officers or employees of the United States Department of Agriculture to the diplomatic mission of the United States in the country in which such officers or employees are to be assigned by the Secretary of Agriculture, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(d) Assignment to United States

Any officer or employee appointed and assigned to a post abroad pursuant to this subchapter may, in the discretion of the Secretary of Agriculture, be assigned for duty in the continental United States, without regard to the civil service laws (and without reduction in grade if an appropriate position at the employee's grade is not available in any agency of the Department of Agriculture), for a period of not more than three years: *Provided,* That the total number of such employees assigned for duty in the continental United States under this provision shall not exceed fifteen at any one time: *Provided further*, That this Act shall not increase the number of persons employed at grade GS–16, GS–17, or GS–18.

(Aug. 28, 1954, ch. 1041, title VI, §602(a)–(d), formerly §602(a)–(c), (e), 68 Stat. 908, 909; amended June 28, 1955, ch. 189, §12(c)(13), 69 Stat. 182; Pub. L. 89–106, §4, Aug. 4, 1965, 79 Stat. 431; Pub. L. 94–449, Oct. 1, 1976, 90 Stat. 1500; renumbered §602(a)–(d) and amended Pub. L. 95–501, title III, §301(4), (5), title IV, §401(3), (5), Oct. 21, 1978, 92 Stat. 1688, 1691.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

This Act, referred to in subsec. (d), is act Aug. 28, 1954, ch. 1041, 68 Stat. 897, as amended, known as the Agricultural Act of 1954. For complete classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–501, §301(4), substituted ''this subchapter'' for ''this chapter''.

Subsec. (b). Pub. L. 95–501, §301(5), inserted provisions relating to appointment of Agricultural Counselors and rank and privileges to be accorded such counselors or other officers or employees assigned abroad.

Subsecs. (d), (e). Pub. L. 95–501, §§301(4), 401(5), redesignated subsec. (e) as (d) and substituted ''this subchapter'' for ''this chapter''. Former subsec. (d), relating to Presidential regulations, was redesignated section 606B of act Aug. 28, 1954, by section 401(3) of Pub. L. 95–501, which is classified to section 1766a of this title.

Subsec. (f). Pub. L. 95–501, §401(3), redesignated subsec. (f), relating to language training for families of officers and employees assigned abroad, as section 606C of act Aug. 28, 1954, which is classified to section 1766b of this title.

1976—Subsec. (f). Pub. L. 94–449 added subsec. (f).

1965—Subsec. (e). Pub. L. 89–106 added subsec. (e).

1955—Subsec. (a). Act June 28, 1955, repealed provisions authorizing the Secretary of Agriculture to place not more than eight positions in grade 16 and two in grade 17 of the General Schedule of the Classification Act of 1949.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act June 28, 1955, effective June 28, 1955, see section 13 of act of June 28, 1955.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONTRACTS WITH INDIVIDUALS TO PERFORM SERVICES ABROAD; SUCH PERSONS NOT REGARDED AS EMPLOYEES OF UNITED STATES

Pub. L. 100–202, §101(k) [title IV], Dec. 22, 1987, 101 Stat. 1329–322, 1329–350, as amended by Pub. L. 105–277, div. A, §101(a) [title VII, §750], Oct. 21, 1998, 112 Stat. 2681, 2681–32, provided: ''That funds available to the Foreign Agricultural Service under this and subsequent appropriations Acts shall be available to contract with individuals for services to be performed outside the United States as determined by the Service to be necessary or appropriate for carrying out programs and activities abroad. On or after August 1, 1998 such individuals employed by contract to perform such services shall not, by virtue of such employment, be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management. Such individuals may be considered employees within the meaning of the Federal Employee Compensation Act, 5 U.S.C. 8101 et seq.''

EX. ORD. NO. 10624. REGULATIONS FOR DEPARTMENT OF AGRICULTURE PERSONNEL ABROAD

Ex. Ord. No. 10624, July 28, 1955, 20 F.R. 5445, as amended by Ex. Ord. No. 10903, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 11530, May 26, 1970, 35 F.R. 8335; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by sections 605, 606B and 606D of Title VI of the Act of August 28, 1954, as amended, (7 U.S.C. 1765, 1766a, and 1766c), and by section 301 of title 3 of the United States Code, and as President of the United States, I hereby prescribe the following regulations relating to personnel of the Department of Agriculture assigned to service abroad:

SECTION 1. (a) The provisions of section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall be applicable to the official activities of persons assigned abroad under authority of Title VI of the said act of August 28, 1954 [this chapter].

(b) The Secretary of Agriculture shall institute and maintain such measures consistent with the said Part II as may be necessary to insure that the official activities of persons assigned abroad under the said Title VI are carried on consonant with United States foreign-policy objectives as defined by the Secretary of State and are effectively coordinated with the activities of representatives of other United States agencies, under the leadership of the Chief of the United States Diplomatic Mission.

(c) Consistent with subsections (a) and (b) of this section, the Secretary of Agriculture shall issue instructions on agricultural matters to persons assigned abroad under authority of the said Title VI.

SEC. 2. In addition to rules and regulations pertaining to allowances and benefits otherwise applicable to personnel assigned abroad by the Secretary of Agriculture under Title VI of the Act of August 28, 1954 [this chapter], or other authority, there shall be applicable to such personnel the rules and regulations prescribed by the Secretary of State in pursuance of (1) so much of the authority vested in the President by subchapter III of chapter 59 of title 5 of the United States Code [section 5921 et seq. of Title 5, Government Organization and Employees], or by any amendment thereof as relates to quarters allowances or cost-of-living allowances, and (2) so much of the authority vested in the Secretary of State by chapter 9 of Title I of the Foreign Service Act of 1980 [section 4081 et seq. of Title 22, Foreign Relations and Intercourse], as relates to allowances and benefits under the said chapter 9 of Title I: *Provided*, (1) that the Secretary of State, upon request of the Secretary of Agriculture, may prescribe, within existing authority of law and when deemed necessary, special rules and regulations for such personnel; and (2) that the Secretary of Agriculture may, within the limitation of such rules and regulations, prescribe necessary implementing directions. The Secretary of Agriculture may designate employees of the Department of Agriculture to make specific determinations and take specific actions in the application of such rules and regulations to the activities of the Department of Agriculture.

SEC. 3. Such provisions in annual appropriation acts of the Department of State, including such acts hereafter enacted, facilitating the work of the Foreign Service of the United States as the Director of the Office of Management and Budget shall from time to time determine appropriate shall be applicable to activities authorized under Title VI of the said act of August 28, 1954 [this chapter].

This order shall be effective as of September 1, 1954.

§ 1763. Transferred

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title VI, § 603, 68 Stat. 909, which related to allowances and benefits, was renumbered section 606D of act Aug. 28, 1954, by Pub. L. 95–501, title IV, § 401(3), Oct. 21, 1978, 92 Stat. 1691, and transferred to section 1766c of this title.

§ 1764. Reports and dispatches

(a) Availability to Department of State and interested Government agencies

The reports and dispatches prepared by the officers appointed or assigned under this subchapter shall be made available to the Department of State, and may be made available to other interested agencies of the Government, and the agricultural reports and dispatches and related information produced by officers of the Foreign Service shall be available to the Secretary of Agriculture.

(b) Office space, equipment, and administrative and clerical services

The Secretary of State is authorized upon request of the Secretary of Agriculture to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the personnel affected by this subchapter. The Secretary of Agriculture is authorized to reimburse or advance funds to the Secretary of State for such services.

(c) Agency services, personnel, and facilities

Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subchapter in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

(Aug. 28, 1954, ch. 1041, title VI, § 604, 68 Stat. 909; Pub. L. 95–501, title III, § 301(4), (6), Oct. 21, 1978, 92 Stat. 1688.)

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–501, § 301(4), substituted ''this subchapter'' for ''this chapter''.

Subsec. (c). Pub. L. 95–501, § 301(6), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765g of this title.

§ 1765. Foreign service appropriations; applicability

Provisions in annual appropriation Acts of the Department of State facilitating the work of the Foreign Service of the United States shall be applicable under rules and regulations prescribed by the President or his designee to activities pursuant to this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605, 68 Stat. 909; Pub. L. 95–501, title III, § 301(4), Oct. 21, 1978, 92 Stat. 1688.)

AMENDMENTS

1978—Pub. L. 95–501 substituted ''this subchapter'' for ''this chapter''.

SUBCHAPTER II—UNITED STATES AGRICULTURAL TRADE OFFICES

§ 1765a. Agricultural Trade Offices

(a) Establishment

For the purpose of developing, maintaining, and expanding international markets for United

States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

(b) Administration

each[1] United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who by reason of training, experience, and attainments is qualified to carry out the purposes of this subchapter. Such Officer shall be appointed by the Secretary of Agriculture.

(c) Appointment and compensation of officers

Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS–17 of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subchapter I of this chapter to the nation in which such Officer is to serve.

(d) Transmittal of information

Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché or other senior representative of the Secretary of Agriculture in each nation in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of the United States diplomatic mission fully and currently informed with respect to all activities and operations of such Office.

(e) Office functions and activities

Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

(f) Personnel; employment of local nationals

To carry out the functions of United States Agricultural Trade Offices, the Secretary of Agriculture may appoint such other personnel as the Secretary determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

(g) Conflicts of interest

No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

(h) Diplomatic privileges and immunities

Upon the request of the Secretary of Agriculture, the Secretary of State shall request for Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by members of the Foreign Service of comparable rank and salary.

(Aug. 28, 1954, ch. 1041, title VI, § 605A, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1688; amended Pub. L. 96–465, title II, § 2206(b)(1), Oct. 17, 1980, 94 Stat. 2162.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1980—Subsec. (h). Pub. L. 96–465 substituted ''members of the Foreign Service'' for ''Foreign Service Personnel''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1765b. Functions

The functions of each United States Agricultural Trade Office shall be to—

(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

(6) originate and provide assistance for exhibits, sales teams, and other functions for the

[1] So in original. Probably should be capitalized.

promotion of United States agricultural commodities;

(7) provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Secretary of Agriculture on the efficacy of cooperator programs;

(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

(10) perform such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, determines to be necessary and proper for achieving the purposes of this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605B, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1689.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, as amended, referred to in par. (7), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified principally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765c of this title.

§ 1765b–1. Omitted

CODIFICATION

Section, Pub. L. 95–501, title VI, § 602, Oct. 21, 1978, 92 Stat. 1691, which provided for an annual report on export promotion, was omitted as part of the complete revision of Pub. L. 95–501 by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668. See chapter 87 (§ 5601 et seq.) of this title.

§ 1765c. Performance of functions in foreign localities

Each United States Agricultural Trade Office shall carry out its functions under section 1765b of this title in the nation where the United States Agricultural Trade Office is located and in such other nations as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605C, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1690.)

§ 1765d. Acquisition of property

Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926 [22 U.S.C. 292 et seq.], to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

(Aug. 28, 1954, ch. 1041, title VI, § 605D, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1690.)

REFERENCES IN TEXT

The Foreign Service Buildings Act, 1926, as amended, referred to in text, is act May 7, 1926, ch. 250, 44 Stat. 403, as amended, which is classified generally to chapter 8 (§ 292 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see section 299 of Title 22 and Tables.

§ 1765e. Location of offices

United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities.

(Aug. 28, 1954, ch. 1041, title VI, § 605E, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1690.)

§ 1765f. Availability of agency services, personnel, and facilities

Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

(Aug. 28, 1954, ch. 1041, title VI, § 605F, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1690.)

§ 1765g. Availability of reports and dispatches

The provisions of section 1764(a) of this title shall apply with respect to personnel appointed and assigned under this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605G, as added Pub. L. 95–501, title IV, § 401(1), Oct. 21, 1978, 92 Stat. 1690.)

SUBCHAPTER III—REPRESENTATION ALLOWANCES, REGULATIONS, GENERAL PROVISIONS, AND AUTHORIZATION FOR APPROPRIATIONS

§ 1765h. Representation allowance

Any Agricultural Trade Officer and the senior representative of the Secretary of Agriculture assigned to a nation under subchapter I of this chapter may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer or senior representative can effectively use such funds to further the purposes of this chapter, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the nation where such Agricultural Trade Officer or senior representative is assigned.

(Aug. 28, 1954, ch. 1041, title VI, § 606, as added Pub. L. 95–501, title IV, § 401(2), Oct. 21, 1978, 92 Stat. 1690.)

§ 1766. Rules and regulations; advance payment for rent and other service; funds for courtesies to foreign representatives

The Secretary of Agriculture may make rules and regulations necessary to carry out the purposes of this chapter and may cooperate with any Department or agency of the United States Government, State, Territory, or possession or any organization or person. In any foreign country where custom or practice requires payment in advance for rent or other service, such payment may be authorized by the Secretary of Agriculture. Funds available for the purposes of this chapter may be used for extending courtesies to representatives of foreign countries, when so provided in appropriation or other law.

(Aug. 28, 1954, ch. 1041, title VI, § 606A, formerly § 606, 68 Stat. 909; amended Aug. 3, 1956, ch. 950, § 8, 70 Stat. 1034; renumbered § 606A, Pub. L. 95–501, title IV, § 401(2), Oct. 21, 1978, 92 Stat. 1690.)

AMENDMENTS

1956—Act Aug. 3, 1956, inserted sentence relating to availability of funds for extending courtesies to representatives of foreign countries.

§ 1766a. Presidential regulations

The President shall prescribe regulations to insure that the official activities of persons assigned abroad under this chapter are carried on (1) consonant with United States foreign policy objectives as defined by the Secretary of State; (2) in accordance with instructions of the Secretary of Agriculture with respect to agricultural matters; and (3) in coordination with other representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission.

(Aug. 28, 1954, ch. 1041, title VI, § 606B, formerly § 602(d), 68 Stat. 909; renumbered Pub. L. 95–501, title IV, § 401(3), Oct. 21, 1978, 92 Stat. 1691.)

CODIFICATION

Provisions comprising this section were formerly classified to section 1762(d) of this title prior to redesignation by section 401(3) of Pub. L. 95–501.

§ 1766b. Language training for families of officers and employees assigned abroad

Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this chapter or other authority: *Provided*, That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended [7 U.S.C. 1701 et seq.], to carry out the purposes of this section in the foreign nations to which such officers, employees, and families are assigned. There are hereby authorized to be appropriated such sums, not to exceed $50,000 annually, as may be necessary to carry out the purposes of this section: *Provided*, That for the fiscal year ending September 30, 1977, any appropriations available to the Secretary of Agriculture (not to exceed $50,000) may be used to carry out the purposes of this section.

(Aug. 28, 1954, ch. 1041, title VI, § 606C, formerly § 602(f), as added Pub. L. 94–449, Oct. 1, 1976, 90 Stat. 1500; renumbered § 606C, and amended Pub. L. 95–501, title IV, § 401(3), (4), Oct. 21, 1978, 92 Stat. 1691; Pub. L. 96–470, title I, § 102(f), Oct. 19, 1980, 94 Stat. 2237.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, as amended, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. Title I of the Act is classified to subchapter II (§ 1701 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Amendment by section 102(f) of Pub. L. 96–470 was executed to this section which is section 606C of act Aug. 28, 1954, instead of section 602(f) of act Aug. 28, 1954, as directed by section 102(f) of Pub. L. 96–470, as the probable intent of Congress, in view of the renumbering of section 602(f) of act Aug. 28, 1954 as section 606C of act Aug. 28, 1954 by section 401(3) of Pub. L. 95–501.

Provisions comprising this section were formerly classified to section 1762(f) of this title prior to redesignation by section 401(3) of Pub. L. 95–501.

AMENDMENTS

1980—Pub. L. 96–470 struck out provision requiring the Secretary of Agriculture to submit to the House Committee of Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under the authority of this section during such fiscal year.

1978—Pub. L. 95–501, § 401(4), substituted ''this section'' for ''this subsection'' in four places. See Codification note above.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as may be appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

§ 1766c. Allowances and benefits

The Secretary of Agriculture may, under such rules and regulations as may be prescribed by the President or his designee, provide to personnel appointed or assigned by the Secretary of Agriculture under this chapter or other authority allowance and benefits similar to those provided by chapter 9 of title I of the Foreign Service Act of 1980 [22 U.S.C. 4081 et seq.]. Leaves of absence for personnel under this chapter shall be on the same basis as is provided for the Foreign Service of the United States by subchapter I of chapter 63 of title 5.

(Aug. 28, 1954, ch. 1041, title VI, § 606D, formerly § 603, 68 Stat. 909; renumbered § 606D, Pub. L.

95–501, title IV, § 401(3), Oct. 21, 1978, 92 Stat. 1691; amended Pub. L. 96–465, title II, § 2206(b)(2), Oct. 17, 1980, 94 Stat. 2162.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in text, is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071. Chapter 9 of title I of the Act is classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

''Subchapter I of chapter 63 of title 5'' substituted in text for ''the Annual and Sick Leave Act of 1951'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 1763 of this title.

AMENDMENTS

1980—Pub. L. 96–465 substituted ''chapter 9 of title I of the Foreign Service Act of 1980'' for ''title IX of the Foreign Service Act of 1946''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 1767. Authorization of appropriations

(a) Unexpended balances

For the fiscal year 1955 so much of the Department of State and Department of Agriculture unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions covered by this chapter as the Director of the Office of Management and Budget or the Congress by appropriation or other law shall determine shall be transferred to or established in accounts under the control of the Department of Agriculture, and there are hereby authorized to be established such additional accounts as may be necessary for this purpose.

(b) Annual appropriations

There are hereby authorized to be appropriated to the Department of Agriculture such amounts as may be necessary for the purpose of this chapter.

(c) Funds for 1955; expenditures

For the fiscal year 1955 funds which become available for the purposes of this chapter may be expended under the provisions of law, including current appropriation Acts, applicable to the Department of State: *Provided*, That the provisions of section 961(d) of title 22 with respect to the source of payment for Foreign Service officers and employees shall not apply to personnel employed under this chapter. Obligations incurred by the Department of State prior to September 1, 1954, with respect to functions affected by this Act, shall be paid from appropriations available to the Department of State.

(Aug. 28, 1954, ch. 1041, title VI, § 607, 68 Stat. 909; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

Section 961(d) of title 22, referred to in subsec. (c), was in the original ''section 571(d) of the Foreign Service Act of 1946, as amended'' and was repealed by section 2205(l) of the Foreign Service Act of 1980, Pub. L. 96–465, title II, Oct. 17, 1980, 94 Stat. 2159. The Foreign Service Act of 1980 is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. Section 2401(c) of the 1980 Act (22 U.S.C. 4172(c)) provides in part that references in law to provisions of the Foreign Service Act of 1946 shall be deemed to include reference to the corresponding provisions of the 1980 Act. For provisions corresponding to section 571(d) of the 1946 Act, see section 503(b)(2) of the 1980 Act (22 U.S.C. 3983(b)(2)).

This Act, referred to in subsec. (c), is act Aug. 28, 1954, ch. 1041, 68 Stat. 897, as amended, known as the Agricultural Act of 1954. For complete classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2, redesignated Bureau of the Budget as Office of Management and Budget and offices of Director, Deputy Director, and Assistant Directors of Bureau of the Budget as Director, Deputy Director, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2, transferred records, property, personnel, and funds of Bureau of the Budget to Office of Management and Budget. See Part I of Reorganization Plan 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1768. Foreign Operations Administration unaffected

Nothing in this chapter shall be construed to affect personnel employed by or funds available to the Foreign Operations Administration or programs conducted under its authorities.

(Aug. 28, 1954, ch. 1041, title VI, § 608, 68 Stat. 910.)

TRANSFER OF FUNCTIONS

The Foreign Operations Administration was abolished by Ex. Ord. No. 10610 of May 9, 1955, and its functions and offices were transferred to the Department of State and to the Department of Defense, effective June 30, 1955.

§ 1769. "Agricultural commodity" defined

The term ''agricultural commodity'' as used in this chapter includes any agricultural commodity or product thereof.

(Aug. 28, 1954, ch. 1041, title VI, § 609, as added Pub. L. 95–501, title IV, § 401(6), Oct. 21, 1978, 92 Stat. 1691.)

CHAPTER 44—WOOL PROGRAM

§ 1781. Repealed. Pub. L. 103–130, § 4(a), Nov. 1, 1993, 107 Stat. 1369

Section, acts Aug. 28, 1954, ch. 1041, title VII, § 702, 68 Stat. 910; Sept. 29, 1977, Pub. L. 95–113, title III, § 301, 91 Stat. 921, declared encouragement of continued domestic production of wool to be policy of Congress.

SHORT TITLE

Act Aug. 28, 1954, ch. 1041, title VI, § 701, 68 Stat. 910, provided that title VII of act Aug. 28, 1954 (enacting

this chapter) could be cited as the ''National Wool Act of 1954'', prior to repeal by Pub. L. 103–130, §3(a), Nov. 1, 1993, 107 Stat. 1369.

§§ 1782 to 1787. Repealed. Pub. L. 103–130, §3(a), Nov. 1, 1993, 107 Stat. 1369

Section 1782, acts Aug. 28, 1954, ch. 1041, title VII, §703, 68 Stat. 910; Aug. 28, 1958, Pub. L. 85–835, title IV, §401, 72 Stat. 994; Aug. 8, 1961, Pub. L. 87–128, title I, §151, 75 Stat. 306; Nov. 3, 1965, Pub. L. 89–321, title II, §201, 79 Stat. 1188; Oct. 11, 1968, Pub. L. 90–559, §1(3), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title III, §301(1)–(5), 84 Stat. 1362; Aug. 10, 1973, Pub. L. 93–86, §1(7)(A), 87 Stat. 224; Sept. 29, 1977, Pub. L. 95–113, title III, §302, 91 Stat. 921; Dec. 22, 1981, Pub. L. 97–98, title II, §201, 95 Stat. 1221; Dec. 23, 1985, Pub. L. 99–198, title II, §201, 99 Stat. 1378; Dec. 22, 1987, Pub. L. 100–203, title I, §1104(f), 101 Stat. 1330–5; Nov. 28, 1990, Pub. L. 101–624, title II, §201(a), 104 Stat. 3381; Aug. 10, 1993, Pub. L. 103–66, title I, §1111(1), 107 Stat. 327; Nov. 1, 1993, Pub. L. 103–130, §§1, 4(b), 107 Stat. 1368, 1369, related to requirement that Secretary of Agriculture through the Commodity Credit Corporation make loans and payments to producers of wool and mohair.

Section 1783, acts Aug. 28, 1954, ch. 1041, title VII, §704, 68 Stat. 911; Aug. 28, 1958, Pub. L. 85–835, title IV, §402, 72 Stat. 995; Aug. 23, 1988, Pub. L. 100–418, title I, §1214(v), 102 Stat. 1162; Nov. 5, 1990, Pub. L. 101–508, title I, §1105(e), 104 Stat. 1388–6; Nov. 28, 1990, Pub. L. 101–624, title II, §201(b), 104 Stat. 3381; Dec. 13, 1991, Pub. L. 102–237, title I, §118(f), 105 Stat. 1842; Aug. 10, 1993, Pub. L. 103–66, title I, §1111(2), 107 Stat. 327; Nov. 1, 1993, Pub. L. 103–130, §§2, 4(c), 107 Stat. 1368, 1369, related to determination of amount of payments based on use of payments, limitations on total amount of payments, regulations, and marketing assessments.

Section 1784, acts Aug. 28, 1954, ch. 1041, title VII, §705, 68 Stat. 911; Aug. 28, 1958, Pub. L. 85–835, title IV, §403, 72 Stat. 995; Aug. 23, 1988, Pub. L. 100–418, title I, §1214(v), 102 Stat. 1162, related to reimbursement to Commodity Credit Corporation for expenditures in connection with payments to producers under this chapter.

Section 1785, acts Aug. 28, 1954, ch. 1041, title VII, §706, 68 Stat. 912; Aug. 10, 1993, Pub. L. 103–66, title I, §1111(3), 107 Stat. 327; Nov. 1, 1993, Pub. L. 103–130, §4(d), 107 Stat. 1369, authorized Secretary of Agriculture to determine or approve amounts, terms, and conditions of wool and mohair program operations and declared such determinations to be final and conclusive.

Section 1786, act Aug. 28, 1954, ch. 1041, title VII, §707, 68 Stat. 912, defined ''marketing year'' as used in this chapter.

Section 1787, acts Aug. 28, 1954, ch. 1041, title VII, §708, 68 Stat. 912; Nov. 30, 1970, Pub. L. 91–524, title III, §301(6), as added Aug. 10, 1973, Pub. L. 93–86, §1(7)(B), 87 Stat. 224; amended Dec. 23, 1985, Pub. L. 99–198, title II, §202, 99 Stat. 1378; Nov. 28, 1990, Pub. L. 101–624, title XIX, §1989, 104 Stat. 3909; Dec. 13, 1991, Pub. L. 102–237, title VIII, §810, 105 Stat. 1883, authorized Secretary of Agriculture to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, etc., for purpose of developing and conducting sales and advertising programs and for development and dissemination of information on product quality, production management, and marketing improvement.

EFFECTIVE DATE OF REPEAL

Section 3(a), (b) of Pub. L. 103–130 provided that:

''(a) IN GENERAL.—Effective December 31, 1995, the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) is repealed.

''(b) APPLICATION.—The repeal made by subsection (a) [repealing this chapter and provisions set out as notes under sections 2, 1446, and 1781 of this title] shall apply to both the wool and mohair programs.''

LIABILITY OF PRODUCERS

Section 5 of Pub. L. 103–130 provided that: ''A provision of this Act [amending sections 1782, 1783, and 1785 of this title, repealing sections 1781 to 1787 of this title, enacting provisions set out as notes under this section and section 1447 of this title, and repealing provisions set out as notes under sections 2, 1446, and 1781 of this title] may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.''

CHAPTER 45—SOIL BANK PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

1801 to 1816. Repealed.

SUBCHAPTER II—ACREAGE RESERVE PROGRAM

1821 to 1824. Repealed.

SUBCHAPTER III—CONSERVATION RESERVE PROGRAM

1831. Repealed.
1831a. Contract restrictions.
1832 to 1837. Repealed.

SUBCHAPTER IV—CROPLAND ADJUSTMENTS

1838. Conversion of cropland into vegetative cover, water storage, wildlife and conservation uses; contracts with farmers.
(a) Authority for calendar years 1965 through 1970; term of agreements.
(b) Terms of agreement; specifically designated acreage; land use.
(c) Federal costs; annual adjustment payment.
(d) Advertising and bid procedures.
(e) Annual adjustment payment; limitation.
(f) Termination or modification of agreements.
(g) Allotment histories.
(h) Utilization of local, county, and State committees.
(i) Transfer of funds.
(j) Conservation of open spaces, natural beauty, and recreational resources, and prevention of pollution.
(k) Limitation on payments during any calendar year.
(*l*) Use of facilities of Commodity Credit Corporation.
(m) Payment to successor upon death, incompetence, or disappearance of producer entitled to payment.
(n) Sharing of compensation or payments with tenants and sharecroppers.
(*o*) Effect of diversion on commodity programs.
(p) Advisory Board on Wildlife; membership.
(q) Regulations.

SUBCHAPTER I—GENERAL PROVISIONS

§§ 1801 to 1816. Repealed. Pub. L. 89–321, title VI, §601, Nov. 3, 1965, 79 Stat. 1206

Section 1801, act May 28, 1956, ch. 327, title I, §102, 70 Stat. 188, set out Congressional declaration of policy underlying Soil Bank Program set out in subchapters I to III of this chapter.

Section 1802, acts May 28, 1956, ch. 327, title I, §114, 70 Stat. 196; Aug. 28, 1957, Pub. L. 85–203, §3, 71 Stat. 478; Apr. 7, 1958, Pub. L. 85–369, 72 Stat. 81, placed an ineligibility sanction upon failure to comply with acreage allotments.

Section 1803, act May 28, 1956, ch. 327, title I, §115, 70 Stat. 196, prohibited reapportionment or allotment to any other farm of acreage diverted from production as a result of participation in acreage reserve or conservation reserve programs.

Section 1804, act May 28, 1956, ch. 327, title I, §116, 70 Stat. 196, provided for filing of certificate of claimants

for payment or compensation in form prescribed by Secretary attesting to claimant's compliance with all requirements.

Section 1805, act May 28, 1956, ch. 327, title I, § 117, 70 Stat. 196, directed Secretary to utilize services of local, county, and State soil conservation committees.

Section 1806, act May 28, 1956, ch. 327, title I, § 118, 70 Stat. 196, directed Secretary to consult with conservation, forestry, and agricultural agencies in formation of State and local programs and to utilize Federal agencies to coordinate programs and to provide technical background.

Section 1807, act May 28, 1956, ch. 327, title I, § 119, 70 Stat. 196, directed Secretary to utilize existing land use capability data including Soil Conservation Service's capability surveys and to carry forward to completion the nation's basic land inventory.

Section 1808, act May 28, 1956, ch. 327, title I, § 120, 70 Stat. 197, authorized Secretary to utilize Commodity Credit Corporation in carrying out Soil Bank Program and allowed transfer to Federal and State agencies of funds available for carrying out purposes of program.

Section 1809, act May 28, 1956, ch. 327, title I, § 121, 70 Stat. 197, provided for finality of determinations forming basis of payment or compensation by Secretary and authorized him to make payment in any fair or reasonable manner reflected in appropriate regulations in case of death, incompetence, or disappearance of producers entitled to payment.

Section 1810, act May 28, 1956, ch. 327, title I, § 122, 70 Stat. 197, required Secretary to provide adequate safeguards for tenants and sharecroppers.

Section 1811, act May 28, 1956, ch. 327, title I, § 123, 70 Stat. 198, set penalty for grazing or harvesting any crop on acreage in violation of a Soil Bank contract and provided for recovery of penalties by means of civil suits.

Section 1812, act May 28, 1956, ch. 327, title I, § 124, 70 Stat. 198, authorized Secretary to promulgate rules and regulations to carry out Soil Bank Program.

Section 1813, acts May 28, 1956, ch. 327, title I, § 125, 70 Stat. 198; Apr. 9, 1960, Pub. L. 86–423, § 2, 74 Stat. 42, restricted leasing of government owned land for production of price supported crops in surplus supply.

Section 1814, act May 28, 1956, ch. 327, title I, § 126, 70 Stat. 198, authorized Secretary to permit farmers to pool their rights to participate jointly in conservation reserve program on property other than their home farms.

Section 1815, act May 28, 1956, ch. 327, title I, § 127, as added May 16, 1958, Pub. L. 85–413, 72 Stat. 118, authorized Secretary to provide fair and equitable treatment for producers who entered into acreage reserve or conservation reserve contracts based upon incorrect information furnished under 1956 program through compensation for losses.

Section 1816, act May 28, 1956, ch. 327, title I, § 128, as added Sept. 14, 1959, Pub. L. 86–265, 73 Stat. 552, authorized Secretary to pay compensation to a producer in order to provide fair and equitable treatment when producer has suffered losses because of inaccurate information forming the basis for contract if producer relied in good faith upon inaccurate information.

SAVINGS PROVISION

Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided that the Soil Bank Act of 1956 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89–321.

SUBCHAPTER II—ACREAGE RESERVE PROGRAM

§§ 1821 to 1824. Repealed. Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section 1821, act May 28, 1956, ch. 327, title I, § 103, 70 Stat. 189, authorized Secretary to carry out acreage reserve program and spelled out terms of eligibility, provisions of contract, and acreage reduction compensation.

Section 1822, act May 28, 1956, ch. 327, title I, § 104, 70 Stat. 190, required Secretary to establish a national reserve acreage goal and to set limits to be placed upon individual participation in program.

Section 1823, act May 28, 1956, ch. 327, title I, § 105, 70 Stat. 190, established method of compensating producers for participating in program through issuance of negotiable certificates redeemable by Commodity Credit Corporation, provided for setting of rates of compensation, and set limits upon total compensation to be paid for wheat, cotton, corn, peanuts, rice, and tobacco.

Section 1824, act May 28, 1956, ch. 327, title I, § 106, 70 Stat. 191, required crediting of reserve acreages as though such acreages had actually been devoted to production of commodity when establishing farm acreage allotments under Agricultural Adjustment Act of 1938, as amended.

SAVINGS PROVISION

Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided that the Soil Bank Act of 1956 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89–321.

SUBCHAPTER III—CONSERVATION RESERVE PROGRAM

§ 1831. Repealed. Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section, acts May 28, 1956, ch. 327, title I, § 107, 70 Stat. 191; June 11, 1960, Pub. L. 86–507, § 1(8), 74 Stat. 200; June 29, 1961, Pub. L. 87–62, § 1(a), 75 Stat. 129; July 3, 1962, Pub. L. 87–521, 76 Stat. 135, set out terms to be included in producers' contracts under conservation reserve program and made provisions for use of advertising and bid procedures, termination of contracts, and notice, hearing, and judicial review of Secretary's action in terminating a contract.

SAVINGS PROVISION

Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided that the Soil Bank Act of 1956 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89–321.

§ 1831a. Contract restrictions

On and after June 13, 1958 no conservation reserve contract shall be entered into which provides for (1) payments for conservation practices in excess of the average rate for comparable practices under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.], or (2) annual rental payments in excess of 20 per cent of the value of the land placed under contract, such value to be determined without regard to physical improvements thereon or geographic location thereof. In determining the value of the land for this purpose, the county committee shall take into consideration the estimate of the landowner or operator as to the value of such land as well as his certificate as to the production history and productivity of such land.

(Pub. L. 85–459, title I, § 101, June 13, 1958, 72 Stat. 195; Pub. L. 104–127, title III, § 336(a)(2)(A), Apr. 4, 1996, 110 Stat. 1005.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in text, is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classi-

fied generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Soil Bank Act which comprised this chapter.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985'' for ''Agricultural Conservation Program''.

§§ 1832 to 1837. Repealed. Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206

Section 1832, act May 28, 1956, ch. 327, title I, § 108, 70 Stat. 194, required Secretary to make and announce determination of a national conservation reserve goal, set out considerations to be used in distributing goal among States and major crop production regions, and provided for a report to Congress.

Section 1833, act May 28, 1956, ch. 327, title I, § 109, 70 Stat. 194, authorized Secretary to enter into conservation reserve program contracts, set term for such contracts, and placed a limit of $450,000,000 annually upon payments made to producers.

Section 1834, act May 28, 1956, ch. 327, title I, § 110, 70 Stat. 194, authorized Secretary to terminate or modify contracts by mutual agreement with producers.

Section 1835, act May 28, 1956, ch. 327, title I, § 111, 70 Stat. 195, authorized Secretary to purchase or produce conservation materials and services and make them available to producers under conservation reserve program.

Section 1836, acts May 28, 1956, ch. 327, title I, § 112, 70 Stat. 195; Sept. 14, 1960, Pub. L. 86–793, § 2, 74 Stat. 1030, prohibited reduction of cropland acreage by reason of any action taken in carrying out a conservation reserve program contract and required inclusion of acreage changed from cultivated cropland to permanent vegetation as acreage devoted to commodity for purpose of determining future acreage allotments.

Section 1837, acts May 28, 1956, ch. 327, title I, § 113, 70 Stat. 195; June 25, 1959, Pub. L. 86–70, § 5, 73 Stat. 142; July 12, 1960, Pub. L. 86–624, § 3, 74 Stat. 411, authorized Secretary to apply Soil Bank Program to Puerto Rico and Virgin Islands in addition to several States if such application would be in national interest.

SAVINGS PROVISION

Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206, provided that the Soil Bank Act of 1956 [former subchapters I to III of this chapter] shall remain in effect with respect to contracts entered into thereunder prior to its repeal by section 601 of Pub. L. 89–321.

SUBCHAPTER IV—CROPLAND ADJUSTMENTS

§ 1838. Conversion of cropland into vegetative cover, water storage, wildlife and conservation uses; contracts with farmers

(a) Authority for calendar years 1965 through 1970; term of agreements

Notwithstanding any other provision of law, for the purpose of reducing the costs of farm programs, assisting farmers in turning their land to nonagricultural uses, promoting the development and conservation of the Nation's soil, water, forest, wildlife, and recreational resources, establishing, protecting, and conserving open spaces and natural beauty, the Secretary of Agriculture is authorized to formulate and carry out a program during the calendar years 1965 through 1970 under which agreements would be entered into with producers as hereinafter provided for periods of not less than five nor more than ten years. No agreement shall be entered into under this section concerning land with respect to which the ownership has changed in the three-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to January 1, 1965, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program: *Provided*, That this provision shall not be construed to prohibit the continuation of an agreement by a new owner after an agreement has once been entered into under this section: *Provided further*, That the Secretary shall not require a person who has operated the land to be covered by an agreement under this section for as long as three years preceding the date of the agreement and who controls the land for the agreement period to own the land as a condition of eligibility for entering into the agreement. The foregoing provision shall not prevent a producer from placing a farm in the program if the farm was acquired by the producer to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain.

(b) Terms of agreement; specifically designated acreage; land use

The producer shall agree (1) to carry out on a specifically designated acreage of land on the farm regularly used in the production of crops (including crops, such as tame hay, alfalfa, and clovers, which do not require annual tillage and which have been planted within five years preceding the date of the agreement), hereinafter call ''designated acreage'', and maintain for the agreement period practices or uses which will conserve soil, water, or forest resources, or establish or protect or conserve open spaces, natural beauty, wildlife or recreational resources, or prevent air or water pollution, in such manner as the Secretary may prescribe (priority being given to the extent practicable to practices or uses which are most likely to result in permanent retirement to noncrop uses); (2) to maintain in conserving crops or uses or allow to remain idle throughout the agreement period the acreage normally devoted to such crops or uses; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary, after certification by the Governor of the State in which such acreage is situated of the need for grazing or harvesting of such acreage, determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; and (4) to such additional terms and conditions as the Secretary determines are desirable to effectuate the purposes of the pro-

gram, including such measures as the Secretary may deem appropriate to keep the designated acreage free from erosion, insects, weeds, and rodents. Agreements entered into under which 1966 is the first year of the agreement period (A) shall require the producer to divert from production all of one or more crops designated by the Secretary; and (B) shall not provide for diversion from the production of upland cotton in any county in which the county committee by resolution determines, and requests of the Secretary, that there should not be such diversion in 1966.

(c) Federal costs; annual adjustment payment

Under such agreements the Secretary shall (1) bear such part of the average cost (including labor) for the county or area in which the farm is situated of establishing and maintaining authorized practices or uses on the designated acreage as the Secretary determines to be necessary to effectuate the purposes of the program, but not to exceed the average rate for comparable practices or uses under the agricultural conservation program, and (2) make an annual adjustment payment to the producer for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the producers. The rate or rates of annual adjustment payments as determined hereunder may be increased by an amount determined by the Secretary to be appropriate in relation to the benefit to the general public of the use of the designated acreage if the producer further agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations. The Secretary and the producer may agree that the annual adjustment payments for all years of the agreement period shall be made either upon approval of the agreement or in such installments as they may agree to be desirable: *Provided*, That for each year any annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum. The Secretary may provide for adjusting any payment on account of failure to comply with the terms and conditions of the program.

(d) Advertising and bid procedures

The Secretary shall, unless he determines that such action will be inconsistent with the effective administration of the program, use an advertising and bid procedure in determining the lands in any area to be covered by agreements. The total acreage placed under contract in any county or local community shall be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired as compared to the average productivity of eligible acreage in the county or local community.

(e) Annual adjustment payment; limitation

The annual adjustment payment shall not exceed 40 per centum of the estimated value, as determined by the Secretary, on the basis of prices in effect at the time the agreement is entered into, of the crops or types of crops which might otherwise be grown. The estimated value may be established by the Secretary on a county, area, or individual farm basis as he deems appropriate.

(f) Termination or modification of agreements

The Secretary may terminate any agreement with a producer by mutual agreement with the producer if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(g) Allotment histories

Notwithstanding any other provision of law, the Secretary of Agriculture may, to the extent he deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops in order to establish or maintain vegetative cover or other approved practices for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(h) Utilization of local, county, and State committees

In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 590h of title 16.

(i) Transfer of funds

For the purpose of obtaining an increase in the permanent retirement of cropland to noncrop uses the Secretary may, notwithstanding any other provision of law, transfer funds available for carrying out the program to any other Federal agency or to States or local government agencies for use in acquiring cropland for the preservation of open spaces, natural beauty, the development of wildlife or recreational facilities, or the prevention of air or water pollution under terms and conditions consistent with and at costs not greater than those under agreements entered into with producers, provided the Secretary determines that the purposes of the program will be accomplished by such action.

(j) Conservation of open spaces, natural beauty, and recreational resources, and prevention of pollution

The Secretary also is authorized to share the cost with State and local governmental agencies in the establishment of practices or uses which will establish, protect, and conserve open spaces, natural beauty, wildlife or recreational resources, or prevent air or water pollution under terms and conditions and at costs consistent with those under agreements entered into with producers, provided the Secretary determines that the purposes of the program will be accomplished by such action.

(k) Limitation on payments during any calendar year

In carrying out the program, the Secretary shall not during any of the fiscal years ending June 30, 1966 through June 30, 1969 or during the period June 30, 1969 through December 31, 1970, enter into agreements with producers which would require payments to producers in any calendar year under such agreements in excess of $225,000,000 plus any amount by which agreements entered into in prior fiscal years require payments in amounts less than authorized for such prior fiscal years. For purposes of applying this limitation, the annual adjustment payment shall be chargeable to the year in which performance is rendered regardless of the year in which it is made.

(*l*) Use of facilities of Commodity Credit Corporation

The Secretary is authorized to utilize the facilities, services, authorities, and funds of the Commodity Credit Corporation in discharging his functions and responsibilities under this program, including payment of costs of administration: *Provided*, That after December 31, 1966, the Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subchapter unless the Corporation has received funds to cover such expenditures from appropriations made to carryout the purposes of this subchapter. There are hereby authorized to be appropriated such sums as may be necessary to carry out the program, including such amounts as may be required to make payments to the Corporation for its actual costs incurred or to be incurred under this program.

(m) Payment to successor upon death, incompetence, or disappearance of producer entitled to payment

In case any producer who is entitled to any payment or compensation dies, becomes incompetent, or disappears before receiving such payment or compensation, or is succeeded by another who renders or completes the required performance, the payment or compensation shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and so provide by regulations.

(n) Sharing of compensation or payments with tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program.

(*o*) Effect of diversion on commodity programs

The acreage on any farm which is diverted from the production of any commodity pursuant to an agreement hereafter entered into under this subchapter shall be deemed to be acreage diverted from that commodity for the purposes of any commodity program under which diversion is required as a condition of eligibility for price support.

(p) Advisory Board on Wildlife; membership

The Secretary may, without regard to the civil service laws, appoint an Advisory Board on Wildlife to advise and consult on matters relating to his functions under this subchapter as he deems appropriate. The Board shall consist of twelve persons chosen from members of wildlife organizations, farm organizations, State game and fish agencies, and representatives of the general public. Members of such Advisory Board who are not regular full-time employees of the United States shall not be entitled to any compensation or expenses.

(q) Regulations

The Secretary shall prescribe such regulations as he determines necessary to carry out the provisions of this subchapter.

(Pub. L. 89–321, title VI, §602, Nov. 3, 1965, 79 Stat. 1206; Pub. L. 90–210, Dec. 18, 1967, 81 Stat. 657; Pub. L. 90–559, §1(1), (7), Oct. 11, 1968, 82 Stat. 996.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (p), are set forth in Title 5, Government Organization and Employees. See particularly, section 3301 et seq. of Title 5.

CODIFICATION

The last sentence of section 602(g) of Pub. L. 89–321 repealed section 590p(b)(3), (4), and (e)(6) of Title 16, Conservation, and was omitted from subsec. (g) of this section.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–559, §1(1), provided for a one year extension through 1970.

Subsec. (k). Pub. L. 90–559, §1(7), substituted ''June 30, 1969'' for ''June 30, 1968'' in two places and ''December 31, 1970'' for ''December 31, 1969''.

1967—Subsec. (a). Pub. L. 90–210 permitted a farm to be placed in the cropland adjustment program without regard to the length of past ownership if that farm was acquired in replacement of an eligible farm which was taken by any Federal, State, or other agency by means of eminent domain proceedings.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 46—SURPLUS DISPOSAL OF AGRICULTURAL COMMODITIES

Sec.

1851 to 1853. Repealed.
1854. Agreements limiting imports.
1855. Supplemental appropriations to encourage exportation and domestic consumption of agricultural products.
1856. Transfer of bartered materials to supplemental stockpile; limitation of acquisition to certain programs; authorization of appropriations.
1857, 1858. Repealed.
1859. Donation to penal and correctional institutions.
1860. Federal irrigation, drainage, and flood-control projects.
(a) Restriction on crop loans or farm payments or benefits.

Sec.

(b) Contract provisions; ineligibility for benefits.
(c) Determination and proclamation of surplus agricultural commodities.
(d) ''Federal irrigation or drainage project'' defined.

§§ 1851, 1852. Repealed. Pub. L. 104–127, title II, §§ 274, 275, Apr. 4, 1996, 110 Stat. 976

Section 1851, acts May 28, 1956, ch. 327, title II, § 201, 70 Stat. 198; Nov. 28, 1990, Pub. L. 101–624, title XV, § 1576, 104 Stat. 3702, related to disposal of stocks by Commodity Credit Corporation.

Section 1852, acts May 28, 1956, ch. 327, title II, § 202, 70 Stat. 199; Dec. 8, 1994, Pub. L. 103–465, title IV, § 401(b)(1), 108 Stat. 4957, related to sale for export of domestically produced extra long staple cotton.

§ 1852a. Repealed. Pub. L. 90–475, § 8, Aug. 11, 1968, 82 Stat. 703

Section, Pub. L. 88–638, § 3, Oct. 8, 1964, 78 Stat. 1038, authorized Commodity Credit Corporation to encourage export sales of extra long staple cotton which is in surplus supply at competitive world prices.

EFFECTIVE DATE OF REPEAL

Section 8 of Pub. L. 90–475 provided that the repeal is effective Aug. 1, 1968.

§ 1853. Repealed. Pub. L. 103–465, title IV, § 412(c), Dec. 8, 1994, 108 Stat. 4964

Section, act May 28, 1956, ch. 327, title II, § 203, 70 Stat. 199, provided for an export sales program for cotton.

EFFECTIVE DATE OF REPEAL

Repeal effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

§ 1854. Agreements limiting imports

The President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States of any agricultural commodity or product manufactured therefrom or textiles or textile products, and the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement. In addition, if a multilateral agreement, including but not limited to the Agreement on Textiles and Clothing referred to in section 3511(d)(4) of title 19, has been or is concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement, or countries to which the United States does not apply the agreement. Nothing herein shall affect the authority provided under section 624 of this title.

(May 28, 1956, ch. 327, title II, § 204, 70 Stat. 200; Pub. L. 87–488, June 19, 1962, 76 Stat. 104; Pub. L. 103–465, title III, § 332, Dec. 8, 1994, 108 Stat. 4947; Pub. L. 104–295, § 20(c)(8), Oct. 11, 1996, 110 Stat. 3528.)

AMENDMENTS

1996—Pub. L. 104–295 made technical amendment to reference in original act which appears in text as reference to section 3511(d)(4) of title 19.

1994—Pub. L. 103–465 amended second sentence generally. Prior to amendment, second sentence read as follows: ''In addition, if a multilateral agreement has been or shall be concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such an agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement.''

1962—Pub. L. 87–488 authorized President to issue regulations governing entry or withdrawal from warehouse of articles which are products of countries not parties to a multilateral agreement respecting such articles.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date on which the WTO Agreement enters into force with respect to the United States (Jan. 1, 1995), see section 335 of Pub. L. 103–465, set out as an Effective Date note under section 3591 of Title 19, Customs Duties.

EX. ORD. NO. 11539. DELEGATIONS OF AUTHORITY CONCERNING CERTAIN MEATS

Ex. Ord. No. 11539, June 30, 1970, 35 F.R. 10733, as amended by Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 989, provided:

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code and as President of the United States, it is ordered as follows:

SECTION 1. The United States Trade Representative, with the concurrence of the Secretary of Agriculture and the Secretary of State, is authorized to negotiate bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of—

(1) fresh, chilled, or frozen cattle meat,

(2) fresh, chilled, or frozen meat of goats and sheep (except lambs), and

(3) prepared and preserved beef and veal (except sausage) if articles are prepared, whether fresh, chilled, or frozen, but not otherwise preserved, that are the products of such countries.

SEC. 2. The Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations [United States Trade Representative], is authorized to issue regulations governing the entry or withdrawal from warehouse for consumption in the United States of any such meats to carry out any such agreement.

SEC. 3. The Commissioner of Customs shall take such actions and supply such information to the Secretary of Agriculture with respect to entry or withdrawal from warehouse for consumption in the United States of such meats as the Secretary of Agriculture, with the Concurrence of the Secretary of State and the Special Representative for Trade Negotiations [United States Trade Representative], may request to carry out any such agreements or regulations.

SEC. 4. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of negotiating agreements delegated to the United States Trade Representative by section 1 and the function of issuing regulations delegated to the Secretary of Agriculture

by section 2 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

EX. ORD. NO. 11651. TEXTILE TRADE AGREEMENTS

Ex. Ord. No. 11651, Mar. 3, 1972, 37 F.R. 4699, as amended by Ex. Ord. No. 11951, Jan. 6, 1977, 42 F.R. 1453; Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 989, provided:

By virtue of the authority vested in me by Section 204 of the Agricultural Act of 1956 (76 Stat. 104), as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Committee for the Implementation of Textile Agreements (hereinafter referred to as the Committee), consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, with the representative of the Department of Commerce as Chairman, is hereby established to supervise the implementation of all textile trade agreements. It shall be located for administrative purposes in the Department of Commerce. The United States Trade Representative, or his designee, also shall be a member of the Committee.

(b) Except as provided in subsection (c) of this section, the Chairman of the Committee, after notice to the representatives of the other member agencies, shall take such actions or shall recommend that appropriate officials or agencies of the United States take such actions as may be necessary to implement each such textile trade agreement: Provided, however, that if a majority of the voting members of the Committee have objected to such action within ten days of receipt of notice from the Chairman, such action shall not be taken except as may otherwise be authorized.

(c) To the extent authorized by the President and by such officials as the President may from time to time designate, the Committee shall take appropriate actions concerning textiles and textile products under Section 204 of the Agricultural Act of 1956, as amended [this section], and Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, and with respect to any other matter affecting textile trade policy.

SEC. 2. (a) The Commissioner of Customs shall take such actions as the Committee, acting through its Chairman, shall recommend to carry out all agreements and arrangements entered into by the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended [this section], with respect to entry, or withdrawal from warehouse, for consumption in the United States of textiles and textile products.

(b) Under instructions approved by the Committee, the Secretary of State shall designate the Chairman of the United States delegation to all negotiations and consultations with foreign governments undertaken with respect to the implementation of textile trade agreements pursuant to this Order. The Secretary of State shall make such representations to foreign governments, including the presentation of diplomatic notes and other communications, as may be necessary to carry out this Order.

SEC. 3. Executive Order No. 11052 of September 28, 1962, as amended, and Executive Order No. 11214 of April 7, 1965, are hereby superseded. Directives issued thereunder to the Commissioner of Customs shall remain in full force and effect in accordance with their terms until modified pursuant to this Order.

SEC. 4. This Order shall be effective upon its publication in the FEDERAL REGISTER.

EX. ORD. NO. 11851. DELEGATION OF AUTHORITY TO ISSUE REGULATIONS LIMITING IMPORTS OF CERTAIN CHEESES

Ex. Ord. No. 11851, April 10, 1975, 40 F.R. 16645, provided:

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of the Treasury, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations [now United States Trade Representative], in order to implement an agreement concluded in December 1974 with the Commission of the European Communities designed to prevent the transshipment to the United States of certain cheeses on which restitution payments have been made, is authorized to issue regulations:

(a) to prevent the importation into the Customs Territory of the United States, except for the Commonwealth of Puerto Rico, of certain cheeses, originating in member states of the European Communities, upon which restitution payments have been made for export to (1) Puerto Rico, the Virgin Islands, other United States possessions and territories or (2) any country other than the United States;

(b) to prevent the importation of such cheeses into the Commonwealth of Puerto Rico if such cheeses are imported into the Commonwealth of Puerto Rico for transshipment to other areas of the Customs Territory of the United States.

SEC. 2. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of issuing regulations delegated to the Secretary of the Treasury by Section 1 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

GERALD R. FORD.

EX. ORD. NO. 12475. TEXTILE IMPORT PROGRAM IMPLEMENTATION

Ex. Ord. No. 12475, May 9, 1984, 49 F.R. 19955, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 204 of the Agricultural Act of 1956, as amended (76 Stat. 104, 7 U.S.C. 1854), and Section 301 of Title 3 of the United States Code, and in order to prevent circumvention or frustration of multilateral and bilateral agreements to which the United States is a party and to facilitate efficient and equitable administration of the United States Textile Import Program, it is hereby ordered as follows:

SECTION 1. (a) In accordance with policy guidance provided by the Committee for the Implementation of Textile Agreements (CITA), through its Chairman, in accordance with the provisions of Executive Order No. 11651, as amended [set out above], the Secretary of the Treasury shall issue regulations governing the entry or withdrawal from warehouse for consumption of textiles and textile products subject to Section 204 of the Act [7 U.S.C. 1854].

(b) Initial regulations promulgated under this section shall be promulgated no later than 120 days after the effective date of this order.

(c) To the extent necessary to implement more effectively the United States textile program under Section 204, such regulations shall include:

(i) clarifications in, or revisions to, the country of origin rules for textiles and textile products subject to Section 204 in order to avoid circumvention of multilateral and bilateral textile agreements;

(ii) provisions governing withdrawals from a customs bonded warehouse of articles subject to this Order transformed, changed or manipulated in a warehouse after importation but prior to withdrawal for consumption; and

(iii) any other provisions determined to be necessary for the effective and equitable administration of the Textile Import Program.

(d) Any such regulations may also include provisions requiring importers to provide additional information and/or documentation on articles subject to this order which are determined to be necessary for the effective and equitable administration of the Textile Import Program.

SEC. 2. (a) The Commissioner of Customs shall establish Textile and Apparel Task Force (the Task Force) within the United States Customs Service to coordinate enforcement of regulations concerning importation under the Textile Import Program.

(b) CITA, through its Chairman, shall, in accordance with the provisions of Executive Order No. 11651, as amended [set out above], provide information and recommendations to the Task Force, through the Department of the Treasury, on implementation and administration of the Textile Import Program.

(c) The Department of Treasury shall, to the extent practicable, inform the Chairman of CITA of the progress of all investigations concerning textile imports; provide notice to CITA of all requests for rulings on matters that could reasonably be expected to affect the implementation of the Textile Import Program; and take into consideration any comments on such requests that CITA, through its Chairman, timely submits.

SEC. 3. This order supplements, but does not supersede or amend, Executive Order No. 11651 of March 3, 1972, as amended [set out above].

SEC. 4. This order shall be effective upon its publication in the Federal Register.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2581.

§ 1855. Supplemental appropriations to encourage exportation and domestic consumption of agricultural products

There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1957, the sum of $500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of section 612c of this title, subject to all provisions of law relating to the expenditure of funds appropriated by such section, except that up to 50 per centum of such $500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof.

(May 28, 1956, ch. 327, title II, § 205, 70 Stat. 200.)

§ 1856. Transfer of bartered materials to supplemental stockpile; limitation of acquisition to certain programs; authorization of appropriations

(a) Strategic and other materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products, unless acquired for the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.], or for other purposes shall be transferred to the supplemental stockpile established by section 1704(b)[1] of this title; but no strategic or critical material shall be acquired by the Commodity Credit Corporation as a result of such barter or exchange except for such national stockpile, for such supplemental stockpile, for foreign economic or military aid or assistance programs, or for offshore construction programs, or to meet requirements of Government agencies.

(b) Repealed. Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78.

(c) In order to reimburse the Commodity Credit Corporation for materials transferred to the supplemental stockpile there are hereby authorized to be appropriated amounts equal to the value of any materials so transferred. The value of any such material for the purpose of this subsection, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such transfer as determined by the Secretary of Agriculture.

(May 28, 1956, ch. 327, title II, § 206, 70 Stat. 200; Pub. L. 85–931, § 7, Sept. 6, 1958, 72 Stat. 1791; Pub. L. 86–341, title II, § 204, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (a), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

Section 1704(b) of this title, referred to in subsec. (a), was amended generally by Pub. L. 101–624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3635, and, as so amended, no longer contains provisions relating to a supplemental stockpile.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–456 repealed subsec. (b) which permitted strategic materials acquired by Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products to be entered, or withdrawn from warehouse, free of duty.

1959—Subsec. (a). Pub. L. 86–341 authorized acquisition of strategic and critical materials for national stockpile to meet requirements of Government agencies.

1958—Subsec. (a). Pub. L. 85–931 limited acquisition of strategic and critical materials for national stockpile, supplemental stockpile, foreign economic or military aid or assistance programs and offshore construction programs.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456.

§ 1857. Repealed. Pub. L. 104–127, title II, § 274, Apr. 4, 1996, 110 Stat. 976

Section, acts May 28, 1956, ch. 327, title II, § 207, 70 Stat. 200; Oct. 11, 1962, Pub. L. 87–793, § 607(a)(6), 76 Stat. 849, related to appointment and duties of surplus disposal administrator.

§ 1858. Repealed. Pub. L. 89–544, § 8(a), Sept. 6, 1966, 80 Stat. 658

Section, act May 28, 1956, ch. 327, title II, § 209, 70 Stat. 201, established a bipartisan Commission on Increased Industrial Use of Agricultural Products.

§ 1859. Donation to penal and correctional institutions

Notwithstanding any other limitations as to the disposal of surplus commodities acquired through price support operations, the Commodity Credit Corporation is authorized on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, and upon application, to donate food

[1] See References in Text note below.

commodities acquired through price support operations to Federal penal and correctional institutions, and to State correctional institutions for minors, other than those in which food service is provided for inmates on a fee, contract, or concession basis.

(May 28, 1956, ch. 327, title II, § 210, 70 Stat. 202.)

AUTHORIZATION FOR COMMODITY CREDIT CORPORATION TO PURCHASE AND DONATE FLOUR AND CORNMEAL

Pub. L. 85–683, Aug. 19, 1958, 72 Stat. 635, as authorizing Commodity Credit Corporation to purchase and donate flour and cornmeal when it has wheat or corn available for donation pursuant to this section, see note set out under section 1431 of this title.

§ 1860. Federal irrigation, drainage, and flood-control projects

(a) Restriction on crop loans or farm payments or benefits

For a period of three years from May 28, 1956, no agricultural commodity determined by the Secretary of Agriculture in accordance with subsection (c) of this section to be in surplus supply shall receive any crop loans or Federal farm payments or benefits if grown on any newly irrigated or drained lands within any Federal irrigation or drainage project hereafter authorized unless such lands were used for the production of such commodity prior to May 28, 1956.

(b) Contract provisions; ineligibility for benefits

The Secretary of the Interior and the Secretary of Agriculture shall cause to be included, in all irrigation, drainage, or flood-control contracts entered into with respect to Federal irrigation, drainage, or flood-control projects hereafter authorized, such provisions as they may deem necessary to provide for the enforcement of the provisions of this section. For a period of three years from May 28, 1956, surplus crops grown on lands reclaimed by flood-control projects hereafter authorized and the lands so reclaimed shall be ineligible for any benefits under the soil-bank provisions of this Act and under price support legislation.

(c) Determination and proclamation of surplus agricultural commodities

On or before October 1 of each year, the Secretary of Agriculture shall determine and proclaim the agricultural commodities the supplies of which are in excess of estimated requirements for domestic consumption and export plus adequate reserves for emergencies. The commodities so proclaimed shall be considered to be in surplus supply for the purposes of this section during the succeeding crop year.

(d) "Federal irrigation or drainage project" defined

For the purposes of this section the term ''Federal irrigation or drainage project'' means any irrigation or drainage project subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) in effect at the date of the adoption of this amendment and any irrigation or drainage project subject to the laws relating to irrigation and drainage administered by the Department of Agriculture or the Secretary of Agriculture.

(May 28, 1956, ch. 327, title II, § 211, 70 Stat. 202.)

REFERENCES IN TEXT

The soil-bank provisions of this Act, referred to in subsec. (c), probably means those provisions of act May 28, 1956, ch. 327, known as the Agricultural Act of 1956, which enacted the Soil Bank Act, and which were classified to subchapters I to III (§ 1801 et seq.) of chapter 45 of this title. The Soil Bank Act was repealed by Pub. L. 89–321, title VI, § 601, Nov. 3, 1965, 79 Stat. 1206. For complete classification of the Soil Bank Act to the Code prior to repeal, see Tables.

The Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), referred to in subsec. (d), are classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

The date of the adoption of this amendment, referred to in subsec. (d), probably means the date of enactment of the Agricultural Act of 1956, which was May 28, 1956.

CHAPTER 47—INTERCHANGE OF DEPARTMENT OF AGRICULTURE AND STATE EMPLOYEES

§§ 1881 to 1888. Repealed. Pub. L. 91–648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925

Sections, act Aug. 2, 1956, ch. 878, §§ 1–8, 70 Stat. 934, related to:

Section 1881, declaration of purpose;

Section 1882, definitions;

Section 1883, cooperative agreements and period of assignment;

Section 1884, amended Aug. 4, 1965, Pub. L. 89–106, § 6, 79 Stat. 432, Departmental employees, status, salary and leave rights, and disability or death arising out of injury;

Section 1885, travel expenses of departmental employees;

Section 1886, State employees: appointments or detail, compensation, and supervision of duties;

Section 1887, State employees: conflict of interest and disability or death arising out of injury; and

Section 1888, travel expenses of state employees. See section 3371 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91–648, set out as an Effective Date note under section 3371 of Title 5, Government Organization and Employees.

CHAPTER 48—HUMANE METHODS OF LIVESTOCK SLAUGHTER

Sec.

1901. Findings and declaration of policy.
1902. Humane methods.
1903. Repealed.
1904. Methods research; designation of methods.
1905. Repealed.
1906. Exemption of ritual slaughter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 21 sections 603, 610, 620.

§ 1901. Findings and declaration of policy

The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering

operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

(Pub. L. 85–765, § 1, Aug. 27, 1958, 72 Stat. 862.)

SHORT TITLE OF 1978 AMENDMENT

For citation of Pub. L. 95–445, Oct. 10, 1978, 92 Stat. 1069, as the ''Humane Methods of Slaughter Act of 1978'', see Short Title of 1978 Amendment note set out under section 601 of Title 21, Food and Drugs.

COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER

Pub. L. 104–127, title IX, subtitle A, Apr. 4, 1996, 110 Stat. 1184, provided that:

''SEC. 901. FINDINGS.

''Because of the unique and special needs of equine being transported to slaughter, Congress finds that it is appropriate for the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

''SEC. 902. DEFINITIONS.

''In this subtitle:

''(1) COMMERCIAL TRANSPORTATION.—The term 'commercial transportation' means the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road.

''(2) EQUINE FOR SLAUGHTER.—The term 'equine for slaughter' means any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

''(3) PERSON.—The term 'person'—

''(A) means any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter; but

''(B) does not include any individual or other entity referred to in subparagraph (A) that occasionally transports equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

''SEC. 903. REGULATION OF COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture may issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

''(b) ISSUES FOR REVIEW.—In carrying out this section, the Secretary of Agriculture shall review the food, water, and rest provided to equine for slaughter in transit, the segregation of stallions from other equine during transit, and such other issues as the Secretary considers appropriate.

''(c) ADDITIONAL AUTHORITY.—In carrying out this section, the Secretary of Agriculture may—

''(1) require any person to maintain such records and reports as the Secretary considers necessary;

''(2) conduct such investigations and inspections as the Secretary considers necessary; and

''(3) establish and enforce appropriate and effective civil penalties.

''SEC. 904. LIMITATION OF AUTHORITY TO EQUINE FOR SLAUGHTER.

''Nothing in this subtitle authorizes the Secretary of Agriculture to regulate the routine or regular transportation, to slaughter or elsewhere, of—

''(1) livestock other than equine; or

''(2) poultry.

''SEC. 905. EFFECTIVE DATE.

''This subtitle shall become effective on the first day of the first month that begins 30 days or more after the date of enactment of this Act [Apr. 4, 1996].''

§ 1902. Humane methods

No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

(Pub. L. 85–765, § 2, Aug. 27, 1958, 72 Stat. 862; Pub. L. 95–445, § 5(a), Oct. 10, 1978, 92 Stat. 1069.)

AMENDMENTS

1978—Par. (b). Pub. L. 95–445 inserted ''and handling in connection with such slaughtering'' at end.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–445 effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as a note under section 603 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1906 of this title.

§ 1903. Repealed. Pub. L. 95–445, § 5(b), Oct. 10, 1978, 92 Stat. 1069

Section, Pub. L. 85–765, § 3, Aug. 27, 1958, 72 Stat. 862, related to limitations on Government procurement and price support, modifications during national emergency, and statements of eligibility.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

CONTRACTS FOR OR PROCUREMENT OF LIVESTOCK PRODUCTS DURING THE PERIOD FROM JUNE 30, 1960, TO AUGUST 30, 1960

Pub. L. 86–547, June 29, 1960, 74 Stat. 255, permitted any agency or instrumentality of the United States, during the period from June 30, 1960, to August 30, 1960, to contract for or procure livestock products produced or processed by a slaughterer or processor which slaughters or handles for slaughter livestock by methods other than those designated and approved by the Secretary of Agriculture if such slaughterer or processor has contracted for the purchase of the equipment

necessary to enable him to adopt such methods but such equipment has not been delivered to him.

§ 1904. Methods research; designation of methods

In furtherance of the policy expressed herein the Secretary is authorized and directed—

(a) to conduct, assist, and foster research, investigation, and experimentation to develop and determine methods of slaughter and the handling of livestock in connection with slaughter which are practicable with reference to the speed and scope of slaughtering operations and humane with reference to other existing methods and then current scientific knowledge; and

(b) on or before March 1, 1959, and at such times thereafter as he deems advisable, to designate methods of slaughter and of handling in connection with slaughter which, with respect to each species of livestock, conform to the policy stated in this chapter. If he deems it more effective, the Secretary may make any such designation by designating methods which are not in conformity with such policy. Designations by the Secretary subsequent to March 1, 1959, shall become effective 180 days after their publication in the Federal Register.

(Pub. L. 85–765, § 4, Aug. 27, 1958, 72 Stat. 863; Pub. L. 95–445, § 5(b)–(e), Oct. 10, 1978, 92 Stat. 1069.)

AMENDMENTS

1978—Par. (a). Pub. L. 95–445, § 5(d), inserted ''and'' after the semicolon at end.

Par. (b). Pub. L. 95–445, § 5(c), (e), struck out ''for purposes of section 1903 of this title'' before ''180 days'', and substituted a period for the semicolon at end.

Par. (c). Pub. L. 95–445, § 5(b), repealed par. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–445 effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as a note under section 603 of Title 21, Food and Drugs.

§ 1905. Repealed. Pub. L. 95–445, § 5(b), Oct. 10, 1978, 92 Stat. 1069

Section, Pub. L. 85–765, § 5, Aug. 27, 1958, 72 Stat. 863, related to establishment, composition, functions, compensation, meetings, and reports of advisory committees.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

§ 1906. Exemption of ritual slaughter

Nothing in this chapter shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this chapter, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this chapter. For the purposes of this section the term ''ritual slaughter'' means slaughter in accordance with section 1902(b) of this title.

(Pub. L. 85–765, § 6, Aug. 27, 1958, 72 Stat. 864.)

CHAPTER 49—CONSULTATION ON AGRICULTURAL PROGRAMS

Sec.

1911. Consultation of Secretary of Agriculture with farmers, farm and commodity organizations and other persons and organizations; travel and per diem expenses.
1912. Submission of legislative proposals.
1913. Authority of Secretary of Agriculture under other provisions of law and to establish and consult with advisory committees.

§ 1911. Consultation of Secretary of Agriculture with farmers, farm and commodity organizations and other persons and organizations; travel and per diem expenses

(a) Notwithstanding any other provision of law, whenever the Secretary of Agriculture determines that additional legislative authority is necessary to develop new agricultural programs involving supply adjustments or marketing regulations through marketing orders, marketing quotas, or price support programs with respect to any agricultural commodity, or to make substantial revisions in any existing agricultural legislation or programs, he may consult and advise with farmers, farm organizations, and appropriate commodity organizations, if any, for the commodity involved, to review the problems involved, the need for new legislation, and the provisions which should be included in any such proposed legislation.

(b) In addition, whenever and to the extent he deems such action necessary or desirable, the Secretary of Agriculture may consult and advise with any person or group of persons, or organizations, including farmers, handlers, processors, or others connected with the production, processing, handling, or use of the commodity involved, with respect to the problems involved and need for legislation and the provisions which should be included in any such proposed legislation.

(c) In order that the Secretary of Agriculture may be assured of being able to obtain the advice of any such person or organization, he is authorized, whenever he determines such action necessary, to pay for each day's attendance at meetings and while traveling to and from such meetings, transportation expenses and in lieu of subsistence, a per diem in the amount authorized under subchapter I of chapter 57 of title 5 for Federal employees. No salary or other compensation shall be paid.

(Pub. L. 87–128, title I, § 102, Aug. 8, 1961, 75 Stat. 295.)

CODIFICATION

In subsec. (c), ''subchapter I of chapter 57 of title 5'' substituted for ''the Travel Expense Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

SHORT TITLE

Section 1 of Pub. L. 87–128 provided: ''That this Act [enacting this section and sections 1013a, 1912, 1913, 1921 to 1933, 1941 to 1947, 1961 to 1968, 1969, 1970, 1971, 1981 to 1993, and 2261 of this title, amending sections 602, 608a, 608c, 608e–1, 1334, 1335, 1336, 1340, 1444b, 1446a, 1701, 1703,

1704, 1706, 1709, 1723, 1724, and 1782 of this title and section 590p of Title 16, repealing sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1027 to 1029 of this title, sections 1148a–1 to 1148a–3 of Title 12, and sections 590r to 590x–4 of Title 16, and enacting provisions set out as notes under this section and sections 1282, 1334, 1335, 1441, 1446, 1703, and 1921 of this title and section 590p of Title 16, and repealing Act Aug. 31, 1954, ch. 1145, 68 Stat. 999, set out as a note under former section 1148a–1 of Title 12], may be cited as the 'Agricultural Act of 1961'.''

Section 101 of Pub. L. 87–128 provided that: ''This title [enacting this section and sections 1912 and 1913, amending sections 602, 608a, 608c, 608e–1, 1334, 1335, 1336, 1340, and 1782 of this title and section 590p of Title 16, and enacting provisions set out as notes under sections 1334, 1340, 1441, and 1911 of this title and section 590p of Title 16] may be cited as the 'Agricultural Enabling Amendments Act of 1961'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1912 of this title.

§ 1912. Submission of legislative proposals

If the Secretary of Agriculture, after such consultation and receipt of such advice as provided in section 1911 of this title, determines that additional legislative authority is necessary to develop agricultural programs involving supply adjustments or marketing regulations through the use of marketing orders, marketing quotas or price-support programs, he shall formulate specific recommendations in the form of proposed legislation which shall be submitted to the Congress together with a statement setting forth the purpose and need for such proposed legislation.

(Pub. L. 87–128, title I, § 103, Aug. 8, 1961, 75 Stat. 295.)

§ 1913. Authority of Secretary of Agriculture under other provisions of law and to establish and consult with advisory committees

Nothing in this Act shall be deemed to limit the authority of the Secretary of Agriculture under other provision of law or to establish or consult with advisory committees.

(Pub. L. 87–128, title I, § 104, Aug. 8, 1961, 75 Stat. 295.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended, known as the Agricultural Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables.

CHAPTER 50—AGRICULTURAL CREDIT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 940, 2204f, 2279, 2279a of this title; title 12 sections 2219d, 2279aa; title 15 section 636; title 16 sections 590h, 3811, 3821; title 21 section 889; title 38 section 3711; title 40 App. section 214; title 42 sections 8813, 9817.

§ 1921. Congressional findings

The Congress finds that the statutory authority of the Secretary of Agriculture, hereinafter referred to in this chapter as the ''Secretary,'' for making and insuring loans to farmers and ranchers should be revised and consolidated to provide for more effective credit services to farmers.

(Pub. L. 87–128, title III, § 301(b), Aug. 8, 1961, 75 Stat. 307.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Development Act. For complete classification of title III to the Code, see Short Title note set out below and Tables.

CODIFICATION

Section is comprised of subsec. (b) of section 301 of Pub. L. 87–128. Subsec. (a) of such section 301 is set out as a Short Title note below.

EFFECTIVE DATE

Former section 300.1 of Title 6, Code of Federal Regulations, promulgated on Oct. 15, 1961, by the Administrator of the Farmers Home Administration, published in 26 F.R. 10031, provided: ''The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921) [this chapter], is hereby made effective on October 15, 1961, except (a) as to its authorizations to make and sell in-

sured loans with 4½ percent yield to the lender and a three-year repurchase agreement which was made effective by regulations issued on September 13, 1961 (26 F.R. 9307), pursuant to assignment of functions contained in 26 F.R. 7888, and (b) that the provisions of Title IV of the Bankhead-Jones Farm Tenant Act which requires mineral reservations in lands disposed of under Title III of that Act [sections 1010 to 1012 and 1013a of this title] shall not become effective until December 7, 1961.'' See section 341(a) of Pub. L. 87–128, set out as a note under this section.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–248, § 1, May 11, 1994, 108 Stat. 619, provided that: ''This Act [amending section 1981 of this title] may be cited as the 'Farmers Home Administration Improvement Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–554, § 1(a), Oct. 28, 1992, 106 Stat. 4142, provided that: ''This Act [enacting sections 1935, 1936, 1948, 1949, and 2008d of this title, amending sections 1925, 1926c, 1929, 1932, 1981d, 1982, 1983, 1983a, 1985, 1989, 1991, 1994, 2003, and 5102 of this title, and enacting provisions set out as notes under sections 1929 and 1989 of this title] may be cited as the 'Agricultural Credit Improvement Act of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XXIII, § 2301, Nov. 28, 1990, 104 Stat. 3979, provided that: ''This title [see Tables for classification] may be cited as the 'Rural Economic Development Act of 1990'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–409, § 1, Aug. 28, 1986, 100 Stat. 923, provided: ''That this Act [amending section 1932 of this title and enacting provisions set out as a note under section 1932 of this title] may be cited as the 'Rural Industrial Assistance Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–258, title VI, § 601, Apr. 10, 1984, 98 Stat. 138, provided that: ''This title [enacting section 1981b of this title, amending sections 1943, 1946, 1961, 1964, 1986, and 1994 of this title, enacting provisions set out as notes under sections 1961 and 1981 of this title, and amending provisions set out as a note preceding section 1961 of this title] may be cited as the 'Emergency Agricultural Credit Act of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–334, § 1, Aug. 4, 1978, 92 Stat. 420, provided: ''That this Act [enacting sections 1929b, 1934, 1981a, 1994, and 1995 of this title and sections 2201 to 2205 of Title 16, Conservation, amending sections 1309, 1922, 1924 to 1927, 1929, 1929a, 1932, 1941 to 1943, 1946, 1961, 1964, 1968, 1981, 1983, 1991, and 2908 of this title, repealing section 1965 of this title, and enacting provisions set out as notes under this section and sections 1309, 1926, preceding 1961, and 1964 of this title and section 2201 of Title 16] may be cited as the 'Agricultural Credit Act of 1978'.''

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–419 provided: ''That this Act [enacting sections 1010a, 1929a, 1931 to 1933, 1947, 1992, 2204a, 2212a, 2651 to 2654, and 2661 to 2668 of this title, amending sections 1006a, 1011, 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, 1991, 2201, and 2204 of this title, section 5315 of Title 5, Government Organization and Employees, sections 590*g*, 590h, 590*o*, and 1001 to 1005 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under this section] may be cited as the 'Rural Development Act of 1972'.''

SHORT TITLE

Section 301(a) of title III of Pub. L. 87–128, as amended by Pub. L. 92–419, title I, § 101, Aug. 30, 1972, 86 Stat. 657, provided that: ''This title [enacting this section and sections 1013a, 1922 to 1933, 1941 to 1947, 1961 to 1968, 1969, 1970, 1971, and 1981 to 1993 of this title, amending sections 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, and 1991 of this title, repealing sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1027 to 1029 of this title, sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, and sections 590r to 590x–4 of Title 16, Conservation, and enacting provisions set out as a note under this section] may be cited as the 'Consolidated Farm and Rural Development Act'.''

REGULATIONS

Section 2396 of title XXIII of Pub. L. 101–624 provided that: ''Except as otherwise provided in this title [see Short Title of 1990 Amendment note set out above], no later than 180 days after the date of the enactment of this Act [Nov. 28, 1990], the Secretary shall promulgate such regulations as may be necessary to carry out this title and the amendments made by this title.''

PRESERVATION OF ELIGIBILITY FOR CREDIT ASSISTANCE UNDER FEDERAL LAW

Section 2395 of title XXIII of Pub. L. 101–624 provided that: ''Notwithstanding any other provision of law, this title [see Short Title of 1990 Amendment note set out above] shall not be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act [Nov. 28, 1990], of cooperatives and other entities for any other credit assistance under Federal law.''

USE OF QUALIFIED PERSONNEL BY THE DEPARTMENT OF AGRICULTURE

Pub. L. 95–334, title I, § 126, Aug. 4, 1978, 92 Stat. 429, provided that: ''It is the sense of Congress that, in carrying out the provisions of the Consolidated Farm and Rural Development Act [see Short Title note set out above], the Secretary of Agriculture should ensure that—

''(1) only officers and employees of the Department of Agriculture who are adequately prepared to understand the particular needs and problems of farmers in an area are assigned to such area; and

''(2) a high priority is placed on keeping existing farm operations operating.''

REFERENCES IN OTHER LAWS TO BANKHEAD-JONES FARM TENANT ACT OR WATER FACILITIES ACT; REPEALS; SAVINGS AND SEPARABILITY PROVISIONS

Section 341 of Pub. L. 87–128 provided that:

''(a) Reference to any provisions of the Bankhead-Jones Farm Tenant Act [see section 1000 of this title] or the Act of August 28, 1937 (50 Stat. 869), as amended, superseded by any provision of this title [this chapter] shall be construed as referring to the appropriate provision of this title [this chapter]. Titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937 (50 Stat. 869), as amended, the Act of April 6, 1949 (63 Stat. 43), as amended, and the Act of August 31, 1954 (68 Stat. 999), as amended, are hereby repealed effective one hundred and twenty days after enactment hereof [Aug. 8, 1961], or such earlier date as the provisions of this title [this chapter] are made effective by the Secretary's regulations except that the repeal of section 2(c) of the Act of April 6, 1949, shall not be effective prior to January 1, 1962. The foregoing provisions shall not have the effect of repealing the amendments to section 24, chapter 6 of the Federal Reserve Act [section 371 of Title 12], as amended, section 5200 of the Revised Statutes [section 84 of Title 12], section 35 of chapter III of the Act approved June 19, 1934 (D.C. Code, title 35, section 535), enacted by section 15 of the Bankhead-Jones Farm Tenant Act, as amended, and by section 10(f) of the Act of August 28, 1937 (50 Stat. 869), as amended.

''(b) The repeal of any provision of law by this title [this chapter] shall not—

''(1) affect the validity of any action taken or obligation entered into pursuant to the authority of any of said Acts, or

''(2) prejudice the application of any person with respect to receiving assistance under the provisions of this title [this chapter], solely because such person is obligated to the Secretary under authorization contained in any such repealed provision.

''(c) If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the remainder of the title [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby.''

SUBCHAPTER I—REAL ESTATE LOANS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1961, 1963, 1964, 1981b, 1983, 1983a, 1985, 1994, 2000, 2003 of this title.

§ 1922. Persons eligible for loans

(a) Authorization and conditions

The Secretary is authorized to make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, and joint operations that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, and joint operations, individuals holding a majority interest in such entity, must (1) be citizens of the United States, (2) for direct loans only, have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become owner-operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, and joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this section, in the case of corporations, partnerships, and joint operations, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an ownership and operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, and joint operations.

(b) Direct loans

(1) In general

Subject to paragraph (3), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who has operated a farm or ranch for not less than 3 years and—

(A) is a qualified beginning farmer or rancher;

(B) has not received a previous direct farm ownership loan made under this subchapter; or

(C) has not received a direct farm ownership loan under this subchapter more than 10 years before the date the new loan would be made.

(2) Youth loans

The operation of an enterprise by a youth under section 1941(b) of this title shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

(3) Transition rule

(A) In general

Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subchapter to a farmer or rancher who has a direct loan outstanding under this subchapter on April 4, 1996.

(B) Less than 5 years

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after April 4, 1996.

(C) 5 years or more

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after April 4, 1996.

(D) Notice

Beginning with fiscal year 2000 not later than 12 months before a borrower will become ineligible for direct loans under this subchapter by reason of this paragraph, the Secretary shall notify the borrower of such impending ineligibility.

(Pub. L. 87–128, title III, §302, Aug. 8, 1961, 75 Stat. 307; Pub. L. 91–620, §2, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 95–334, title I, §101, Aug. 4, 1978, 92 Stat. 420; Pub. L. 97–98, title XVI, §1601(a), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, §§1301(a), 1302(a), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104–127, title VI, §601, Apr. 4, 1996, 110 Stat. 1084; Pub. L. 105–277, div. A, §101(a) [title VIII, §§804, 805(1)], Oct. 21, 1998, 112 Stat. 2681, 2681–39.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §101(a) [title VIII, §805(1)], inserted ''for direct loans only,'' before ''have either'' in cl. (2).

Subsec. (b)(3)(D). Pub. L. 105–277, §101(a) [title VIII, §804], added subpar. (D).

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which read as follows:

''The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1923 of this title solely to borrowers of loans that are outstanding on December 23, 1985.''

1985—Subsec. (a). Pub. L. 99–198, §§1301(a), 1302(a)(1), designated existing provisions as subsec. (a) and substituted—

(1) '', partnerships, and joint operations'' for ''and partnerships'' wherever appearing after ''corporations'';

(2) '', partnerships, and joint operations'' for '', and partnerships'' wherever appearing after ''corporations''; and

(3) ''individuals'' for ''members, stockholders, or partners, as applicable,'' wherever appearing.

Pub. L. 99–198, §1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-operators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (b). Pub. L. 99–198, §1302(a)(2), added subsec. (b).

1981—Pub. L. 97–98 substituted ''corporations and partnerships, the family farm'' for ''cooperatives, corporations, and partnerships, the family farm'', and inserted ''in the case of cooperatives, corporations, and partnerships'' at end.

1978—Pub. L. 95–334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1970—Pub. L. 91–620 provided that with respect to veterans as defined in section 1983(e) of this title, a farm background shall not be required as a condition precedent to obtaining any loan.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 663 of title VI of Pub. L. 104–127 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title [enacting sections 2008g to 2008i of this title, amending this section and sections 1631, 1923, 1924, 1927, 1928, 1929, 1929a, 1932, 1934, 1941, 1942, 1946, 1949, 1961 to 1964, 1981, 1981d, 1983, 1983a, 1985, 1991, 1992, 1994, 1997, 1999, 2000, 2001, 2002, and 2003 of this title, repealing sections 1936, 1945, 1947, 1948, and 1968 of this title, and repealing provisions set out as a note under section 1999 of this title] shall become effective on the date of enactment of this Act [Apr. 4, 1996].

''(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 [enacting sections 2008g and 2008i of this title and amending this section and sections 1929, 1941, 1942, 1962, 1963, 1964, 1981d, 1991, 1997, and 2001 of this title] shall become effective 90 days after the date of enactment of this Act [Apr. 4, 1996].

''(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 [amending sections 1985 and 2000 of this title] shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act [Apr. 4, 1996].

''(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1934, 1983, 1994, 2006a of this title.

§ 1923. Purposes of loans

(a) Allowed purposes

(1) Direct loans

A farmer or rancher may use a direct loan made under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;

(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch; or

(D) paying for activities to promote soil and water conservation and protection described in section 1924 of this title on a farm or ranch.

(2) Guaranteed loans

A farmer or rancher may use a loan guaranteed under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;

(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

(D) paying for activities to promote soil and water conservation and protection described in section 1924 of this title on a farm or ranch; or

(E) refinancing indebtedness.

(b) Preferences

In making or guaranteeing a loan under this subchapter for purchase of a farm or ranch, the Secretary shall give preference to a person who—

(1) has a dependent family;

(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

(c) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).

(Pub. L. 87–128, title III, §303, Aug. 8, 1961, 75 Stat. 307; Pub. L. 87–703, title IV, §401(1), Sept. 27, 1962, 76 Stat. 631; Pub. L. 90–488, §1, Aug. 15, 1968, 82 Stat. 770; Pub. L. 95–113, title XIV, §1448(a), Sept. 29, 1977, 91 Stat. 1011; Pub. L. 96–438, §1(1), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 97–98, title XVI, §1602, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 104–127, title VI, §602(a), Apr. 4, 1996, 110 Stat. 1085.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions outlining

preferences for loans made or insured under this subchapter and defining terms ''improving farms'' and ''qualified non-fossil energy system''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''who have dependent families'' for ''who are married or have dependent families''.

1980—Subsec. (b)(1). Pub. L. 96–438 substituted ''the acquisition, installation, and modification'' for ''the acquisition and installation'' and struck out ''in any residential structure'' after ''energy system''.

1977—Pub. L. 95–113 designated existing provisions as subsec. (a) and added subsec. (b).

1968—Pub. L. 90–488 designated existing provisions as cls. (1), (2), (4), (5), and added cl. (3).

1962—Pub. L. 87–703 authorized loans to be made or insured for recreational uses and facilities.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 602(b) of Pub. L. 104–127 provided that: ''Section 303(c)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1923(c)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act.'' [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1934, 1991, 2008f of this title.

§ 1924. Soil and water conservation and protection

(a) In general

Loans may also be made or insured under this subchapter for soil and water conservation and protection. Such loans may be made to farm owners or tenants who are eligible borrowers under this subchapter for—

(1) the installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences;

(2) the establishment of forest cover for sustained yield timber management, erosion control, or shelterbelt purposes;

(3) the establishment or improvement of permanent pasture;

(4) the conversion to and maintenance of sustainable agricultural production systems, as described by Department technical guides and handbooks;

(5) the payment of costs of complying with section 3812 of title 16; and

(6) other purposes consistent with plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(b) Priority

In making or guaranteeing loans under this subsection,[1] the Secretary shall give priority to producers who use such loans to build conservation structures or establish conservation practices to comply with section 3812 of title 16.

(c) Loan maximum

The Secretary shall not make or insure a loan under this section that exceeds the lesser of—

(1) the value of the farm or other security for such loan; or

(2) $50,000.

(Pub. L. 87–128, title III, §304, Aug. 8, 1961, 75 Stat. 308; Pub. L. 90–488, §2, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92–419, title I, §102, Aug. 30, 1972, 86 Stat. 657; Pub. L. 95–334, title I, §102, Aug. 4, 1978, 92 Stat. 421; Pub. L. 101–624, title XVIII, §1802(a), Nov. 28, 1990, 104 Stat. 3817; Pub. L. 102–237, title V, §501(a), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VI, §603, Apr. 4, 1996, 110 Stat. 1085.)

AMENDMENTS

1996—Pub. L. 104–127, §603(2), inserted section catchline.

Subsec. (a). Pub. L. 104–127, §603(2), (5), redesignated subsec. (a)(1) as (a), inserted heading, and redesignated subpars. (A) to (F) as pars. (1) to (6), respectively. Former pars. (2) and (3) redesignated subsecs. (b) and (c), respectively.

Subsec. (b). Pub. L. 104–127, §603(1), (3), redesignated subsec. (a)(2) as (b), inserted heading, substituted ''guaranteeing loans'' for ''insuring loans'', and struck out former subsec. (b) which read as follows: ''Loans may also be made or insured under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1922 of this title to acquire or establish in rural areas small business enterprises to provide such residents with essential income.''

Subsec. (c). Pub. L. 104–127, §603(1), (4), (6), redesignated subsec. (a)(3) as (c), inserted heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and struck out former subsec. (c) which read as follows: ''Loans may also be made or insured under this subchapter to any farm owners or tenants without regard to the requirements of clauses (1), (2), and (3) of section 1922 of this title for the purposes of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including the construction, modification, or relocation of farm or other structures necessary to comply with such pollution abatement requirements.''

1991—Subsecs. (a), (d). Pub. L. 102–237 redesignated subsec. (d) as (a) and moved it to appear before subsec. (b) and struck out former subsec. (a) which read as follows: ''Loans may also be made or insured under this subchapter to any farmowners or tenants without regard to the requirements of section 1922(1), (2), and (3) of this title for the purposes only of land and water development, use and conservation, not including recreational uses and facilities, and without regard to the requirements of section 1922(2) and (3) of this title, to farmowners or tenants to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter.''

1990—Subsec. (d). Pub. L. 101–624 added subsec. (d).

1978—Subsec. (a). Pub. L. 95–334, §102(1), struck out ''individual'' after ''title, to''.

[1] So in original. Probably should be ''this section,''.

Subsec. (c). Pub. L. 95–334, § 102(2), added subsec. (c).

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and struck out item (a) and (b) designations appearing before ''to any farmowner'' and ''without regard to'', respectively, and added subsec. (b).

1968—Pub. L. 90–488 designated existing provisions as cl. (a), excluded recreational uses and facilities, and added cl. (b).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 917, 1923, 1925, 1934, 1991, 6613 of this title.

§ 1925. Limitations on amount of farm ownership loans

(a) In general

The Secretary shall make or insure no loan under sections 1922, 1923, 1924, 1934, and 1935 of this title that would cause the unpaid indebtedness under such sections of any one borrower to exceed the smaller of (1) the value of the farm or other security, or (2) in the case of a loan other than a loan guaranteed by the Secretary, $200,000, or, in the case of a loan guaranteed by the Secretary, $700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the amount of any unpaid indebtedness of the borrower on loans under subchapter II of this chapter that are guaranteed by the Secretary).

(b) Determination of value

In determining the value of the farm, the Secretary shall consider appraisals made by competent appraisers under rules established by the Secretary.

(c) Inflation percentage

For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.

(Pub. L. 87–128, title III, § 305, Aug. 8, 1961, 75 Stat. 308; Pub. L. 91–620, § 1, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92–419, title I, § 103, Aug. 30, 1972, 86 Stat. 658; Pub. L. 91–524, title VIII, § 807, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95–334, title I, § 103, Aug. 4, 1978, 92 Stat. 421; Pub. L. 102–554, § 3, Oct. 28, 1992, 106 Stat. 4142; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 806(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–39.)

AMENDMENTS

1998—Pub. L. 105–277 inserted section catchline, designated first sentence as subsec. (a), inserted heading, and substituted ''$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the amount of any unpaid indebtedness of the borrower on loans under subchapter II of this chapter that are guaranteed by the Secretary)'' for ''$300,000'', designated second sentence as subsec. (b) and inserted heading, and added subsec. (c).

1992—Pub. L. 102–554 inserted reference to section 1935 of this title.

1978—Pub. L. 95–334 substituted provisions setting forth requirements for loans under sections 1922, 1923, 1924, and 1934 of this title for provisions setting forth requirements for loans under sections 1922, 1923, and 1924 of this title.

1973—Pub. L. 91–524, § 807, as added by Pub. L. 93–86, substituted ''$225,000'' for ''$100,000'' in cl. (a), added cl. (b), and redesignated former cl. (b) as (c).

1972—Pub. L. 92–419 struck out ''normal'' before ''value'' in first and second sentences and before ''market value'' in last sentence.

1970—Pub. L. 91–620 substituted ''$100,000'' for ''$60,000''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1943 of this title.

§ 1926. Water and waste facility loans and grants

(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of title 26. With respect to loans of less than $500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.

(2) The Secretary is authorized to make grants aggregating not to exceed $590,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas. The amount of any grant made under the authority of this paragraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area. The Secretary shall fix the grant rate for each project in conformity with regulations issued by the Secretary that shall provide for a graduated scale of grant rates establishing higher rates for projects in communities that have lower community population and income levels.

(3) No grant shall be made under paragraph (2) of this subsection in connection with any project unless the Secretary determines that the project (i) will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed, (ii) is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, and (iii) is necessary for an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area.

(4)(A) The term ''development cost'' means the cost of construction of a facility and the land, easements, and rights-of-way, and water rights necessary to the construction and operation of the facility.

(B) The term ''project'' shall include facilities providing central service or facilities serving individual properties, or both.

(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.

(6) The Secretary may make grants aggregating not to exceed $30,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare comprehensive plans for the development of water or waste disposal systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) DEFINITION OF RURAL AND RURAL AREAS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms ''rural'' and ''rural area'' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

(8) In each instance where the Secretary receives two or more applications for financial assistance for projects that would serve substantially the same group of residents within a single rural area, and one such application is submitted by a city, town, county or other unit of general local government, he shall, in the absence of substantial reasons to the contrary, provide such assistance to such city, town, county or other unit of general local government.

(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002.

(12)(A) The Secretary shall, in cooperation with institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, establish a system for the dissemination of information and technical assistance on federally sponsored or funded programs. The system shall be for the use of institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, and other persons concerned with rural development.

(B) The informational system developed under this paragraph shall contain all pertinent information, including, but not limited to, information contained in the Federal Procurement Data System, Federal Assistance Program Retrieval System, Catalogue of Federal Domestic Assistance, Geographic Distribution of Federal Funds, United States Census, and Code of Federal Regulations.

(C) The Secretary shall obtain from all other Federal departments and agencies comprehensive, relevant, and applicable information on programs under their jurisdiction that are operated in rural areas.

(D) Of the sums authorized to be appropriated to carry out the provisions of this chapter, not more than $1,000,000 per year may be expended to carry out the provisions of this paragraph.

(13) In the making of loans and grants for community waste disposal and water facilities under paragraphs (1) and (2) of this subsection the Secretary shall accord highest priority to the application of any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group) in a rural community having a population not in excess of five thousand five hundred and which, in the case of water facility loans, has a community water supply system, where the Secretary determines that due to unanticipated diminution or deterioration of its water supply, immediate action is needed, or in the case of waste disposal, has a community waste disposal system, where the Secretary determines that due to unanticipated occurrences the system is not adequate to the needs of the community. The Secretary shall utilize the Soil Conservation Service in rendering technical assistance to applicants under this paragraph to the extent he deems appropriate.

(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

(A) IN GENERAL.—The Secretary may make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (1) of this subsection technical assistance and training to—

(i) identify, and evaluate alternative solutions to, problems relating to the obtaining, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

(ii) prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

(iii) improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

(B) SELECTION PRIORITY.—In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations that have experience in providing the technical assistance and training described in subparagraph (A) to associations serving rural areas in which residents have low income and in which water supply systems or waste facilities are unhealthful.

(C) FUNDING.—Not less than 1 nor more than 3 percent of any funds appropriated to carry out paragraph (2) of this subsection for any fiscal year shall be reserved for grants under subparagraph (A) unless the applications, qualifying for grants, received by the Secretary from eligible nonprofit organizations for the fiscal year total less than 1 per centum of those funds.

(15) In the case of water and waste disposal facility projects serving more than one separate rural community, the Secretary shall use the median population level and the community income level of all the separate communities to be served in applying the standards specified in paragraph (2) of this subsection and section 1927(a)(3)(A) of this title.

(16) Grants under paragraph (2) of this subsection may be used to pay the local share requirements of another Federal grant-in-aid program to the extent permitted under the law providing for such grant-in-aid program.

(17)(A) In the approval and administration of a loan made under paragraph (1) for a water or waste disposal facility, the Secretary shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility.

(B) If the Secretary determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, the Secretary shall provide such applicant or borrower with a comprehensive justification for such determination.

(18) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this chapter.

(19) COMMUNITY FACILITIES GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes to provide the Federal share of the cost

of developing specific essential community facilities in rural areas.

(B) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.

(b) Curtailment or limitation of service prohibited

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.

(c) Repealed. Pub. L. 91–606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759

(d) Carryover of unused authorizations for appropriations

Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year.

(Pub. L. 87–128, title III, § 306, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87–703, title IV, § 401(2), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89–240, § 1, Oct. 7, 1965, 79 Stat. 931; Pub. L. 89–769, § 6(b), Nov. 6, 1966, 80 Stat. 1318; Pub. L. 90–488, §§ 3–5, Aug. 15, 1968, 82 Stat. 770; Pub. L. 91–524, title VIII, § 806(a), Nov. 30, 1970, 84 Stat. 1383; Pub. L. 91–606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 91–617, § 1(a), Dec. 31, 1970, 84 Stat. 1855; Pub. L. 92–419, title I, §§ 104–112, Aug. 30, 1972, 86 Stat. 658, 659; Pub. L. 91–524, title VIII, § 816(c), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240; Pub. L. 95–334, title I, §§ 104–107(a), Aug. 4, 1978, 92 Stat. 421, 422; Pub. L. 96–355, § 7, Sept. 24, 1980, 94 Stat. 1174; Pub. L. 96–438, § 2(1), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 97–35, title I, § 121, Aug. 13, 1981, 95 Stat. 368; Pub. L. 99–198, title XIII, § 1304(a), Dec. 23, 1985, 99 Stat. 1519; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–624, title XXIII, §§ 2316(b), 2321, 2328, 2329, 2341, 2342, 2393, Nov. 28, 1990, 104 Stat. 4008, 4010, 4017, 4026, 4027, 4057; Pub. L. 102–237, title VII, § 701(a), (h)(1)(A), (B), Dec. 13, 1991, 105 Stat. 1879, 1880; Pub. L. 103–129, § 3, Nov. 1, 1993, 107 Stat. 1366; Pub. L. 103–354, title II, § 235(b)(5), Oct. 13, 1994, 108 Stat. 3222; Pub. L. 104–127, title VII, §§ 741(a), 758, 763, Apr. 4, 1996, 110 Stat. 1122, 1132, 1148.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (a)(1), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

The Public Health Service Act, referred to in subsec. (a)(9), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Act, known as the Safe Drinking Water Act, is classified principally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of these Acts to the Code, see Short Title note and Short Title of 1974 Amendments note set out under section 201 of Title 42 and Tables.

Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), referred to in subsec. (a)(12)(A), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), referred to in subsec. (a)(12)(A), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

For definition of ''this chapter'', referred to in subsec. (a)(12)(D), (18), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–127, § 741(a)(1), substituted ''$590,000,000'' for ''$500,000,000''.

Subsec. (a)(5). Pub. L. 104–127, § 758, added par. (5).

Subsec. (a)(7). Pub. L. 104–127, § 741(a)(2), added par. (7) and struck out former par. (7) which read as follows: ''As used in this chapter, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B) for purposes of loans and grants for private business enterprises under sections 1924(b), 1932 and 1942(b), (c), and (d) of this title the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided*, That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand.''

Subsec. (a)(9), (10). Pub. L. 104–127, § 741(a)(3), added pars. (9) and (10) and struck out former pars. (9) and (10) which read as follows:

''(9) No Federal funds shall be authorized for use unless it be certified by the appropriate State water pollution control agency that the water supply system authorized will not result in pollution of waters of the State in excess of standards established by that agency.

''(10) In the case of sewers and waste disposal systems, no Federal funds shall be advanced hereunder un-

less the appropriate State water pollution control agency shall certify that the effluent therefrom shall conform with appropriate State and Federal water pollution control standards when and where established.''

Subsec. (a)(11). Pub. L. 104–127, § 741(a)(3), added par. (11) and struck out former par. (11) which authorized grants to public bodies, private nonprofit community development corporations or entities, or other agencies to enable such recipients to (1) identify and analyze business opportunities, including opportunities in export markets, that would use local rural economic and human resources, (2) identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers, (3) establish business support centers and otherwise assist in creation of new rural businesses, development of methods of financing local businesses, and enhancing capacity of local individuals and entities to engage in sound economic activities, and (4) conduct regional, community, and local economic development planning and coordination, and leadership development.

Subsec. (a)(14). Pub. L. 104–127, § 741(a)(6)(A)–(D)(i), inserted par. heading and headings for subpars. (A) to (C), and realigned margins of subpars. and cls. (i) to (iii) of subpar. (A).

Pub. L. 104–127, § 741(a)(4), (5), redesignated par. (16) as (14) and struck out former par. (14) which read as follows:

''(14)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

''(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary.''

Subsec. (a)(14)(C). Pub. L. 104–127, § 741(a)(6)(D)(ii), which directed substitution of ''3 percent of any funds appropriated'' for ''2 per centum of any funds provided in appropriations Acts'', was executed by making the substitution for ''2 per centum of any funds provided in Appropriations Acts'', to reflect the probable intent of Congress.

Subsec. (a)(15). Pub. L. 104–127, § 741(a)(4), (5), redesignated par. (17) as (15) and struck out former par. (15) which authorized making or insuring of loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies, for purpose of financing construction, acquisition, and operation of transmission facilities for any electric system owned and operated by a public body located in a rural area which was, as of October 1, 1976, receiving bulk power from designated agencies of Department of the Interior.

Subsec. (a)(16) to (18). Pub. L. 104–127, § 741(a)(5), redesignated pars. (18) to (20) as (16) to (18), respectively. Former pars. (16) to (18) redesignated (14) to (16), respectively.

Subsec. (a)(19). Pub. L. 104–127, § 763, added par. (19).

Pub. L. 104–127, § 741(a)(5), redesignated par. (19) as (17).

Subsec. (a)(20). Pub. L. 104–127, § 741(a)(5), redesignated par. (20) as (18).

1994—Subsec. (a)(15)(C), (D). Pub. L. 103–354 redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''The Administrator of the Rural Electrification Administration shall administer loans made or insured under this paragraph.''

1993—Subsec. (a)(1). Pub. L. 103–129 inserted after first sentence ''The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.''

1991—Subsec. (a)(11)(B)(ii). Pub. L. 102–237, § 701(a)(1), in subcl. (I) inserted ''and'' after semicolon and in subcl. (II) substituted a period for ''; and''.

Subsec. (a)(12)(D), (20). Pub. L. 102–237, § 701(h)(1)(A), (B), substituted ''this chapter'' for ''this Act''.

Subsec. (a)(21). Pub. L. 102–237, § 701(a)(2), struck out par. (21) which was identical to par. (20).

1990—Subsec. (a)(1). Pub. L. 101–624, § 2328, inserted ''rural businesses,'' after ''farm laborers,''.

Subsec. (a)(2). Pub. L. 101–624, § 2321, struck out '': *Provided*, That for fiscal years commencing after September 30, 1981, such grants may not exceed $154,900,000 in any fiscal year'' after ''in rural areas''.

Subsec. (a)(3). Pub. L. 101–624, § 2316(b), struck out ''and not inconsistent with any planned development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority for the area in which the rural community is located, and the Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government. No loan under this section shall be made that is inconsistent with any multijurisdictional planning and development district areawide plan of such agency. The Secretary is authorized to reimburse such agency or government for the cost of making the required review. Until October 1, 1973, the Secretary may make grants prior to the completion of the comprehensive plan, if the preparation of such plan has been undertaken for the area'' after ''of the rural area''.

Subsec. (a)(11). Pub. L. 101–624, §§ 2341, 2342, amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies or such other agencies as the Secretary may select to provide rural development technical assistance, rural community leadership development, and community and areawide rural development planning.''

Subsec. (a)(20). Pub. L. 101–624, § 2329, added par. (20).

Subsec. (a)(21). Pub. L. 101–624, § 2393, added par. (21).

1986—Subsec. (a)(1), (15)(B). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1985—Subsec. (a)(2). Pub. L. 99–198 provided for graduated scale of grant rates for each project and higher rates in communities having lower community population and income levels.

Subsec. (a)(16) to (19). Pub. L. 99–198 added pars. (16) to (19).

1981—Subsec. (a)(2). Pub. L. 97–35 inserted provisions limiting grants for fiscal years after Sept. 30, 1981.

1980—Subsec. (a)(7). Pub. L. 96–438 provided that for the purpose of loans for essential community facilities under subsection (a)(1) of this section, terms ''rural'' and ''rural area'' may include any area in any city or town with a population not in excess of twenty thousand.

Subsec. (a)(11) to (15). Pub. L. 96–355 in par. (11) substituted provisions authorizing annual grants not to exceed $15,000,000 for rural development technical assistance, rural community leadership development, etc., for provisions authorizing annual grants not to exceed $10,000,000 for preparation of comprehensive plans for rural development or designated aspects of such

rural development, added par. (12), and redesignated former pars. (12) to (14) as (13) to (15), respectively.

1978—Subsec. (a)(1). Pub. L. 95–334, §104, inserted provisions respecting bond counsel requirements for loans under $500,000.

Subsec. (a)(2). Pub. L. 95–334, §105, substituted ''$500,000,000'' for ''$300,000,000'' and ''75'' for ''50''.

Subsec. (a)(7). Pub. L. 95–334, §106, struck out references to the Commonwealth of Puerto Rico and the Virgin Islands.

Subsec. (a)(14). Pub. L. 95–334, §107(a), added par. (14).

1973—Subsec. (a)(13). Pub. L. 91–524, title VIII, §816(c), as added by Pub. L. 93–86 added par. (13).

1972—Subsec. (a)(1). Pub. L. 92–419, §104(1), (2), authorized loans to Indian tribes on Federal and State reservations and other federally recognized Indian tribes and included as an allowable use provision for essential community facilities including necessary related equipment, respectively.

Subsec. (a)(2). Pub. L. 92–419, §105, substituted ''$300,000,000'' for ''$100,000,000''.

Subsec. (a)(3). Pub. L. 92–419, §§106, 107, substituted ''project'' for ''facility'' where first appearing; in item (i), substituted ''project'' for ''facility'' and inserted in such text '', if such project is carried out,''; in item (ii), substituted ''will or can be'' for ''will be or can be''; substituted ''and (iii)'' for ''or (iii)'' and in such item (iii), substituted ''an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan'' and ''development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority'' for ''orderly community development consistent with a comprehensive community water or sewer development plan'' and ''development under State, county, or municipal plans approved as official plans by competent authority'', substituted ''Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government'' for ''Secretary shall establish regulations requiring the submission of all applications for financial assistance under this chapter to the county or municipal government in which the proposed project is to be located for review and comment by such agency within a designated period of time''; prohibited loans inconsistent with multijurisdictional planning and development district areawide plan of the agency; authorized agency or government reimbursement for cost of making the review; and extended authority for making grants prior to completion of the comprehensive plan from Oct. 1, 1971 to Oct. 1, 1973.

Subsec. (a)(5). Pub. L. 92–419, §110, struck out provisions of former par. (5) which prohibited any loan or grant under subsec. (a) of this section which would cause the unpaid principal indebtedness of any association under this chapter and Act Aug. 28, 1937, as amended (superseded by this chapter), together with amount of any assistance in the form of a grant to exceed $4,000,000 at any one time.

Subsec. (a)(6). Pub. L. 92–419, §108, substituted ''$30,000,000'' for ''$15,000,000'', struck out ''official'' before ''comprehensive plans'', and substituted ''waste disposal systems'' for ''sewer systems''.

Subsec. (a)(7). Pub. L. 92–419, §109, substituted definition of ''rural'' and ''rural area'' as excluding an area in a city or town with a population in excess of ten thousand inhabitants for prior provision for rural areas for purposes of water and waste disposal projects excluding an area in a city or town with a population in excess of 5,500 inhabitants, provided exception provision and special consideration for loans and grants to areas other than cities having a population of more than twenty-five thousand.

Subsec. (a)(11), (12). Pub. L. 92–419, §§111, 112, added pars. (11) and (12).

1970—Subsec. (a)(1). Pub. L. 91–617 required inclusion in gross income of the interest or other income paid to an insured holder when any loan made for a purpose specified in subsec. (a)(1) is sold out of the Agricultural Credit Insurance Fund as an insured loan.

Subsec. (c). Pub. L. 91–606 repealed subsec. (c), added by Pub. L. 89–769, §6(b), Nov. 6, 1966, 80 Stat. 1318, which related to loans to associations in areas suffering major disasters. See section 4401 et seq. of Title 42, The Public Health and Welfare.

Subsec. (d). Pub. L. 91–524 added subsec. (d).

1968—Subsec. (a). Pub. L. 90–488 substituted ''$100,000,000'' for ''$50,000,000'' in par. (2), ''1971'' for ''1968'' in par. (3), and ''$15,000,000'' for ''$5,000,000'' in par. (6), respectively.

1966—Subsec. (c). Pub. L. 89–769 added subsec. (c).

1965—Subsec. (a). Pub. L. 89–240 designated existing provisions as par. (1), struck out ''including the development of recreational facilities'' after ''shifts in land use'', substituted ''drainage or waste disposal facilities'' for ''drainage facilities'', inserted ''and recreational developments'', deleted provisions which prohibited loans which would cause an association's unpaid principal indebtedness to exceed $500,000, in the case of direct loans and $1,000,000 in the case of insured loans at any one time, and added pars. (2) to (10).

1962—Subsec. (a). Pub. L. 87–703 authorized loans to be made or insured to provide for the application or establishment of shifts in land use including the development of recreational facilities.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(a) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(A), (B) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(b)(6), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 105 of Pub. L. 95–334 provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 1(b) of Pub. L. 91–617 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to the insured loans sold out of the Agricultural Credit Insurance Fund after the date of the enactment of this Act [Dec. 31, 1970].''

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89–769.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural

Development Administration by section 2302(b) of Pub. L. 101–624.

TEMPORARY EXPANDED ELIGIBILITY OF CERTAIN TIMBER-DEPENDENT COMMUNITIES IN PACIFIC NORTHWEST FOR LOANS AND GRANTS FROM RURAL DEVELOPMENT ADMINISTRATION

Pub. L. 103–427, Oct. 31, 1994, 108 Stat. 4373, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.

''(2) A significant portion of the timber traditionally harvested in the Pacific Northwest is derived from Federal forest lands, and these forests have played an important role in sustaining local economies.

''(b) EXPANDED ELIGIBILITY.—During the period beginning on the date of the enactment of this Act [Oct. 31, 1994] and ending on September 30, 1998, the terms 'rural' and 'rural area', as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), shall include any town, city, or municipality—

''(1) part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled 'Forest Plan for a Sustainable Economy and a Sustainable Environment', dated July 1, 1993;

''(2) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

''(3) that has a population of not more than 25,000 inhabitants.

''(c) EFFECT ON STATE ALLOTMENTS OF FUNDS.—This section shall not be taken into consideration in allotting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or otherwise affect or alter the manner under which such funds were allotted to States before the date of the enactment of this Act [Oct. 31, 1994].''

RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM

Section 2324 of Pub. L. 101–624 directed Secretary to establish national rural wastewater circuit rider grant program that was to be modeled after existing National Rural Water Association Rural Water Circuit Rider Program that received funding from Farmers Home Administration and authorized $4,000,000 for each fiscal year to carry out such program, prior to repeal by Pub. L. 104–127, title VII, § 703, Apr. 4, 1996, 110 Stat. 1108.

INTEREST RATE RESTRUCTURING FOR CERTAIN BORROWERS

Pub. L. 100–233, title VI, § 615(b)(2), Jan. 6, 1988, 101 Stat. 1682, provided that: ''Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 [7 U.S.C. 1926] to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.''

LEASE OF CERTAIN ACQUIRED PROPERTY

Pub. L. 100–233, title VI, § 620, Jan. 6, 1988, 101 Stat. 1684, provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306 [7 U.S.C. 1926]. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 917, 1927, 1929, 1929a, 1983, 1983a, 1992, 2001a, 2009, 2009d, 2204b, 2204b–1, 6613, 6942, 6944 of this title; title 16 section 2106; title 42 section 5153.

§ 1926–1. Repealed. Pub. L. 104–127, title VII, § 702, Apr. 4, 1996, 110 Stat. 1108

Section, Pub. L. 101–624, title XXIII, § 2322, Nov. 28, 1990, 104 Stat. 4010; Pub. L. 102–237, title VII, § 702(f), Dec. 13, 1991, 105 Stat. 1880; Pub. L. 103–354, title II, § 235(b)(6), Oct. 13, 1994, 108 Stat. 3222, related to water and waste facility financing, including provisions relating to authority, limitation, priority, coordination, terms, private sector capital, appropriations, repayment, full use, and replenishment of water and waste facility fund.

§ 1926a. Emergency community water assistance grant program

(a) In general

The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy—

(A) an acute shortage of quality water; or

(B) a significant decline in the quantity or quality of water that is available.

(b) Priority

In carrying out subsection (a) of this section, the Secretary shall—

(1) give priority to projects described in subsection (a)(1) of this section; and

(2) provide at least 70 percent of all such grants to such projects.

(c) Eligibility

To be eligible to obtain a grant under this section, an applicant shall—

(1) be a public or private nonprofit entity; and

(2) in the case of a grant made under subsection (a)(1) of this section, demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

(d) Uses

(1) In general

Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) Joint proposals

Nothing in this section shall preclude rural communities from submitting joint proposals

for emergency water assistance, subject to the restrictions contained in subsection (e) of this section. Such restrictions should be considered in the aggregate, depending on the number of communities involved.

(e) Restrictions

(1) Maximum population and income

No grant provided under this section shall be used to assist any rural area or community that—

(A) includes any area in any city or town with a population in excess of 10,000 inhabitants according to the most recent decennial census of the United States; or

(B) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

(2) Set-aside for smaller communities

Not less than 50 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

(f) Maximum grants

Grants made under this section may not exceed—

(1) in the case of each grant made under subsection (a)(1) of this section, $500,000; and

(2) in the case of each grant made under subsection (a)(2) of this section, $75,000.

(g) Full funding

Subject to subsection (e) of this section, grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

(h) Application

(1) Nationally competitive application process

The Secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water.

(2) Timing

The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.

(Pub. L. 87–128, title III, §306A, as added Pub. L. 101–82, title V, §501(a), Aug. 14, 1989, 103 Stat. 584; amended Pub. L. 104–127, title VII, §742, Apr. 4, 1996, 110 Stat. 1124.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (d)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (d)(1), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (e)(1)(A). Pub. L. 104–127, §742(1)(A), substituted ''10,000'' for ''15,000''.

Subsec. (e)(2). Pub. L. 104–127, §742(1)(B), substituted ''3,000'' for ''5,000''.

Subsec. (i). Pub. L. 104–127, §742(2), added subsec. (i) and struck out heading and text of former subsec. (i). Text read as follows: ''There are authorized to be appropriated to carry out this section, $35,000,000 for each of the fiscal years 1990 and 1991, such sums to remain authorized until fully appropriated.''

IMPLEMENTATION

Section 501(b) of Pub. L. 101–82 provided that:

''(1) REGULATIONS.—The Secretary of Agriculture shall publish—

''(A) interim final regulations to carry out section 306A of the Consolidated Farm and Rural Development Act [7 U.S.C. 1926a] (as added by subsection (a) of this section) not later than 45 days after the date of enactment of this Act [Aug. 14, 1989]; and

''(B) final regulations to carry out section 306A of such Act not later than 90 days after the date of enactment of this Act.

''(2) FUNDS.—

''(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306A(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

''(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306A(a)(1) of the Consolidated Farm and Rural Development Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 917, 2009d, 6942 of this title.

§ 1926b. Repealed. Pub. L. 104–127, title VII, § 743, Apr. 4, 1996, 110 Stat. 1125

Section, Pub. L. 87–128, title III, §306B, as added Pub. L. 101–624, title XXIII, §2326(a), Nov. 28, 1990, 104 Stat. 4014, related to emergency community water assistance grant program, including general provisions and provisions relating to priority, eligibility, uses, restrictions, maximum grants, full funding, application, and limitations on authorization of appropriations.

§ 1926c. Water and waste facility loans and grants to alleviate health risks

(a) Loans and grants to persons other than individuals

(1) In general

The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essential commu-

nity facilities including necessary related equipment. Such loans and grants shall be available only to provide such water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable—

(A) water supply systems; or

(B) waste disposal facilities.

(2) Certain areas targeted

(A) In general

Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

(B) Exception

Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.

(b) Loans and grants to individuals

(1) In general

The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a)(1) of this section for the purpose of extending water supply and waste disposal systems, connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems. Such loans shall be at a rate of interest no greater than the Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

(2) Manner in which loans and grants are to be made

Loans and grants to individuals under paragraph (1) shall be made—

(A) directly to such individuals by the Secretary; or

(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

(c) Preference

The Secretary shall give preference in the awarding of loans and grants—

(1) under subsection (a) of this section to rural water supply corporations, cooperatives, or similar entities, or public agencies, that propose to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, that are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

(2) under subsection (b) of this section to individuals who reside in a rural subdivision commonly referred to as a colonia, that is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

(d) "Cooperative" defined

For purposes of this section, the term ''cooperative'' means a cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

(e) Limitations on authorization of appropriations

There are authorized to be appropriated—

(1) for grants under this section, $30,000,000 for each fiscal year; and

(2) for loans under this section, $30,000,000 for each fiscal year.

(f) Regulations

Not later than 30 days after October 28, 1992, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.

(Pub. L. 87–128, title III, § 306C, as added Pub. L. 101–624, title XXIII, § 2327, Nov. 28, 1990, 104 Stat. 4015; amended Pub. L. 102–237, title VII, § 701(b), Dec. 13, 1991, 105 Stat. 1879; Pub. L. 102–552, title V, § 516(*l*), (m), Oct. 28, 1992, 106 Stat. 4139; Pub. L. 102–554, § 24, Oct. 28, 1992, 106 Stat. 4161.)

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–554 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''(2) CERTAIN COUNTIES TARGETED.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

''(A) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

''(B) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.''

Subsec. (b)(1). Pub. L. 102–552, § 516(*l*), substituted '', connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems'' for ''or connecting such systems to the residences of such individuals''.

Subsec. (f). Pub. L. 102–552, § 516(m), added subsec. (f).

1991—Subsec. (a)(2). Pub. L. 102–237 realigned margins of subpars. (A) and (B).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(6) of Pub. L. 102–237, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 917, 6942 of this title; title 8 section 1611.

§ 1926d. Water systems for rural and Native villages in Alaska

(a) In general

The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

(b) Matching funds

To be eligible to receive a grant under subsection (a) of this section, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

(c) Consultation with State of Alaska

The Secretary shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) of this section according to the needs of, and relative health and sanitation conditions in, each village.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 1996 through 2002.

(Pub. L. 87–128, title III, § 306D, as added Pub. L. 104–127, title VII, § 757, Apr. 4, 1996, 110 Stat. 1131; amended Pub. L. 105–277, div. A, § 101(a) [title VII, § 745], Oct. 21, 1998, 112 Stat. 2681, 2681–32.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 substituted ''25 percent in matching'' for ''equal matching''.

Subsec. (d). Pub. L. 105–277 substituted ''$20,000,000'' for ''$15,000,000''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917 of this title.

§ 1927. Repayment requirements

(a) Period of repayment; interest rates

(1) The period for repayment of loans under this subchapter shall not exceed forty years.

(2) Except as otherwise provided in paragraphs (3), (4), (5), and (6) of this subsection, the interest rates on loans under this subchapter shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3)(A) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjusted to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 9902(2) of title 42 and in other areas as the Secretary may designate where a significant percentage of the persons to be served by such facilities are of low income, as determined by the Secretary; and not in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income.

(B) Except as provided in subparagraph (D) and in paragraph (6), the interest rate on loans (other than guaranteed loans) under section 1934 of this title shall not be—

(i) greater than the sum of—

(I) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

(II) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

(ii) less than 5 percent per year.

(C) Notwithstanding subparagraph (A), the Secretary shall establish loan rates for health care and related facilities based solely on the income of the area to be served, and such rates shall be otherwise consistent with such subparagraph.

(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under this subchapter as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.

(4) Except as provided in paragraph (6), the interest rates on loans under sections 1926(a)(1) and 1932 of this title (other than guaranteed loans and loans as described in paragraph (3) of this subsection) shall be as determined by the Secretary, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for rates comparable to the rates prevailing in the private

market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund, and further adjusted to the nearest one-eighth of 1 per centum.

(5)(A) Except as provided in subparagraph (B), the interest rate on any loan made under this subchapter as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(B) In the case of a loan made under section 1932 of this title as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.

(6)(A) Notwithstanding any other provision of this section, in the case of loans (other than guaranteed loans) made or insured under the authorities of this chapter specified in subparagraph (B) for activities that involve the use of prime farmland as defined in subparagraph (C), the interest rates shall be the interest rates otherwise applicable under this section increased by 2 per centum per annum. Wherever practicable, construction by a State, municipality, or other political subdivision of local government that is supported by loans described in the preceding sentence shall be placed on land that is not prime farmland, in order to preserve the maximum practicable amount of prime farmlands for production of food and fiber. Where other options exist for the siting of such construction and where the governmental authority still desires to carry out such construction on prime farmland, the 2 per centum interest rate increase provided by this clause shall apply, but such increased interest rate shall not apply where such other options do not exist.

(B) The authorities referred to in subparagraph (A) are—

(i) the provisions of section 1926(a)(1) of this title relating to loans for recreational developments and essential community facilities,

(ii) clause (1) of section 1932(a) of this title, and

(iii) section 1932(d) of this title.

(C) For purposes of this paragraph, the term ''prime farmland'' means prime farmlands and unique farmland as those terms are defined in sections 657.5(a) and (b) of title 7, Code of Federal Regulations (1980).

(b) Payment of charges; prepayment of taxes and insurance

The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this chapter shall prepay to the Secretary such taxes and insurance as the Secretary may require, on such terms and conditions as the Secretary may prescribe.

(c) Mortgages, liens, and other security

The Secretary shall take as security for the obligations entered into in connection with loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 1926 of this title, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments may constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States. A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subchapter, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.

(d) Mineral rights as collateral

With respect to a farm ownership loan made after December 23, 1985, unless appraised values of the rights to oil, gas, or other minerals are specifically included as part of the appraised value of collateral securing the loan, the rights to oil, gas, or other minerals located under the property shall not be considered part of the collateral securing the loan. Nothing in this subsection shall prevent the inclusion of, as part of the collateral securing the loan, any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from the exploration for or recovery of minerals.

(e) Additional collateral

The Secretary may not—

(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this chapter, if the borrower is current in the payment of principal and interest on the loan; or

(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.

(Pub. L. 87–128, title III, § 307, Aug. 8, 1961, 75 Stat. 308; Pub. L. 92–419, title I, §§ 113, 114, 128(b), Aug. 30, 1972, 86 Stat. 660, 666; Pub. L. 95–334, title I, § 108, Aug. 4, 1978, 92 Stat. 422; Pub. L. 97–35, title I, § 160(a), Aug. 13, 1981, 95 Stat. 376; Pub. L. 99–198, title XIII, §§ 1304A, 1305, Dec. 23, 1985, 99 Stat. 1521; Pub. L. 100–233, title VI, §§ 603, 604, Jan. 6, 1988, 101 Stat. 1665, 1666; Pub. L. 101–624, title XVIII, § 1803(a), title XXIII, § 2383, Nov. 28, 1990, 104 Stat. 3818, 4050; Pub. L. 102–552, title V, § 516(c)(1), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 103–328, title I, § 113(a), Sept. 29, 1994, 108 Stat. 2366; Pub. L. 104–127, title VI, §§ 604, 661(a), title VII, § 747(b)(1), Apr. 4, 1996, 110 Stat. 1086, 1106, 1128.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(6)(A) and (e)(1), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a)(3)(B). Pub. L. 104–127, § 604(1), inserted ''subparagraph (D) and in'' after ''Except as provided in''.

Subsec. (a)(3)(D). Pub. L. 104–127, § 604(2), added subpar. (D).

Subsec. (a)(4). Pub. L. 104–127, § 661(a)(1), substituted ''1926(a)(1) and 1932 of this title'' for ''1924(b), 1926(a)(1), and 1932 of this title''.

Subsec. (a)(6)(B). Pub. L. 104–127, § 661(a)(2), inserted ''and'' at end of cl. (v), substituted a period for '', and'' at end of cl. (vi), redesignated cls. (iii), (v), and (vi) as (i), (ii), and (iii), respectively, and struck out cls. (i), (ii), (iv), and (vii) which read as follows:

''(i) clauses (2) and (3) of section 1923(a) of this title,

''(ii) section 1924(b) of this title,

''(iv) section 1926(a)(15) of this title,

''(vii) section 1934(a) of this title as it relates to the making or insuring of loans under clauses (2) and (3) of section 1923(a) of this title.''

Subsec. (a)(6)(B)(iii). Pub. L. 104–127, § 747(b)(1), substituted ''section 1932(d) of this title'' for ''subsections (d) and (e) of section 1932 of this title''.

1994—Subsec. (a)(3)(A). Pub. L. 103–328, § 113(a)(1), substituted ''Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except'' for ''Except''.

Subsec. (a)(5). Pub. L. 103–328, § 113(a)(2), substituted ''(5)(A) Except as provided in subparagraph (B), the'' for ''(5) The'' and added subpar. (B).

1992—Subsec. (a)(6)(B)(ii) to (viii). Pub. L. 102–552 redesignated cls. (iii) to (viii) as (ii) to (vii) and struck out former cl. (ii) which read as follows: ''the provisions of section 1924(a) of this title, relating to the financing of outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses,''.

1990—Subsec. (a)(3)(A). Pub. L. 101–624, § 2383(1), substituted ''guaranteed'' for ''guranteed''.

Subsec. (a)(3)(B). Pub. L. 101–624, § 1803(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans) under section 1934 of this title shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum.''

Subsec. (a)(3)(C). Pub. L. 101–624, § 2383(2), added subpar. (C).

1988—Subsec. (c). Pub. L. 100–233, § 603, inserted provisions at end relating to use of same collateral to secure two or more loans made, insured, or guaranteed under this subchapter.

Subsec. (e). Pub. L. 100–233, § 604, added subsec. (e).

1985—Subsec. (a)(3)(A). Pub. L. 99–198, § 1304A, substituted ''where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 9902(2) of title 42'' for ''where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget as adjusted under section 2971d of title 42'' and prescribed a 7 per centum per annum ceiling on loans for facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income.

Subsec. (d). Pub. L. 99–198, § 1305, added subsec. (d).

1981—Subsec. (a). Pub. L. 97–35 in par. (2) inserted reference to par. (6), in par. (3) designated existing provisions as subpar. (A), expanded provisions to take into account provisions of par. (6) and revised criteria for determination of applicable interest rates, and added subpar. (B), in par. (4) inserted exception for par. (6), and added par. (6).

1978—Subsec. (a). Pub. L. 95–334, § 108(1), substituted provisions relating to determination of interest rates on loans, except as provided in pars. (3) to (5), as not in excess of the current average market yield on outstanding marketable obligations of the United States, with comparable remaining periods of maturity to the average maturities of such loans plus additional adjusted amounts, for provisions relating to establishment of interest rates on loans, except as specifically provided, but not in excess of 5 per centum per annum.

Subsecs. (b), (c). Pub. L. 95–334, § 108(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

1972—Subsec. (a). Pub. L. 92–419, §§ 113, 114, prescribed interest rates on rural development other than guaranteed and guaranteed loans and escrow payment of taxes and insurance, respectively.

Subsec. (b). Pub. L. 92–419, § 128(b), substituted ''may'' for ''shall'' in second sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 113(b) of Pub. L. 103–328 provided that:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) [amending this section] shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act [Sept. 29, 1994].

''(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

''(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(c)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) [amending section 1924 of this title] took effect.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 160(c) of Pub. L. 97–35 provided that: ''The amendments made by this section [amending this section and section 1946 of this title] shall apply to loans approved after September 30, 1981.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 935, 1926, 1929, 1991 of this title; title 25 section 492.

§ 1927a. Loan interest rates charged by Farmers Home Administration; grant funds associated with loans

Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers, upon request of the borrower, the interest rate charged by the Farmers Home Administration to such borrowers shall be the lower of the rates in effect at either the time of loan approval or loan closing and any Farmers Home Administration grant funds associated

with such loans shall be set in amount based on the interest rate in effect at the time of loan approval.

(Pub. L. 99–88, title I, § 100, Aug. 15, 1985, 99 Stat. 296; Pub. L. 100–233, title VI, § 615(b)(1)(A), Jan. 6, 1988, 101 Stat. 1681.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1985, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100–233 substituted ''Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers'' for ''Effective November 12, 1983, and thereafter'' and ''to such borrowers'' for ''to housing, farm, water and waste disposal, and community facility borrowers''.

APPLICABILITY OF 1988 AMENDMENT

Section 615(b)(1)(B) of Pub. L. 100–233 provided that: ''The amendment made by subparagraph (A) [amending this section] shall not apply to any note or other obligation sold under section 1001 of the Omnibus [Budget] Reconciliation Act of 1986 [Pub. L. 99–509, 7 U.S.C. 1929a note] on or before the date of the enactment of this paragraph [Jan. 6, 1988].''

§ 1928. Full faith and credit

(a) In general

A contract of insurance or guarantee executed by the Secretary under this chapter shall be an obligation supported by the full faith and credit of the United States.

(b) Contestability

A contract of insurance or guarantee executed by the Secretary under this chapter shall be incontestable except for fraud or misrepresentation that the lender or any holder—

(1) has actual knowledge of at the time the contract or guarantee is executed; or

(2) participates in or condones.

(Pub. L. 87–128, title III, § 308, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87–798, Oct. 11, 1962, 76 Stat. 908; Pub. L. 89–240, § 2(a), Oct. 7, 1965, 79 Stat. 932; Pub. L. 90–488, § 6, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92–133, Oct. 5, 1971, 85 Stat. 364; Pub. L. 101–624, title XXIII, § 2388(a), Nov. 28, 1990, 104 Stat. 4052; Pub. L. 104–127, title VI, § 605, Apr. 4, 1996, 110 Stat. 1086.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally. Prior to amendment, section read as follows: ''Loans under this subchapter may be insured by the Secretary whenever funds are advanced or a loan is purchased by a lender other than the United States. In connection with insurance of loans, the Secretary—

''(1) is authorized to make agreements with respect to the servicing of loans insured hereunder and to purchase such loans on such terms and conditions as he may prescribe; and

''(2) may retain out of payments by the borrower a charge at a rate specified in the insurance agreement applicable to the loan.

Any contract of insurance executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.''

1990—Pub. L. 101–624 redesignated pars. (a) and (b) as pars. (1) and (2), respectively, and in par. (1), substituted ''prescribe;'' for ''prescribe,;''.

1971—Pub. L. 92–133 eliminated October 1, 1971, as time limitation for insurance of loans.

1968—Pub. L. 90–488 authorized insurance of loans until Oct. 1, 1971, without the $450,000,000 limitation on aggregate amount in any one year.

1965—Pub. L. 89–240 substituted ''$450,000,000'' for ''$200,000,000'', ''may retain'' for ''shall retain'', and ''specified in the insurance agreement applicable to the loan'' for ''determined by the Secretary from time to time equivalent to not less than one-half of 1 per centum per annum on the principal unpaid balance of the loan'', and struck out ''except that no agreement shall provide for purchase by the Secretary at a date sooner than three years from the date of the note'' after ''he may prescribe''.

1962—Pub. L. 87–798 increased aggregate amount of loans that may be insured in any one year from $150,000,000 to $200,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 488; title 42 section 1485.

§ 1929. Agricultural Credit Insurance Fund

(a) Revolving fund

The fund established pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, shall hereafter be called the Agricultural Credit Insurance Fund and is hereinafter in this subchapter referred to as the ''fund''. The fund shall remain available as a revolving fund for the discharge of the obligations of the Secretary under agreements insuring loans under this subchapter and loans and mortgages insured under prior authority.

(b) Deposits of funds; investments; purchase of notes

Moneys in the fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the fund.

(c) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Sec-

retary under this subchapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(d) Notes and security as part of fund; collection or sale of notes; deposit of net proceeds in fund

Notes and security acquired by the Secretary in connection with loans insured under this subchapter and under prior authority shall become a part of the fund. Notes may be held in the fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the fund.

(e) Deposit in fund of portion of charge on outstanding principal obligations; availability of remainder of charge, and merger with appropriations, for administrative expenses

The Secretary shall deposit in the fund all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan, of any charge collected in connection with the insurance of loans; and any remainder of any such charge shall be available for administrative expenses of the Farmers Home Administration and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency, to be transferred annually and become merged with any appropriation for administrative expenses for such agency.

(f) Utilization of fund

The Secretary may utilize the fund—

(1) to pay amounts to which the holder of the note is entitled on loans heretofore or hereafter insured accruing between the date of any payments made by the borrower and the date of transmittal of any such payments to the lender. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay to the holder of the notes any deferred or defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(3) to purchase notes in accordance with agreements previously entered into;

(4) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance;

(5) to pay the Secretary's costs of administration necessary to insure, make grants, service, and otherwise carry out the programs under this chapter not specifically covered by the Rural Development Insurance Fund of section 1929a of this title, including costs of the Secretary incidental to guaranteeing loans under this chapter, either directly from the Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

(g) Transfer of funds from Farmers Home Administration direct loan account and Emergency Credit Revolving Fund; abolition of such account and fund; payments from Agricultural Credit Insurance Fund; interest

(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996) and the Emergency Credit Revolving Fund referred to in section 1966 of this title are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(h) Guaranteed loans; interest rate for loans sold into secondary market; loan fees

(1) The Secretary may provide financial assistance to borrowers for purposes provided in this

chapter by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency.

(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this chapter may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 1935 of this title—

(A) the Secretary shall not charge a fee to any person (including a lender); and

(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.

(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5) and (6), a loan guarantee under this chapter shall be for not more than 90 percent of the principal and interest due on the loan.

(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

(A) in the case of a loan that solely refinances a direct loan made under this chapter, the principal and interest due on the loan on the date of the refinancing; or

(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this chapter that is outstanding on the date the loan is guaranteed.

(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 1935 of this title; or

(B) an operating loan to a borrower who is participating in the down payment loan program under section 1935 of this title that is made during the period that the borrower has a direct loan outstanding under this subchapter for acquiring a farm or ranch.

(i) Coordination of assistance for qualified beginning farmers and ranchers

(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 1935 of this title or a guarantee of the financing provided by the State program, or both.

(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

(4) The Secretary shall notify each State of the provisions of this subsection.

(5) As used in paragraph (1), the term ''State beginning farmer program'' means any program that is—

(A) carried out by, or under contract with, a State; and

(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.

(Pub. L. 87–128, title III, § 309, Aug. 8, 1961, 75 Stat. 309; Pub. L. 87–703, title IV, § 401(3), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89–240, § 2(b), (c), Oct. 7, 1965, 79 Stat. 932; Pub. L. 89–633, Oct. 8, 1966, 80 Stat. 879; Pub. L. 90–488, § 7, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, § 115, Aug. 30, 1972, 86 Stat. 660; Pub. L. 95–113, title XV, § 1510(a), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95–334, title I, § 109(a), Aug. 4, 1978, 92 Stat. 423; Pub. L. 101–624, title XXIII, § 2302(a)(2), Nov. 28, 1990, 104 Stat. 3980; Pub. L. 102–554, §§ 4, 5(a), Oct. 28, 1992, 106 Stat. 4143; Pub. L. 104–127, title VI, §§ 606, 661(b), title VII, §§ 744, 749(b)(1), Apr. 4, 1996, 110 Stat. 1086, 1106, 1125, 1129.)

REFERENCES IN TEXT

Section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), refers to section 11(a) of act July 22, 1937, ch. 517, title I, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, which was classified to section 1005a of this title and was repealed by section 341(a) of Pub. L. 87–128.

For definition of ''this chapter'', referred to in subsecs. (f)(5) and (h)(1), (2), (4), (5), see note set out under section 1921 of this title.

Section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996), referred to in subsec. (g)(1), means subsec. (c) of section 1988 of this title prior to repeal by section 749(a)(1) of Pub. L. 104–127.

CODIFICATION

In subsec. (c), ''chapter 31 of title 31'' and ''such chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'' respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–127, § 744, redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: ''to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans;''.

Subsec. (g)(1). Pub. L. 104–127, § 749(b)(1), inserted ''(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)'' after ''section 1988(c) of this title''.

Pub. L. 104–127, § 661(b), struck out ''section 1928,'' after ''provisions of this section,''.

Subsec. (h)(4) to (6). Pub. L. 104–127, § 606, added pars. (4) to (6).

1992—Subsec. (h). Pub. L. 102–554, § 4, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (i). Pub. L. 102–554, § 5(a), added subsec. (i).

1990—Subsec. (e). Pub. L. 101–624 inserted ''and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency'' and substituted ''expenses for such agency'' for ''expenses''.

1978—Subsec. (f)(1), (6). Pub. L. 95–334 in par. (1) struck out provisions limiting amount of loans outstanding at any one time, and added par. (6).

1977—Subsec. (f)(3). Pub. L. 95–113 substituted ''any deferred or defaulted installment'' for ''any defaulted installment''.

1972—Subsec. (f)(1). Pub. L. 92–419, § 115(a)(1), substituted ''$500,000,000'' for ''$100,000,000''.

Subsec. (f)(2). Pub. L. 92–419, § 115(a)(2), substituted ''amounts'' for ''the interest'' and ''payments'' for ''prepayments'' in three places and inserted ''or until the next agreed annual or semi-annual remittance date'' after ''until due''.

Subsec. (f)(5). Pub. L. 92–419, § 115(a)(3), (4), substituted ''connection with insured loans, including the difference between interest payable to borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance'' for ''section 1985(a) of this title in connection with insured loans,'' and provided payment for contract services.

Subsecs. (g), (h). Pub. L. 92–419, § 115(b), added subsecs. (g) and (h).

1968—Subsec. (f)(1). Pub. L. 90–488 increased from $50,000,000 to $100,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

1966—Subsec. (f)(2). Pub. L. 89–633 substituted ''until due'' for ''until the due date of the annual installment''.

1965—Subsec. (e). Pub. L. 89–240, § 2(b), substituted ''all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan of any charge collected in connection with the insurance of loans; and any remainder of any such charge'' for ''such portion of the charge collected in connection with the insurance of loans at least equal to a rate of one-half of 1 per centum per annum on the outstanding principal obligations and the remainder of such charge''.

Subsec. (f)(1). Pub. L. 89–240, § 2(c), substituted ''$50,000,000'' for ''$25,000,000''.

1962—Subsec. (f)(1). Pub. L. 87–703 increased from $10,000,000 to $25,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 606 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by section 661(b) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

ADVISORY COMMITTEE ON BEGINNING FARMERS AND RANCHERS

Section 5(b) of Pub. L. 102–554 provided that:

''(1) ESTABLISHMENT; PURPOSE.—Not later than 18 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall establish an advisory committee, to be known as the 'Advisory Committee on Beginning Farmers and Ranchers', which shall provide advice to the Secretary on—

''(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929(i)] (as added by subsection (a) of this section);

''(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

''(C) methods of encouraging States to participate in the program;

''(D) the administration of the program; and

''(E) other methods of creating new farming or ranching opportunities.

''(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

''(A) The Farmers Home Administration.

''(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

''(C) Commercial lenders.

''(D) Private nonprofit organizations with active beginning farmer or rancher programs.

''(E) The Cooperative Extension Service.

''(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

''(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.''

LIMITATION ON SALES FROM AGRICULTURAL CREDIT INSURANCE FUND

Pub. L. 99–509, title I, § 1002, Oct. 21, 1986, 100 Stat. 1875, provided that: ''During fiscal years 1987 through 1989, no note shall be sold out of the Agricultural Credit Insurance Fund, except in connection with transactions with the Secretary of the Treasury, without prior approval by Congress.''

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929a, 1983a, 1991, 1994, 1999, 6942 of this title; title 25 section 488; title 42 sections 1485, 1487, 8813.

§ 1929–1. Level of loan programs under Agricultural Credit Insurance Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Agricultural Credit Insurance Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102–142, title III, Oct. 28, 1991, 105 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

§ 1929a. Rural Development Insurance Fund

(a) Creation; revolving fund; rural development loans

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the ''Insurance Fund'') which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose

of this section ''rural development loans'' shall be those provided for by sections 1926(a)(1) and 1932 of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

(b) Transfer of assets and liabilities

The assets and liabilities of the Agricultural Credit Insurance Fund referred to in section 1929(a) of this title applicable to loans for water systems and waste disposal facilities under section 1926(a)(1) of this title are hereby transferred to the Insurance Fund. Such assets (including the proceeds thereof) and liabilities and rural development loans guaranteed or insured pursuant to this chapter shall be subject to the provisions of this section.

(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary

Moneys in the Insurance Fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the Insurance Fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the Insurance Fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the Insurance Fund.

(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for making loans, advances, and authorized expenditures out of the Insurance Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the average maturities of rural development loans made, guaranteed, or insured under this chapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(e) Notes and security as part of Insurance Fund; collection and sale of notes and other obligations; deposit of net proceeds in Insurance Fund

Notes and security acquired by the Secretary in connection with rural development loans made, guaranteed, or insured under this chapter or transferred by subsection (b) of this section shall become a part of the Insurance Fund. Notes and other obligations may be held in the Insurance Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time, including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the Insurance Fund.

(f) Deposit of loan service charges in Insurance Fund

The Secretary shall deposit in the Insurance Fund any charges collected for loan services provided by the Secretary as well as charges assessed for losses and costs of administration in connection with making, guaranteeing, or insuring rural development loans under this chapter.

(g) Use of Insurance Fund

The Secretary may utilize the Insurance Fund—

(1) to pay amounts to which the holder of insured notes is entitled on loans heretofore or hereafter insured accruing between the date of any payments by the borrower and the date of transmittal of any such payments to the holder. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay to the holder of insured notes any deferred or defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(3) to purchase notes in accordance with contracts of insurance heretofore or hereafter entered into by the Secretary;

(4) to make payments in compliance with the Secretary's obligations under contracts of guarantee entered into by him;

(5) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 1985(a) of this title in connection with insured loans.

Such items may be paid in connection with guaranteed loans after or in connection with acquisition by the Secretary of such loans or security therefor after default, to an extent determined by the Secretary to be necessary to protect the interest of the Government, or in connection with grants and any other activity authorized in this chapter;

(6) to pay the difference between interest payments by borrowers and interest to which holders of insured notes are entitled under contracts of insurance heretofore or hereafter entered into by the Secretary; and

(7) to pay the Secretary's costs of administration necessary to insure loans under the programs referred to in subsection (a) of this section, make grants under sections 1926(a) and 1932 of this title, service, and otherwise carry out such programs, including costs of the Secretary incidental to guaranteeing rural development loans under this chapter, either directly from the Insurance Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

(h) Gross income; interest or other income on insured loans

When any loan is sold out of the Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of title 26.

(Pub. L. 87–128, title III, §309A, as added Pub. L. 92–419, title I, §116, Aug. 30, 1972, 86 Stat. 661; amended Pub. L. 95–113, title XV, §1510(b), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95–334, title I, §§107(b), 110, Aug. 4, 1978, 92 Stat. 422, 424; Pub. L. 99–509, title I, §1001(b), Oct. 21, 1986, 100 Stat. 1874; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–500, title III, §381(b), Oct. 18, 1986, 100 Stat. 1783–369, and Pub. L. 99–591, title III, §381(b), Oct. 30, 1986, 100 Stat. 3341–372; Pub. L. 104–127, title VI, §661(c), title VII, §§741(b), 745, Apr. 4, 1996, 110 Stat. 1106, 1124, 1125.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title. For complete classification of the Rural Development Act of 1972 to the Code, see Short Title of 1972 Amendment note set out under section 1921 of this title and Tables.

For definition of ''this chapter'', referred to in subsecs. (b), (d), (e), (f), and (g)(5), (7), see note set out under section 1921 of this title.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

In subsec. (d), ''chapter 31 of title 31'' and ''such chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'' respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, §741(b), struck out '', 1926(a)(14),'' after ''1926(a)(1)''.

Pub. L. 104–127, §661(c)(1), substituted ''1926(a)(1), 1926(a)(14), and 1932 of this title'' for ''1924(b), 1926(a)(1), 1926(a)(14), 1932, and 1942(b) of this title''.

Subsec. (b). Pub. L. 104–127, §661(c)(2), which directed amendment of first sentence of subsec. (b) by striking ''and section 1928 of this title'', was executed by striking that language in second sentence after ''provisions of this section'' to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 104–127, §745, redesignated pars. (2) to (8) as (1) to (7), respectively, and struck out former par. (1) which read as follows: ''to make rural development loans which could be insured under this chapter whenever he has a reasonable assurance that they can be sold without undue delay, and he may sell and insure such loans;''.

1986—Subsec. (e). Pub. L. 99–500, Pub. L. 99–509, and Pub. L. 99–591 amended second sentence of subsec. (e) identically, substituting ''Notes and other obligations'' for ''Notes'' and substituting '', including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.'' for period at end.

Subsec. (h). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1978—Subsec. (a). Pub. L. 95–334, §107(b), inserted reference to section 1926(a)(14) of this title.

Subsec. (g)(8). Pub. L. 95–334, §110, substituted provisions relating to payment of costs of administration necessary to insure loans under subsec. (a) of this section, make grants under sections 1926(a) and 1932 of this title, and otherwise carry out such programs for provisions relating to payment of costs of administration of the rural loan development program.

1977—Subsec. (g)(3). Pub. L. 95–113 substituted ''any deferred or defaulted installment'' for ''any defaulted installment''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES

Pub. L. 101–82, title IV, §401, Aug. 14, 1989, 103 Stat. 583, as amended by Pub. L. 101–220, §9(d), Dec. 12, 1989, 103 Stat. 1882, provided that:

''(a) LOAN GUARANTEES.—The Secretary of Agriculture shall guarantee loans made in rural areas to—

''(1) public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by the drought, freeze, storm, excessive moisture, earthquake, or related condition in 1988 or 1989; and

''(2) such organizations, tribes, or entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988 or 1989.

''(b) ELIGIBLE LOANS.—

''(1) IN GENERAL.—Loans guaranteed under this section shall be loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

''(2) PRODUCTION AGRICULTURE.—No application for a loan guarantee under this section shall be denied on the basis that such organization, tribe, or entity engages in whole or in part in production agriculture.

''(c) LOAN GUARANTEE LIMITS.—

''(1) PERCENTAGE OF PRINCIPAL AND INTEREST.—No guarantee under this section shall exceed 90 percent of the principal and interest amount of the loan or $2,500,000, whichever is the lesser amount.

''(2) TOTAL AMOUNT.—The total amount of loan guarantee under this section shall not exceed $300,000,000.

''(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of discharging the obligations of the Secretary under this section.''

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, § 331, Aug. 11, 1988, 102 Stat. 951.

SALE OF RURAL DEVELOPMENT NOTES AND OTHER OBLIGATIONS

Section 1001 of Pub. L. 99–509, as amended by Pub. L. 100–233, title VIII, § 803, Jan. 6, 1988, 101 Stat. 1714; Pub. L. 101–220, § 12, Dec. 12, 1989, 103 Stat. 1883, provided that:

''(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929a] in such amounts as to realize net proceeds to the Government of not less than—

''(1) $1,000,000,000 from such sales during fiscal year 1987,

''(2) $552,000,000 from such sales during fiscal year 1988, and

''(3) $547,000,000 from such sales during fiscal year 1989.

''(b) [Amended subsec. (e) of this section]

''(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929a(e)], as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1983(c)].

''(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

''(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

''(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

''(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

''(f) RIGHT OF FIRST REFUSAL.—

''(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

''(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

''(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

''(2) DETERMINATION OF OFFERING PRICE.—

''(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

''(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

''(3) PROHIBITIONS.—

''(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

''(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

''(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.

''(h)(1) Notwithstanding the provisions of section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100–460) [title VI, Oct. 1, 1988, 102 Stat. 2263], the Secretary of Agriculture shall offer to the issuer of any unsold note or other obligation described in paragraph (2)(A) for which such issuer made the good faith deposit described in paragraph (2)(A) the opportunity to purchase such note or other obligation consistent with the provisions of this subsection and subsections (f)(2) and (f)(3).

''(2) The provisions of this subsection shall apply only to those issuers who:

''(A) on or before March 9, 1989, made a good faith deposit under this section for fiscal year 1989 with the Secretary to purchase a note or other obligation held in the Rural Development Insurance Fund; and

''(B) otherwise meet all eligibility criteria, as such criteria existed immediately prior to May 9, 1989, at the time the purchase occurs under this subsection.

''(3) The opportunity to purchase any such note or other obligation shall be held open, under the policies and procedures in effect under subsections (f)(2) and (f)(3) immediately prior to May 9, 1989, for 150 days after the date of enactment of this subsection [Dec. 12, 1989]. The Secretary shall not require any further good faith deposit from issuers who qualify under this subsection. The Secretary shall notify eligible issuers of the opportunity afforded under this subsection within 30 days after the date of enactment of this subsection and may require such issuers to express an intention to purchase their note or other obligation by a date certain.''

Section 381 of Pub. L. 99–500 and Pub. L. 99–591 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

''(1) $25,000,000 from such sales during fiscal year 1987;

''(2) $36,000,000 from such sales during fiscal year 1988; and

''(3) $37,000,000 from such sales during fiscal year 1989.

''(b) [Amended subsec. (e) of this section]

''(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1929b, 6942 of this title; title 42 section 8813.

§ 1929b. Purchase of guaranteed portions of loans; terms and conditions; exercise of authorities

The Secretary may purchase, on such terms and conditions as the Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this chapter: *Provided*, That the Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. The Secretary may use for such purchases funds from the Rural Development Insurance Fund with respect to rural development loans as defined in section 1929a(a) of this title and funds from the Agricultural Credit Insurance Fund with respect to all other loans under this chapter. This authority may be exercised only if the Secretary determines that an adequate secondary market is not available in the private sector.

(Pub. L. 87–128, title III, § 309B, as added Pub. L. 95–334, title I, § 111, Aug. 4, 1978, 92 Stat. 424.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2001 of this title.

§ 1930. Continued availability of appropriated funds for direct real estate loans to farmers and ranchers

Funds appropriated for the purpose of making direct real estate loans to farmers and ranchers under this subchapter shall remain available until expended.

(Pub. L. 87–128, title III, § 310, as added Pub. L. 91–524, title VIII, § 806(b), Nov. 30, 1970, 84 Stat. 1383.)

§ 1931. Repealed. Pub. L. 104–127, title VII, § 746, Apr. 4, 1996, 110 Stat. 1125

Section, Pub. L. 87–128, title III, § 310A, as added Pub. L. 92–419, title I, § 117, Aug. 30, 1972, 86 Stat. 663, related to insured watershed and resource conservation and development loans.

§ 1932. Rural industrialization assistance

(a) Loans for private business enterprises; pollution abatement and control; aquaculture; solar energy; loan guarantees

The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purposes of (1) improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control, (2) the conservation, development, and use of water for aquaculture purposes in rural areas, (3) reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas, and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade. For the purposes of this subsection, the term ''solar energy'' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.]. Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to paragraphs (1) and (4) of section 1983 of this title. As used in this subsection, the term ''aquaculture'' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of creating or augmenting publicly owned and regulated stocks of fish. No loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount.

(b) Solid waste management grants

The Secretary may make grants to nonprofit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for the provision of technical assistance shall be made for 100 percent of the cost of such assistance.

(c) Rural business enterprise grants

(1) In general

The Secretary may also make grants, not to exceed $50,000,000 annually, to public bodies and private nonprofit corporations for measures designed to finance and facilitate development of small and emerging private business enterprises (including nonprofit entities) or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement

to adult students, including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

(2) Passenger transportation services or facilities

The Secretary may award grants on a competitive basis to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Assistance provided under this paragraph may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas.

(3) Grants to aid industries in adjusting to terminated Federal agricultural programs or increased foreign competition

The Secretary may make grants under this section to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.

(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes

(1) The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) of this section for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) of this section for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, service and fees.

(2) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(3) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(4) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, if the Secretary of Labor certifies within 30 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraphs (2) and (3) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

(5) No grant or loan authorized to be made under this chapter shall require or be subject to the prior approval of any officer, employee, or agency of any State.

(6) No loan commitment issued under this section shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.

(7) No provision of law shall prohibit issuance by the Secretary of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this chapter or Title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; any sale by the Secretary of such certificates shall be treated as a sale of assets for the purposes of chapter 11 of title 31. Any security representing beneficial ownership in a block of notes guaranteed or insured under this chapter or Title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 77q, 77v, and 77x of title 15; however, the Secretary shall require (i) that the is-

suer place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee and (ii) that the issuer provide such periodic reports of sales as the Secretary deems necessary.

(e) Rural cooperative development grants

(1) Definitions

In this subsection:

(A) Nonprofit institution

The term ''nonprofit institution'' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(B) United States

The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

(2) Grants

The Secretary shall make grants, effective October 1, 1996, under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

(3) Goals

The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

(4) Application

Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(vi) Programs providing for the coordination of services and sharing of information among the center.[1]

(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(G) Provisions for—

(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

(ii) accounting for money received by the institution under this section.

(5) Awarding grants

Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

(A) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

(B) demonstrate previous expertise in providing technical assistance in rural areas;

(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

(D) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

(E) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States; and

(F) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions.

(6) 1-year grants; authority to approve grant for 1 additional year without application

The Secretary shall make grants under this subsection for a period of 1 year. The Sec-

[1] So in original. Probably should be ''centers.''

retary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.

(7) Technical assistance to prevent excessive unemployment or underemployment

In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment, underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

(8) Grants to defray administrative costs

The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

(9) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 1996 through 2002.

(f) Grants to broadcasting systems

(1) "Statewide" defined

In this subsection, the term ''statewide'' means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

(2) Grants

The Secretary may make grants to statewide private nonprofit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Grants available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.

(g) Loan guarantees for purchase of cooperative stock

(1) "Farmer" defined

In this subsection, the term ''farmer'' means any farmer that the Secretary determines is a family farmer.

(2) Loan guarantees

The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

(3) Eligibility

To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.

(Pub. L. 87–128, title III, § 310B, as added Pub. L. 92–419, title I, § 118(a), Aug. 30, 1972, 86 Stat. 663; amended Pub. L. 91–524, title VIII, § 817, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 241; Pub. L. 95–113, title XV, § 1503(b), Sept. 29, 1977, 91 Stat. 1021; Pub. L. 95–334, title I, § 112, Aug. 4, 1978, 92 Stat. 424; Pub. L. 96–358, § 5, Sept. 25, 1980, 94 Stat. 1187; Pub. L. 96–438, § 1(2), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 99–409, § 2, Aug. 28, 1986, 100 Stat. 923; Pub. L. 100–203, title I, § 1504, Dec. 22, 1987, 101 Stat. 1330–28; Pub. L. 101–624, title XXIII, §§ 2325, 2337, 2347, formerly 2347(a), 2386, 2388(b), (c), Nov. 28, 1990, 104 Stat. 4013, 4022, 4034, 4051, 4052; Pub. L. 102–237, title VII, § 701(c), (h)(1)(C), (D), Dec. 13, 1991, 105 Stat. 1879, 1880; Pub. L. 102–552, title V, § 516(d), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 102–554, § 6, Oct. 28, 1992, 106 Stat. 4144; Pub. L. 104–127, title VI, §§ 635(b), 661(d), title VII, §§ 705(1), 747(a), 759B, Apr. 4, 1996, 110 Stat. 1093, 1107, 1112, 1125, 1138; Pub. L. 104–180, title VII, § 731, Aug. 6, 1996, 110 Stat. 1600.)

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in subsec. (a), is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (d)(5), (7), see note set out under section 1921 of this title.

Title V of the Housing Act of 1949, referred to in subsec. (d)(7), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the code, see References in Text note set out under section 1441 of Title 42 and Tables.

CODIFICATION

In subsec. (d)(7), ''chapter 11 of title 31'' substituted for ''the Budget and Accounting Act of 1921 [31 U.S.C. 1 et seq.]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 747(a)(1), in first sentence, struck out ''and'' before ''(3)'' and inserted before period at end '', and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade''.

Pub. L. 104–127, § 635(b), in third sentence, substituted ''(4) of'' for ''(3) of''.

Subsec. (b). Pub. L. 104–127, § 747(a)(2), inserted heading, redesignated par. (2) as subsec. (b), struck out ''(2)'' before ''The Secretary'', and struck out par. (1) which read as follows: ''Secretary may make grants, not to exceed $50,000,000 annually, to eligible applicants under this section for pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project.''

Subsec. (c). Pub. L. 104–127, § 747(a)(3), inserted heading, in par. (1), inserted par. heading and inserted ''(including nonprofit entities)'' after ''private business enterprises'', in par. (2), inserted par. heading and substituted ''award grants on a competitive basis'' for ''make grants'', and added par. (3).

Subsec. (d)(2) to (4). Pub. L. 104–127, § 661(d)(1), substituted ''provision of this section'' for ''provision of this section and sections 1924(b) and 1942(b) of this title''.

Subsec. (d)(6). Pub. L. 104–127, § 661(d)(2), substituted ''this section'' for ''this section, section 1924 of this title, or section 1942 of this title''.

Subsec. (e). Pub. L. 104–127, § 747(a)(4), added subsec. (e) and struck out former subsec. (e) which authorized the insuring or guaranteeing of loans for the purpose of constructing or improving subterminal facilities.

Subsec. (e)(2). Pub. L. 104–180 amended Pub. L. 104–127, § 747(a)(4), which enacted subsec. (e), to insert ''effective October 1, 1996,'' after ''The Secretary shall make grants'' in par. (2).

Subsec. (f). Pub. L. 104–127, § 759B, added par. (1), redesignated existing provisions as par. (2), and added par. heading.

Pub. L. 104–127, § 747(a)(5), (6), redesignated subsec. (j) as (f) and struck out former subsec. (f) which authorized grants to nonprofit institutions for the purpose of establishing and operating centers for rural technology or cooperative development. See subsec. (e) of this section.

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (g). Pub. L. 104–127, § 747(a)(5), (7), added subsec. (g) and struck out former subsec. (g) which read as follows: ''In carrying out subsection (f) of this section, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas that the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for development potential of projects that increase employment and improve economic growth in such areas.''

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (h). Pub. L. 104–127, § 747(a)(5), struck out subsec. (h) which read as follows: ''The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f) of this section. For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.''

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (i). Pub. L. 104–127, § 747(a)(5), struck out subsec. (i) which authorized making of loans at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

Subsec. (j). Pub. L. 104–127, § 747(a)(6), redesignated subsec. (j) as (f).

1992—Subsec. (c). Pub. L. 102–554 designated existing provisions as par. (1) and added par. (2).

Pub. L. 102–552, which directed the substitution of ''business enterprises or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students,'' for ''business enterprises,'' in section 310B(c) without specifying the name of the act, was executed to this section, which is section 310B of the Consolidated Farm and Rural Development Act, to reflect the probable intent of Congress.

1991—Subsec. (d)(5), (7). Pub. L. 102–237, § 701(h)(1)(C), (D), substituted ''this chapter'' for ''this Act''.

Subsec. (f)(4). Pub. L. 102–237, § 701(c)(3), (4), redesignated par. (4), relating to grants to statewide private nonprofit public television systems, as subsec. (j), and transferred such provision to follow subsec. (i).

Subsec. (i)(2)(B)(iv). Pub. L. 102–237, § 701(c)(1), substituted ''(iii) of this subparagraph'' for ''(ii) of this subsection''.

Subsec. (i)(5)(A). Pub. L. 102–237, § 701(c)(2), inserted closing parenthesis after ''section 2008(b)(3) of this title''.

Subsec. (j). Pub. L. 102–237, § 701(c)(3)–(5), redesignated subsec. (f)(4), relating to grants to statewide private nonprofit public television systems, as subsec. (j), transferred such provision to follow subsec. (i), and inserted heading.

1990—Subsec. (a). Pub. L. 101–624, § 2388(b), substituted ''paragraphs (1) and (3)'' for ''subsections (a) and (c)''.

Subsec. (b). Pub. L. 101–624, § 2325, designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 101–624, § 2388(c), designated first par. and and pars. (1) to (6) as (1) to (7), respectively, substituted ''paragraphs (2) and (3)'' for ''paragraph (1) and (2)'' in par. (4), and realigned margins of pars. (5) to (7).

Subsec. (f). Pub. L. 101–624, § 2386, added par. (4) relating to grants to statewide private nonprofit public television systems.

Pub. L. 101–624, § 2347, formerly § 2347(a), as renumbered by Pub. L. 104–127, § 705(1), added subsec. (f) and struck out former subsec. (f) which read as follows:

''(1) The Secretary may make grants under this subsection to public and nonprofit private institutions for the purpose of enabling them to establish and operate centers of rural technology development that have, as a primary objective, the improvement of the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of (A) new products that can be produced in rural areas, and (B) new processes that can be used in such production.

''(2) Grants under this subsection may be made on a competitive basis. In making grants, the Secretary shall give preference to applicants that will establish centers for rural technology in areas that have (A) few industries and agribusinesses, (B) high levels of unemployment, (C) high rates of out-migration of people, business, and industries, and (D) low levels of per capita income.

''(3) If grants are to be made under this subsection, the Secretary shall issue regulations implementing this subsection that shall include provisions for the monitoring and evaluation of the rural technology development activities carried out by institutions that receive grants under this subsection.''

Subsecs. (g), (h). Pub. L. 101–624, § 2347, formerly § 2347(a), as renumbered by Pub. L. 104–127, § 705(1), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 101–624, § 2337, added subsec. (i).

1987—Subsec. (c). Pub. L. 100–203 inserted ''and private nonprofit corporations'' after ''to public bodies'' and substituted ''to finance and facilitate development of small and emerging'' for ''to facilitate development of''.

1986—Subsec. (a). Pub. L. 99–409, § 2(1), inserted provision that no loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount.

Subsec. (f). Pub. L. 99–409, § 2(2), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–438 authorized the Secretary to make and insure loans for the purpose of reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas and defined term ''solar

energy'', for purposes of subsection (a) of this section, as meaning energy derived from sources, other than fossil fuels, and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended.

Subsec. (e). Pub. L. 96–358 added subsec. (e).

1978—Subsec. (d)(1), (2). Pub. L. 95–334, § 112(1), inserted exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees.

Subsec. (d)(3). Pub. L. 95–334, § 112, inserted exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees and substituted ''30'' for ''60''.

1977—Subsec. (a). Pub. L. 95–113 inserted reference to the conservation, development, and utilization of water for aquaculture purposes and inserted definition of ''aquaculture''.

1973—Subsec. (d)(4) to (6). Pub. L. 91–524, § 817, as added by Pub. L. 93–86, added pars. (4) to (6).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 731 of Pub. L. 104–180 provided in part: ''That this section [amending this section] shall take effect upon enactment of this Act into law [Aug. 6, 1996].''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(c) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(C), (D) of Pub. L. 102–237 to any provision specified therein effective as if included in Act that added provision so specified at the time such Act became law, see section 1101(b)(6), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2(2) of Pub. L. 99–409 provided that the amendment made by that section is effective Oct. 1, 1986.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–358 effective Oct. 1, 1980, see section 6 of Pub. L. 96–358, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions under this section and under section 1323 of Pub. L. 99–198, set out as a note below, transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

BUSINESS DEVELOPMENT

Section 2336 of Pub. L. 101–624 provided that: ''The purposes of this chapter [chapter 2 (§§ 2336, 2337) of subtitle D of title XXIII of Pub. L. 101–624, amending this section] are to—

''(1) provide funds to improve telecommunications service in rural areas; and

''(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.''

GUARANTEE BY SECRETARY OF AGRICULTURE OF LOANS TO NONPROFIT NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS

Pub. L. 99–198, title XIII, § 1323, Dec. 23, 1985, 99 Stat. 1534, as amended by Pub. L. 99–425, title IV, § 407(c), Sept. 30, 1986, 100 Stat. 971; Pub. L. 99–500, § 101(a) [title VI, § 641], Oct. 18, 1986, 100 Stat. 1783, 1783–35, and Pub. L. 99–591, § 101(a) [title VI, § 641], Oct. 30, 1986, 100 Stat. 3341, 3341–35; Pub. L. 100–202, § 101(k) [title VI, § 636], Dec. 22, 1987, 101 Stat. 1329–322, 1329–357, provided that:

''(a)(1) Prior to September 30, 1988, the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall guarantee loans made by public agencies or private organizations (including loans made by financial institutions such as insurance companies) to nonprofit national rural development and finance corporations that establish similar and affiliated statewide rural development and finance programs for the purpose of providing loans, guarantees, and other financial assistance to profit or nonprofit local businesses to improve business, industry, and employment opportunities in a rural area (as determined by the Secretary).

''(2) To be eligible to obtain a loan guarantee under this subsection, a corporation must—

''(A) demonstrate to the Secretary the ability of the corporation to administer a national revolving rural development loan program;

''(B) be prepared to commit financial resources under the control of the corporation to the establishment of affiliated statewide rural development and finance programs; and

''(C) have secured commitments of significant financial support from public agencies and private organizations for such affiliated statewide programs.

''(3) A national rural development and finance corporation receiving a loan guarantee under this subsection shall base a determination to establish an affiliated statewide program in large part on the willingness of States and private organizations to sponsor and make funds available to such program.

''(4) Notwithstanding any other provision of law, for the fiscal year ending September 30, 1986, of the amounts available to guarantee loans in accordance with section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) from the Rural Development Insurance Fund, $20,000,000 shall be used by the Secretary to guarantee loans under the national rural development and finance program established under this subsection, to remain available until expended.

''(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1988, to guarantee loans for the national rural development and finance program and shall remain available until expended.

''(b)(1) Prior to September 30, 1988, the Secretary shall make grants, from funds transferred under paragraph (2), to national rural development and finance corporations for the purpose of establishing a rural development program to provide financial and technical assistance to compliment the loan guarantees made or to be made to such corporations under subsection (a).

''(2) All funds in, appropriated to, or repaid to the Rural Development Loan Fund, including those on deposit and available upon date of enactment [Dec. 23, 1985], under sections 623 and 633 [42 U.S.C. 9812, 9822] of the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.) shall be transferred to the Secretary provided that—

''(A) all funds on deposit and available on date of enactment shall be used for the purpose of making grants under paragraph (1) and shall remain available until expended;

''(B) notwithstanding any other provision of law, all loans to intermediary borrowers made prior to date of enactment, shall upon date of enactment, for the life of such loan, bear a rate of interest not to exceed that in effect upon the date of issuance of such loans; and

''(C) notwithstanding paragraph (1), all funds other than funds to which subparagraph (A) applies shall be used by the Secretary to make loans—

''(i) to the entities;

''(ii) for the purposes; and

''(iii) subject to the terms and conditions;
specified in the first, second, and last sentences of section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)). For purposes of this subparagraph, any reference in such sentences to the Secretary shall be deemed to be a reference to the Secretary of Agriculture.''

Pub. L. 99–500, § 101(a) [title VI, § 641], Oct. 18, 1986, 100 Stat. 1783, 1783–35, and Pub. L. 99–591, § 101(a) [title VI, § 641], Oct. 30, 1986, 100 Stat. 3341, 3341–35, provided in part: ''That such grant funds [probably means grant funds under section 1323(b)(1) of Pub. L. 99–198, set out above] may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.''

LIMITS ON GRANTS FOR FISCAL YEARS 1982, 1983, AND 1984

Pub. L. 97–35, title I, § 120, Aug. 13, 1981, 95 Stat. 367, provided in part that, notwithstanding any other provision of law, there was authorized to be appropriated for grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) not to exceed: $5,007,000 for fiscal year 1982, $5,280,000 for fiscal year 1983, and $5,553,000 for fiscal year 1984.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 917, 1927, 1929a, 1983, 1983a, 1992, 2009d, 6613, 6942, 6944 of this title.

§ 1933. Guaranteed rural housing loans; Hawaiian home lands

(a) Rural Housing Loans which (1) are guaranteed by the Secretary under section 517(a)(2)[1] of the Housing Act of 1949 [42 U.S.C. 1487(a)(2)], (2) are made by other lenders approved by the Secretary to provide dwellings in rural areas for the applicants' own use, and (3) bear interest and other charges at rates not above the maximum rates prescribed by the Secretary of Housing and Urban Development for loans made by private lenders for similar purposes and guaranteed by the Secretary of Housing and Urban Development under the National Housing Act [12 U.S.C. 1701 et seq.] or superseding legislation shall not be subject to sections 501(c) and 502(b)(3) of the Housing Act of 1949 [42 U.S.C. 1471(c) and 1472(b)(3)].

(b) For the purposes of title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] or this chapter, a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed.

(Pub. L. 87–128, title III, § 310C, as added Pub. L. 92–419, title I, § 119, Aug. 30, 1972, 86 Stat. 664; amended Pub. L. 101–624, title XVIII, § 1804, Nov. 28, 1990, 104 Stat. 3819.)

REFERENCES IN TEXT

Section 517(a) of the Housing Act of 1949 [42 U.S.C. 1487(a)], referred to in subsec. (a), was amended by Pub. L. 98–181, title V, § 514(a)(1), Nov. 30, 1983, 98 Stat. 1247, and, as so amended, does not contain a par. (2).

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of Title 12 and Tables.

[1] See References in Text note below.

Title V of the Housing Act of 1949, referred to in subsec. (b), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see References in Text note set out under section 1441 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 1921 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 substituted ''or this chapter'' for '', as amended''.

§ 1934. Low-income farm ownership loan program; eligibility; repayment requirements

(a) The Secretary is authorized to make and insure loans for any of the purposes referred to in section 1923(a) of this title, or paragraphs (1) through (5) of section 1924(a) of this title, to farmers and ranchers in the United States who (1) are citizens of the United States, (2) meet the requirements of paragraphs (2) through (4) of section 1922 of this title, (3) are unable to obtain sufficient credit under section 1922 of this title to finance their actual needs, (4) are owners or operators of small or family farms (including new owners or operators), (5) are farmers or ranchers with a low income, and (6) demonstrate a need to maximize their income from farming or ranching operations. The Secretary is also authorized to make such loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of paragraphs (2) through (6) of the preceding sentence.

(b) Each loan made or insured under this section shall be repayable in such installments as the Secretary determines will provide for reduced payments during the initial repayment period of the loan and larger payments during the remainder of the repayment period of the loan.

(Pub. L. 87–128, title III, § 310D, as added Pub. L. 95–334, title I, § 113, Aug. 4, 1978, 92 Stat. 424; amended Pub. L. 101–624, title XVIII, § 1802(b), Nov. 28, 1990, 104 Stat. 3818; Pub. L. 102–552, title V, § 516(e)(1), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 104–127, title VI, § 661(e), Apr. 4, 1996, 110 Stat. 1107.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''section 1923(a) of this title, or paragraphs (1) through (5) of section 1924(a) of this title'' for ''paragraphs (1) through (5) of section 1923(a) of this title, or subparagraphs (A) through (E) of section 1924(a)(1) of this title''.

1992—Subsec. (a). Pub. L. 102–552 substituted ''1924(a)(1)'' for ''1924(d)(1)''.

1990—Subsec. (a). Pub. L. 101–624 substituted ''paragraphs (1) through (5) of section 1923(a) of this title, or subparagraphs (A) through (E) of section 1924(d)(1) of this title,'' for ''clauses (1) through (5) of section 1923(a) of this title'', substituted ''paragraphs'' for ''clauses'' before ''(2) through (4) of section'', made technical amendment to reference to section 1922 of this title which required no change in text, and substituted ''paragraphs'' for ''clauses'' before ''(2) through (6) of the''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(e)(2) of Pub. L. 102–552 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) [amending section 1924 of this title] took effect.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1927, 1942, 1983 of this title.

§ 1935. Down payment loan program

(a) In general

(1) Establishment

Notwithstanding any other section of this subchapter, the Secretary shall establish, within the farm ownership loan program established under this subchapter, a program under which loans shall be made under this section to qualified beginning farmers and ranchers for down payments on farm ownership loans.

(2) Administration

The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 2006b(c) of this title.

(b) Loan terms

(1) Principal

Each loan made under this section shall be in an amount equal to 30 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

(2) Interest rate

The interest rate on any loan made by the Secretary under this section shall be 4 percent.

(3) Duration

Each loan under this section shall be made for a period of 10 years or less, at the option of the borrower.

(4) Repayment

Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

(5) Nature of retained security interest

The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

(A) be secured by the farm or ranch;

(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

(c) Limitations

(1) Borrowers required to make minimum down payment

The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the purchase price of the farm or ranch.

(2) Maximum price of property to be acquired

The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds $250,000.

(3) Prohibited types of financing

The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

(A) The financing is to be amortized over a period of less than 30 years.

(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

(d) Administration

In carrying out this section, the Secretary shall, to the maximum extent practicable—

(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subchapter;

(2) make efforts to widely publicize the availability of loans under this section among—

(A) potentially eligible recipients of the loans;

(B) retiring farmers and ranchers; and

(C) applicants for farm ownership loans under this subchapter;

(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers by providing seller financing; and

(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers.

(Pub. L. 87–128, title III, § 310E, as added Pub. L. 102–554, § 7(a), Oct. 28, 1992, 106 Stat. 4144.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1929, 1991, 1994 of this title.

§ 1936. Repealed. Pub. L. 104–127, title VI, § 616(b), Apr. 4, 1996, 110 Stat. 1090

Section, Pub. L. 87–128, title III, § 310F, as added Pub. L. 102–554, § 7(b), Oct. 28, 1992, 106 Stat. 4146, related to availability of farm ownership loans and loan guarantees for certain qualified beginning farmers and ranchers.

SUBCHAPTER II—OPERATING LOANS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1925, 1961, 1963, 1964, 1981b, 1983, 1983a, 1989, 1991, 1994, 2000, 2003, 2006a, 2008h of this title.

§ 1941. Persons eligible for loans

(a) Requirements

The Secretary is authorized to make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, and joint operations that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, and joint operations, individuals holding a majority interest in such entity, must (1) be citizens of the United States, (2) for direct loans only, have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, and joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of corporations, partnerships, and joint operations, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, and joint operations.

(b) Rural youths in 4–H Clubs, Future Farmers of America, etc.

(1) Loans may also be made under this subchapter without regard to the requirements of clauses (2) and (3) of subsection (a) of this section to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4–H Clubs, Future Farmers of America, and similar organizations.

(2) A person receiving a loan under this subsection who executes a promissory note therefor shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

(3) For loans under this subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability.

(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this chapter.

(c) Direct loans

(1) In general

Subject to paragraph (3), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who—

(A) is a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years;

(B) has not received a previous direct operating loan made under this subchapter; or

(C) has received a previous direct operating loan made under this subchapter during 6 or fewer years.

(2) Youth loans

In this subsection, the term ''direct operating loan'' shall not include a loan made to a youth under subsection (b) of this section.

(3) Transition rule

If, as of April 4, 1996, a farmer or rancher has received a direct operating loan under this subchapter during each of 4 or more previous years, the borrower shall be eligible to receive a direct operating loan under this subchapter during 3 additional years after April 4, 1996.

(Pub. L. 87–128, title III, §311, Aug. 8, 1961, 75 Stat. 310; Pub. L. 92–419, title I, §120(a), Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, §114, Aug. 4, 1978, 92 Stat. 425; Pub. L. 97–98, title XVI, §1601(b), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, §§1301(a), 1302(b), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104–127, title VI, §§611, 661(f), Apr. 4, 1996, 110 Stat. 1087, 1107; Pub. L. 105–277, div. A, §101(a) [title VIII, §805(2)], Oct. 21, 1998, 112 Stat. 2681, 2681–39.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b)(4), see note set out under section 1921 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted ''for direct loans only,'' before ''have either'' in cl. (2).

1996—Subsec. (b)(1). Pub. L. 104–127, §661(f), struck out ''and for the purposes specified in section 1942 of this title'' before period at end.

Subsec. (b)(4). Pub. L. 104–127, §611(b), added par. (4).

Subsec. (c). Pub. L. 104–127, §611(a), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1942 of this title solely to borrowers of loans that are outstanding on December 23, 1985.''

1985—Subsec. (a). Pub. L. 99–198, §1301(a), substituted—

(1) '', partnerships, and joint operations'' for ''and partnerships'' wherever appearing after ''corporations'';

(2) '', partnerships, and joint operations'' for '', and partnerships'' wherever appearing after ''corporations''; and

(3) ''individuals'' for ''members, stockholders, or partners, as applicable,'' wherever appearing.

Pub. L. 99–198, §1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-op-

erators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (c). Pub. L. 99–198, § 1302(b), added subsec. (c).

1981—Subsec. (a). Pub. L. 97–98 substituted ''corporations and partnerships, the family farm'' for ''cooperatives, corporations, and partnerships, the family farm'' and ''as well to the entity in the case of cooperatives, corporations, and partnerships'' for ''as well to the entity''.

1978—Pub. L. 95–334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 611 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by section 661(f) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

AUTHORITY OF SECRETARY TO MAKE OR GUARANTEE CERTAIN LOANS

Pub. L. 104–134, title II, § 2002, Apr. 26, 1996, 110 Stat. 1321–313, provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized to make or guarantee an operating loan under Subtitle B [7 U.S.C. 1941 et seq.] or an emergency loan under Subtitle C [7 U.S.C. 1961 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et. seq.), as in effect prior to April 4, 1996, to a loan applicant who was less than 90 days delinquent on April 4, 1996, if the loan applicant had submitted an application for the loan prior to April 5, 1996.''

1989 FARM OPERATING LOANS

Pub. L. 101–82, title III, § 302, Aug. 14, 1989, 103 Stat. 582, provided that:

''(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1990 crop production are made available to farmers and ranchers suffering major losses due to excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

''(b) LOAN GUARANTEES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make available in fiscal year 1990 guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act [7 U.S.C. 1941 et seq.], to refinance and reamortize 1989 operating loans, or 1989 or 1990 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989.

''(2) REAMORTIZATION.—Each fiscal year 1990 guaranteed loan for 1988 or 1989 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

''(3) ELIGIBILITY.—Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title I [7 U.S.C. 1421 note] shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1989 or 1990, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise—

''(A) be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1989 or 1990 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment; and

''(B) meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

''(c) USE OF AGRICULTURAL CREDIT INSURANCE FUND.—For purposes of providing guaranteed loans in accordance with subsection (b), in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years [sic] 1989 or 1990 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters, except that funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.''

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, § 312, Aug. 11, 1988, 102 Stat. 948.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1922, 1994, 2006a of this title.

§ 1942. Purposes of loans

(a) In general

A direct loan may be made under this subchapter only for—

(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

(2) purchasing livestock, poultry, or farm or ranch equipment;

(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

(4) financing land or water development, use, or conservation;

(5) paying loan closing costs;

(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

(7) training a limited-resource borrower receiving a loan under section 1934 of this title in maintaining records of farming and ranching operations;

(8) training a borrower under section 2006a of this title;

(9) refinancing the indebtedness of a borrower, if the borrower—

(A) has refinanced a loan under this subchapter not more than 4 times previously; and

(B)(i) is a direct loan borrower under this chapter at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this chapter or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

(10) providing other farm, ranch, or home needs, including family subsistence.

(b) Guaranteed loans

A loan may be guaranteed under this subchapter only for—

(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

(2) purchasing livestock, poultry, or farm or ranch equipment;

(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

(4) financing land or water development, use, or conservation;

(5) refinancing indebtedness;

(6) paying loan closing costs;

(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

(8) training a borrower under section 2006a of this title; or

(9) providing other farm, ranch, or home needs, including family subsistence.

(c) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

(d) Private reserve

(1) In general

Notwithstanding any other provision of this chapter, the Secretary may reserve a portion of any loan made under this subchapter to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

(2) Limit on size of the reserve

The size of the reserve shall not exceed the least of—

(A) 10 percent of the loan;

(B) $5,000; or

(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.

(Pub. L. 87–128, title III, §312, Aug. 8, 1961, 75 Stat. 310; Pub. L. 87–703, title IV, §401(4), Sept. 27, 1962, 76 Stat. 632; Pub. L. 90–488, §8, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, §§120(b), 121, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–113, title XIV, §1448(b), Sept. 29, 1977, 91 Stat. 1012; Pub. L. 95–334, title I, §115, Aug. 4, 1978, 92 Stat. 425; Pub. L. 96–438, §1(3), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 99–198, title XIII, §§1306, 1307, Dec. 23, 1985, 99 Stat. 1521; Pub. L. 101–624, title XVIII, §1818(b), Nov. 28, 1990, 104 Stat. 3830; Pub. L. 102–237, title V, §501(b), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102–552, title V, §516(f)(1)(A), (2), Oct. 28, 1992, 106 Stat. 4137, 4138; Pub. L. 104–127, title VI, §612(a), Apr. 4, 1996, 110 Stat. 1087.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(9)(B)(i) and (d)(1), see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(9)(B)(i), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions outlining purposes of loans made under this subchapter, authorizing loans to rural area residents to operate small business enterprises, authorizing loans for pollution abatement and control projects in rural areas and providing for limitations on such loans, and authorizing creation, from loan funds, of nonsupervised bank accounts to be used at discretion of borrower for necessary family living expenses.

1992—Subsec. (a). Pub. L. 102–552, §516(f)(2), repealed amendment by Pub. L. 102–237, §501(b). See 1991 Amendment note below.

Pub. L. 102–552, §516(f)(1)(A), made technical correction to directory language of Pub. L. 101–624, §1818(b). See 1990 Amendment note below.

1991—Subsec. (a). Pub. L. 102–237, §501(b), which directed the substitution of ''systems (for purposes of this subchapter, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 1934 of this title, and (13)

borrower training under section 2006a of this title.'' for ''`systems.' and all that follows'', could not be executed because ''systems.'' does not appear in subsec. (a) was repealed by Pub. L. 102–552, § 516(f)(2). See Construction of 1991 Amendment note below.

1990—Subsec. (a). Pub. L. 101–624, § 1818(b), as amended by Pub. L. 102–552, § 516(f)(1)(A), added cl. (13).

1985—Subsec. (a). Pub. L. 99–198, § 1306, added cl. (12).

Subsec. (e). Pub. L. 99–198, § 1307, added subsec. (e).

1980—Subsec. (a). Pub. L. 96–438 added cl. (11).

1978—Subsec. (a). Pub. L. 95–334, struck out ''individual'' after ''title, to''.

1977—Subsec. (a). Pub. L. 95–113 inserted parenthetical provision extending the section to include farm equipment which utilizes solar energy and inserted definition of ''solar energy''.

1972—Subsec. (a). Pub. L. 92–419, §§ 120(b), 121(1), (2), substituted ''section 1941(a) for ''section 1941'', designated existing provisions as subsec. (a), and added cl. (10).

Subsecs. (b) to (d). Pub. L. 92–419, § 121(3), added subsecs. (b) to (d).

1968—Pub. L. 90–488 struck out from cl. (4) the concluding phrase, ''including recreational uses and facilities'', added cls. (5) and (6), and redesignated former cls. (5) to (7) as (7) to (9), respectively.

1962—Pub. L. 87–703 authorized, in cl. (4), loans to be made for recreational uses and facilities.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 612(b) of Pub. L. 104–127 provided that: ''Section 312(c)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1942(c)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act.'' [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section (f)(1)(B) of Pub. L. 102–552 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 [Pub. L. 101–624] at the time such Act became law.''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

CONSTRUCTION OF 1991 AMENDMENT

Section 516(f)(2) of Pub. L. 102–552 provided that: ''Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) [amending this section] is repealed. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) shall be applied and administered as if such subsection had never become law.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1991, 1992, 2008f of this title.

§ 1943. Limitations on amount of operating loans

(a) In general

The Secretary shall make or insure no loan under this subchapter—

(1) that would cause the total principal indebtedness outstanding at any one time for loans made under this subchapter to any one borrower to exceed, in the case of a loan other than a loan guaranteed by the Secretary, $200,000, or, in the case of a loan guaranteed by the Secretary, $700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 1925 of this title that are guaranteed by the Secretary); or

(2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.

(b) Inflation percentage

For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.

(Pub. L. 87–128, title III, § 313, Aug. 8, 1961, 75 Stat. 310; Pub. L. 90–488, § 9, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, § 122, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, § 116, Aug. 4, 1978, 92 Stat. 426; Pub. L. 98–258, title VI, § 604(a), Apr. 10, 1984, 98 Stat. 139; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 806(b)], Oct. 21, 1998, 112 Stat. 2681, 2681–39.)

AMENDMENTS

1998—Pub. L. 105–277 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted ''this subchapter—'' for ''this subchapter'', in introductory provisions, realigned margin of par. (1) and substituted ''$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 1925 of this title that are guaranteed by the Secretary); or'' for ''$400,000; or'', realigned margin of par. (2), and added subsec. (b).

1984—Pub. L. 98–258 substituted ''$200,000'' and ''$400,000'' for ''$100,000'' and ''$200,000'', respectively.

1978—Pub. L. 95–334 substituted provisions setting forth criteria for Secretary to make or insure loans under this subchapter for provisions setting forth criteria for Secretary to make loans under this subchapter.

1972—Pub. L. 92–419 substituted ''$50,000'' for ''$35,000''.

1968—Pub. L. 90–488 struck out from item (1) the proviso which limited the amount to be used for loans which would cause the indebtedness of any borrower to exceed $15,000 to 25 per centum of the sums made available for loans.

§ 1944. Soil conservation district loans; limitation; purchase of conservation equipment

Loans aggregating not more than $500,000 in any one year may also be made to soil conservation districts which cannot obtain necessary credit elsewhere upon reasonable terms and con-

ditions for the purchase of equipment customarily used for soil conservation purposes.

(Pub. L. 87–128, title III, § 314, Aug. 8, 1961, 75 Stat. 311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1983 of this title.

§ 1945. Repealed. Pub. L. 104–127, title VI, § 613, Apr. 4, 1996, 110 Stat. 1089

Section, Pub. L. 87–128, title III, § 315, Aug. 8, 1961, 75 Stat. 311, authorized Secretary to participate in certain loans made under this subchapter.

§ 1946. Liability of borrower

(a) Determination of interest rates

(1) The Secretary shall make all loans under this subchapter upon the full personal liability of the borrower and upon such security as the Secretary may prescribe. The interest rates on such loans, except for guaranteed loans and loans provided in paragraphs (2) and (3),[1] shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge not to exceed 1 per centum as determined by the Secretary, which charge shall be deposited in the Rural Development Insurance Fund or the Agricultural Credit Insurance Fund, as appropriate, and adjusted to the nearest one-eighth of 1 per centum. The interest rate on any guaranteed loan made under this subchapter shall be such rate as may be agreed upon by the borrower and lender, but not in excess of a rate as may be determined by the Secretary.

(2) The interest rate on any loan (other than a guaranteed loan) to a low income, limited resource borrower under this subchapter shall not be—

(A) greater than the sum of—

(i) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

(ii) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

(B) less than 5 percent per year.

(b) Payment period; consolidation and rescheduling of loans

Loans made under this subchapter shall be payable in not to exceed seven years. The Secretary may consolidate or reschedule outstanding loans for payment over a period not to exceed seven years (or, in the case of loans for farm operating purposes, fifteen years) from the date of such consolidation or rescheduling, and the amount of unpaid principal and interest of the prior loans so consolidated or rescheduled shall not create a new charge against any loan levels authorized by law. A new loan may be included in a consolidation. Such new loan shall be charged against any loan level authorized by law. Except as otherwise provided for farm loans under section 1981b of this title, the interest rate on such consolidated or rescheduled loans, other than guaranteed loans, may be changed by the Secretary to a rate not to exceed the rate being charged for loans made under this subchapter at the time of the consolidation or rescheduling. The interest rate on any guaranteed loan under this subchapter that may be consolidated or rescheduled for payment shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(c) Line-of-credit loans

(1) In general

A loan made or guaranteed by the Secretary under this subchapter may be in the form of a line-of-credit loan.

(2) Term

A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

(3) Eligibility

For purposes of determining eligibility for a farm operating loan under this subchapter, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

(4) Termination of delinquent loans

If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

(i) the production cycle; or

(ii) the marketing of the borrower's agricultural products.

(5) Agricultural commodities

A line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that—

(A) is eligible for a price support program of the Department of Agriculture; or

(B) was eligible for a price support program of the Department of Agriculture on the day before April 4, 1996.

(Pub. L. 87–128, title III, § 316, Aug. 8, 1961, 75 Stat. 311; Pub. L. 90–488, § 10, Aug. 15, 1968, 82 Stat. 771; Pub. L. 95–334, title I, § 117, Aug. 4, 1978, 92 Stat. 426; Pub. L. 97–35, title I, § 160(b), Aug. 13, 1981, 95 Stat. 377; Pub. L. 98–258, title VI, § 604(b), Apr. 10, 1984, 98 Stat. 139; Pub. L. 101–624, title XVIII, § 1803(b), Nov. 28, 1990, 104 Stat. 3818; Pub. L. 104–127, title VI, §§ 614, 661(g), Apr. 4, 1996, 110 Stat. 1089, 1107.)

REFERENCES IN TEXT

Paragraph (3), referred to in subsec. (a)(1), was repealed by Pub. L. 104–127, title VI, § 661(g), Apr. 4, 1996, 110 Stat. 1107.

[1] See References in Text note below.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–127, § 661(g), struck out par. (3) which read as follows: ''The interest rate on any loan (other than a guaranteed loan) made or insured under clause (5) of section 1942(a) of this title for activities that involve the use of prime farmland as defined in section 1927(a)(6)(C) of this title shall be the interest rate otherwise applicable under this section increased by 2 per centum per annum.''

Subsec. (c). Pub. L. 104–127, § 614, added subsec. (c).

1990—Subsec. (a)(2). Pub. L. 101–624 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The interest rate on any loan (other than a guaranteed loan) to a low-income, limited resource borrower under this subchapter shall be the interest rate otherwise applicable under this section reduced by 3 per centum per annum.''

1984—Subsec. (b). Pub. L. 98–258 inserted ''(or, in the case of loans for farm operating purposes, fifteen years)'' and substituted ''Except as otherwise provided for farm loans under section 1981b of this title, the interest rate'' for ''The interest rate''.

1981—Subsec. (a). Pub. L. 97–35 redesignated existing provisions as par. (1), inserted reference to loans guaranteed under pars. (2) and (3), and added pars. (2) and (3).

1978—Pub. L. 95–334 designated existing provisions as subsec. (a), inserted provisions relating to depositing of charges and provisions relating to interest rates on guaranteed loans, struck out provisions relating to payment and renewal of loans, and added subsec. (b).

1968—Pub. L. 90–488 substituted provisions for determination of interest rate by taking into consideration current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum per annum as determined by the Secretary, for former prohibition of an interest rate exceeding 5 per centum per annum.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 applicable to loans made after Sept. 30, 1981, see section 160(c) of Pub. L. 97–35, set out as a note under section 1927 of this title.

§§ 1947, 1948. Repealed. Pub. L. 104–127, title VI, §§ 615, 616(a), Apr. 4, 1996, 110 Stat. 1090

Section 1947, Pub. L. 87–128, title III, § 317, as added Pub. L. 92–419, title I, § 123, Aug. 30, 1972, 86 Stat. 665, related to insured operating loans.

Section 1948, Pub. L. 87–128, title III, § 318, as added Pub. L. 102–554, § 8, Oct. 28, 1992, 106 Stat. 4146, related to special assistance to certain qualified beginning farmers and ranchers.

§ 1949. Graduation of borrowers with operating loans or guarantees to private commercial credit

(a) Graduation plan

The Secretary shall establish a plan, in coordination with activities under sections 2006a, 2006b, 2006c, and 2006d of this title, to encourage each borrower with an outstanding loan under this subchapter or with respect to whom there is an outstanding guarantee under this subchapter to graduate to private commercial or other sources of credit.

(b) Limitation on period borrowers are eligible for guaranteed assistance

(1) General rule

Subject to paragraph (2), the Secretary shall not guarantee a loan under this subchapter for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subchapter.

(2) Transition rule

If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subchapter during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subchapter during 5 additional years after October 28, 1992.

(Pub. L. 87–128, title III, § 319, as added Pub. L. 102–554, § 9, Oct. 28, 1992, 106 Stat. 4150; amended Pub. L. 104–127, title VI, § 617, Apr. 4, 1996, 110 Stat. 1090.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which provided for limitation on period for which borrowers were eligible for assistance under this subchapter and contained transition rule.

SUBCHAPTER III—EMERGENCY LOANS

EMERGENCY AGRICULTURAL CREDIT

Pub. L. 95–334, title II, §§ 201–211, Aug. 4, 1978, 92 Stat. 429–433, as amended by Pub. L. 96–220, § 1, Mar. 30, 1980, 94 Stat. 129; Pub. L. 97–98, title XVI, § 1605, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 98–258, title VI, § 603, Apr. 10, 1984, 98 Stat. 139; Pub. L. 99–198, title XIII, § 1310(b), Dec. 23, 1985, 99 Stat. 1523, which authorized the Secretary of Agriculture to insure or guarantee loans to (1) bona fide farmers and ranchers who were primarily and directly engaged in agricultural production and who were citizens of the United States and (2) farm cooperatives and private domestic corporations and partnerships that were primarily and directly engaged in agricultural production and in which a majority interest was held by members, stockholders, or partners, as applicable, who themselves were citizens of the United States and were primarily and directly engaged in agricultural production, if the applicant for such loan: (A) had the experience or training and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan; (B) needed such credit in order to maintain a viable agricultural production operation; and (C) was not able to obtain sufficient credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities; and which provided requirements as to purposes of loans, loan limits, interest rates, repayment period, loan certifications and conditions, loan security, funding, maximum amount of outstanding loans, full faith and credit of the United States, issuance of certificates of beneficial ownership, assignment of contracts of guarantee, geographical availability, the conduct of a study and report on the program, and termination of authority to make new contracts of insurance or guarantee on Sept. 30, 1982, except with respect to the economic emergency loan program operated from Dec. 22, 1983, to Sept. 30, 1984, was repealed by Pub. L. 101–624, title XVIII, § 1851, Nov. 28, 1990, 104 Stat. 3837.

EMERGENCY LIVESTOCK CREDIT

Pub. L. 93–357, July 25, 1974, 88 Stat. 391, as amended by Pub. L. 94–35, § 1, June 16, 1975, 89 Stat. 213; Pub. L. 94–517, Oct. 15, 1976, 90 Stat. 2446; Pub. L. 95–334, title III, § 301, Aug. 4, 1978, 92 Stat. 433; Pub. L. 96–470, title I, § 102(d), Oct. 19, 1980, 94 Stat. 2237, authorized the Secretary of Agriculture to provide financial assistance to bona fide farmers and ranchers, including bona fide farmers or ranchers owning livestock that were fed in

custom feedyards, who were primarily and directly engaged in agricultural production and who had substantial operations in breeding, raising, fattening, or marketing livestock, and to corporations or partnerships when a majority interest in such corporations or partnerships was held by stockholders or partners who themselves were primarily and directly engaged in such agricultural production and required the Secretary to guarantee loans, including both principal and interest, made by any legally organized lending agency. The provisions also provided requirements as to loan limits, fees or charges, interest rates, repayment period, loan certifications and conditions, loan security, maximum amount of outstanding loans, exclusion from budget totals, full faith and credit of the United States, issuance of certificates of beneficial ownership, assignment of contracts of guarantee, rules and regulations, and termination of authority to make new guarantees on Sept. 30, 1979.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1508, 1981b, 1981e, 1983a, 1994, 7333 of this title.

§ 1961. Eligibility for loans

(a) Persons eligible

The Secretary shall make and insure loans under this subchapter only to the extent and in such amounts as provided in advance in appropriation Acts to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms, and (2) farm cooperatives, private domestic corporations, partnerships, or joint operations (A) that are engaged primarily in farming, ranching, or aquaculture, and (B) in which a majority interest is held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, or joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm), where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.]: *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere. In addition to the foregoing requirements of this subsection, in the case of farm cooperatives, private domestic corporations, partnerships, and joint operations, the family farm requirement of the preceding sentence shall apply as well to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subchapter I of this chapter) or an operator interest (in the case of loans for a purpose under subchapter II of this chapter). The Secretary shall accept applications from, and make or insure loans pursuant to the requirements of this subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act. The Secretary shall accept applications for assistance under this subchapter from persons affected by a natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.

(b) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).

(c) Family farm system

The Secretary shall conduct the emergency loan program under this subchapter in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 2266(a) of this title.

(d) Definitions

For the purposes of this subchapter—

(1) ''aquaculture'' means the husbandry of aquatic organisms under a controlled or selected environment; and

(2) ''able to obtain sufficient credit elsewhere'' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(Pub. L. 87–128, title III, §321, Aug. 8, 1961, 75 Stat. 311; Pub. L. 87–832, Oct. 15, 1962, 76 Stat. 958; Pub. L. 93–24, §§2, 3, 6, Apr. 20, 1973, 87 Stat. 24, 25; Pub. L. 93–237, §10(a), (d), Jan. 2, 1974, 87 Stat. 1025; Pub. L. 94–68, §§2, 3, Aug. 5, 1975, 89 Stat. 381; Pub. L. 95–334, title I, §118, Aug. 4, 1978, 92 Stat. 426; Pub. L. 96–302, title I, §120(a), July 2, 1980, 94 Stat. 841; Pub. L. 96–438, §3(a), (b)(1),

Oct. 13, 1980, 94 Stat. 1872; Pub. L. 97–35, title I, § 161, Aug. 13, 1981, 95 Stat. 378; Pub. L. 98–258, title VI, § 602(a), Apr. 10, 1984, 98 Stat. 138; Pub. L. 99–198, title XIII, § 1308(a), (b)(1), Dec. 23, 1985, 99 Stat. 1522; Pub. L. 100–707, title I, § 109(c)(1), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 104–127, title VI, § 621(a), Apr. 4, 1996, 110 Stat. 1091.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which read as follows: ''An applicant shall be ineligible for financial assistance under this subchapter for crop losses if crop insurance was available to the applicant for such crop losses under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).''

1988—Subsec. (a). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974'' in two places.

1985—Subsec. (a)(1). Pub. L. 99–198, § 1308(a), inserted ''and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms'' after ''United States'' in cl. (1) of first sentence, extended applicability to joint operations, and substituted requirement that a majority interest be held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, or joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, that such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm) for requirement that a majority interest be held by members, stockholders or partners who are citizens of the United States, in cl. (2) of first sentence, and inserted provision extending the family farm requirement to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subchapter I of this chapter) or an operator interest (in the case of loans for a purpose under subchapter II of this chapter).

Subsec. (b). Pub. L. 99–198, § 1308(b)(1), amended subsec. (b) generally, substituting provision declaring a loan applicant ineligible for financial assistance for crop losses where crop insurance was available to the applicant for former provision which made applicants eligible for loans, though able to obtain credit elsewhere, subject to the other terms and conditions for loans under this subchapter and as prescribed under regulations by the Secretary.

1984—Subsec. (a). Pub. L. 98–258 inserted provisions directing the Secretary to accept applications from, and make or insure loans pursuant to the requirements of this subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, and further directing the Secretary to accept applications for assistance under this subchapter from persons affected by a natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.

1981—Subsec. (a). Pub. L. 97–35 inserted provisions relating to requirement for advance appropriation of amounts.

1980—Subsec. (a). Pub. L. 96–348, § 3(a), (b)(1), repealed section 120 of Pub. L. 96–302 (see par. below) and amended section generally, designating existing provisions as subsec. (a) and, as so designated, restoring provision to proviso requiring loan recipients to be unable to obtain sufficient credit elsewhere.

Pub. L. 96–302, § 120(a) (see par. above), struck out from proviso requirement that persons to be eligible for loans be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time.

Subsecs. (b) to (d). Pub. L. 96–438, § 3(b)(1), added subsecs. (b) to (d).

1978—Pub. L. 95–334 struck out subsec. (a) which set forth provisions relating to designation of emergency areas and definition of term ''aquaculture'', and incorporated provisions of subsec. (b) as entire section and, as so incorporated, substituted provisions relating to criteria authorizing the Secretary to make and insure loans, for provisions relating to criteria authorizing the Secretary to make loans in designated areas.

1975—Subsec. (a). Pub. L. 94–68, § 2, substituted provisions authorizing the Secretary to designate an emergency area if he finds that a natural disaster has occurred in that area which substantially affected farming, ranching, or aquaculture operations for provisions authorizing the Secretary to designate an emergency area if he finds that there exists in that area a general need for agricultural credit and that the need for such credit in that area is the result of a natural disaster, and inserted definition of ''aquaculture''.

Subsec. (b). Pub. L. 94–68, § 3, extended the authority of the Secretary to make loans to areas designated by the President as ''Emergency'' pursuant to Disaster Relief Act of 1970, substituted reference to persons engaged in aquaculture and aquaculture for reference to oyster planters and oyster planting respectively, struck out provision that such loans be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources, inserted requirement that the loan applicant be unable to obtain credit elsewhere at reasonable rates and terms, and inserted sentence that the provisions of this subsection shall not apply to loan applications filed prior to July 9, 1975.

1974—Subsec. (a). Pub. L. 93–237, § 10(d), struck out ''which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subchapters I and II of this chapter or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time'' after ''a general need for agricultural credit''.

Subsec. (b). Pub. L. 93–237, § 10(a), struck out '', and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing practice and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time'' after ''a reasonable prospect for successful operation with the assistance of such loan'' and inserted provision that the loans be made without regard to whether the required financial assist-

ance is otherwise available from the private, cooperative, or other responsible sources.

1973—Subsec. (a). Pub. L. 93–24, §§2, 6, substituted in parenthetical text ''authorized to make or insure under subchapters I and II of this chapter'' for ''authorized to make under subchapter II of this chapter or to make or insure under subchapter I of this chapter'' and introductory words ''shall designate'' for ''may designate''.

Subsec. (b). Pub. L. 93–24, §3, substituted introductory text ''shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended,'' for ''is authorized to make loans in any such area'' and '': *Provided*, That'' for ''provided'' before ''they have experience''.

1962—Subsec. (b). Pub. L. 87–832 authorized loans to established oyster planters and to private domestic corporations or partnerships engaged primarily in oyster planting.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 621(b) of Pub. L. 104–127 provided that: ''Section 321(b)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1961(b)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.'' [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1308(b)(2) of Pub. L. 99–198 provided that: ''The amendment made by paragraph (1) [amending this section] shall not apply to a person whose eligibility for an emergency loan is the result of damage to an annual crop planted or harvested before the end of 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 602(c) of Pub. L. 98–258 provided that: ''the amendments made by this section [amending this section and section 1964 of this title] shall be applicable to disasters occurring after May 30, 1983.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 3(d) of Pub. L. 96–438 provided that: ''The amendments to subtitle C of the Consolidated Farm and Rural Development Act made by subsection (b) of this section [amending this section and sections 1962 to 1964 and 1971 of this title] shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C [this subchapter] after the date of enactment of this Act [Oct. 13, 1980], except that, for borrowers with loans outstanding under subtitle C as of December 15, 1979—

''(1) the limits on loans under section 324 of the Consolidated Farm and Rural Development Act [section 1964 of this title] made by subsection (b)(1) of this section [amending this section and sections 1962 to 1964 of this title], and

''(2) the reduction in the time limit on subsequent emergency loans under section 330 of the Consolidated Farm and Rural Development Act [section 1971 of this title] made by subsection (b)(2) of this section [amending section 1971 of this title]

shall not apply to subsequent emergency loans under section 330 (as in effect on the date preceding the date of enactment of this Act) that are made to such borrowers for the disasters for which the borrowers obtained loans under subtitle C prior to December 16, 1979.''

Amendment by Pub. L. 96–302 effective Oct. 1, 1980, see section 507 of Pub. L. 96–302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10(b) of Pub. L. 93–237 provided that: ''The provisions of subsection (a) of this section [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973.''

Section 10(d) of Pub. L. 93–237 provided in part that: ''The provisions of this subsection [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972.''

INELIGIBILITY FOR EMERGENCY LOANS

Pub. L. 101–82, title III, §301, Aug. 14, 1989, 103 Stat. 581, provided that: ''Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act [7 U.S.C. 1961 et seq.], if such eligibility is the result of damage to an annual crop planted for harvest in 1989.''

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, §311, Aug. 11, 1988, 102 Stat. 948.

NINETY-DAY EXTENSION AFTER JANUARY 2, 1974, OF DEADLINE FOR SEEKING ASSISTANCE WITH REGARD TO DISASTERS OCCURRING ON OR AFTER DECEMBER 27, 1972

Section 10(c) of Pub. L. 93–237 provided that: ''With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section [Jan. 2, 1974] the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act [this section] as amended by this section [amending this section].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1964, 1991, 2008f, 2008h of this title; title 15 section 636; title 42 section 5154a.

§ 1962. Loan determination factors; written credit declinations

(a) For the purpose of determining whether to make or insure any loan under this subchapter, the Secretary shall take into consideration the net worth of the applicant involved, including all the assets and liabilities of the applicant.

(b) For the purpose of determining whether an applicant under this subchapter is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided*, That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further*, That for loans of $100,000 or less, the Secretary may waive the requirement of this subsection if the Secretary determines that it would impose an undue burden on the applicant.

(Pub. L. 87–128, title III, §322, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94–68, §4, Aug. 5, 1975, 89 Stat. 381; Pub. L. 96–438, §3(b)(1), Oct. 13, 1980, 94 Stat. 1873; Pub. L. 104–127, title VI, §622, Apr. 4, 1996, 110 Stat. 1091.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 substituted ''loans of $100,000 or less'' for ''loans of $300,000 or less''.

1980—Pub. L. 96–438 substituted provisions prescribing factors to be considered in determining whether to make or insure a loan and relating to the need for applicants unable to obtain sufficient credit elsewhere to

provide written credit declinations for provisions relating to the purpose and extent of loans under this subchapter.

1975—Pub. L. 94–68 extended authority to finance crop or livestock changes deemed desirable as a result of changes in market demand, and to make emergency loans in excess of the actual loss sustained as a result of the natural disaster.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

§ 1963. Purpose and extent of loans

Loans may be made or insured under this subchapter for any purpose authorized for loans under subchapter I or II of this chapter and for crop or livestock changes that are necessitated by a natural disaster, major disaster, or emergency and that are deemed desirable by the applicant, subject to the limitations on the amounts of loans provided in section 1964(a) of this title.

(Pub. L. 87–128, title III, § 323, Aug. 8, 1961, 75 Stat. 311; Pub. L. 96–438, § 3(b)(1), Oct. 13, 1980, 94 Stat. 1873; Pub. L. 104–127, title VI, § 623, Apr. 4, 1996, 110 Stat. 1091.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1996—Pub. L. 104–127 inserted ''that are necessitated by a natural disaster, major disaster, or emergency and that are'' after ''livestock changes''.

1980—Pub. L. 96–438 substituted provisions relating to the purposes and extent of loans made or insured under this subchapter for provisions limiting loans to amounts certified by the county committee.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

§ 1964. Terms of loans

(a) Maximum amount of loan

The Secretary may not make a loan under this subchapter to a borrower who has suffered a loss in an amount that—

(1) exceeds the actual loss caused by a disaster; or

(2) would cause the total indebtedness of the borrower under this subchapter to exceed $500,000.

(b) Interest rates

Loans under this subchapter shall be at rates of interest as follows:

(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but not in excess of 8 percent per annum; and

(2) For loans or portions of loans in excess of the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, (A) the interest for insured loans shall be at rates prevailing in the private market for similar loans, as determined by the Secretary, and (B) the interest for guaranteed loans shall be at rates agreed on by the borrower and lender, but not in excess of such rates as may be determined by the Secretary.

(c) Interest subsidies

For guaranteed loans under this subchapter, the Secretary may pay interest subsidies to the lenders for those portions of the loans up to the amount of the actual loss caused by the disaster, as limited under subsection (a)(1) of this section. Any such subsidy shall not exceed the difference between the interest rate being charged for loans up to the amount of the actual loss, as established under subsection (b)(1) of this section, and the maximum interest rate for guaranteed loans, as established under subsection (b)(2) of this section.

(d) Repayment

(1) In general

All loans under this subchapter shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than as provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loans, except that if such security is not available because of the disaster, the Secretary shall (1) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with the Secretary's confidence in the repayment ability of the applicant, is adequate security for the loan, and (2) make such loan repayable at such times as the Secretary may determine, not later than as provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further*, That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of the chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further*, That for any direct or insured loan (other than a guaranteed loan) approved under section 1961(b) of this title, three years after the loan is made or insured, and every two years thereafter for the term of the loan, the Secretary

shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall on request by the Secretary, apply for and accept such non-Federal loan in sufficient amount to repay the Secretary. If farm assets (including land, livestock, and equipment) are used as collateral to secure a loan made under this subchapter, the Secretary shall establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subchapter or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) No basis for denial of loan

(A) In general

Subject to subparagraph (B), the Secretary shall not deny a loan under this subchapter to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if the Secretary is reasonably certain that the borrower will be able to repay the loan.

(B) Refusal to pledge available collateral

The Secretary may deny or cancel a loan under this subchapter if a borrower refuses to pledge available collateral on request by the Secretary.

(e) Grant eligibility

Any political subdivision of a State with a population of less than ten thousand inhabitants that, if such subdivision had a population of ten thousand or more inhabitants, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under this chapter during any period in which the Community Emergency Drought Relief Act of 1977 is or has been in effect.

(Pub. L. 87–128, title III, §324, Aug. 8, 1961, 75 Stat. 311; Pub. L. 93–24, §4, Apr. 20, 1973, 87 Stat. 25; Pub. L. 94–68, §5, Aug. 5, 1975, 89 Stat. 381; Pub. L. 95–89, title IV, §406, Aug. 4, 1977, 91 Stat. 561; Pub. L. 95–334, title I, §119, Aug. 4, 1978, 92 Stat. 427; Pub. L. 96–302, title I, §120(b), July 2, 1980, 94 Stat. 841; Pub. L. 96–438, §3(a), (b)(1), Oct. 13, 1980, 94 Stat. 1872, 1873; Pub. L. 97–35, title I, §162(a), Aug. 13, 1981, 95 Stat. 378; Pub. L. 98–258, title VI, §602(b), Apr. 10, 1984, 98 Stat. 138; Pub. L. 99–198, title XIII, §1308(b)(3), (c), Dec. 23, 1985, 99 Stat. 1523; Pub. L. 100–707, title I, §109(c)(2), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 104–127, title VI, §§624, 625, Apr. 4, 1996, 110 Stat. 1091; Pub. L. 105–277, div. A, §101(a) [title VIII, §802], Oct. 21, 1998, 112 Stat. 2681, 2681–38.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (d) and (e), see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Community Emergency Drought Relief Act of 1977, referred to in subsec. (e), is Pub. L. 95–31, May 23, 1977, 91 Stat. 169. Title I of the Community Emergency Drought Relief Act of 1977 is set out as a note under section 5184 of Title 42. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–277 inserted heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

1996—Pub. L. 104–127, §624, inserted section catchline.

Subsec. (a). Pub. L. 104–127, §624, added subsec. (a) and struck out former subsec. (a) which read as follows: ''No loan made or insured under this subchapter may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster.''

Subsec. (d). Pub. L. 104–127, §625, in last sentence, substituted ''establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subchapter or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).'' for ''value the assets based on the higher of (A) the value of the assets on the day before the date the governor of the State in which the farm is located requests assistance under this subchapter or the Disaster Relief and Emergency Assistance Act for any portion of such State affected by the disaster with respect to which the application for the loan is made, or (B) the value of the assets one year before such day.''

1988—Subsec. (d). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1985—Subsec. (a). Pub. L. 99–198, §1308(c), in amending subsec. (a) generally, struck out par. (1) designation, substituted ''No loan'' for ''Except as otherwise provided in paragraph (2) of this subsection, no loan'', and struck out par. (2) authorization of loans through Sept. 30, 1982 for applicants unable to obtain sufficient credit elsewhere, limited to an amount that would not cause the total unpaid principal indebtedness of the loan applicant to exceed: $1,500,000 through end of fiscal year 1980; $1,000,000 during fiscal year 1981; and $500,000 during fiscal year 1982; and restricted loans in excess of amount of actual loss that were for more than $300,000 without a prior determination of the Secretary of applicant's inability to obtain loans to finance actual needs at reasonable rates and terms in the residential community of the applicant for loans for similar purposes and periods of time.

Subsec. (b)(1). Pub. L. 99–198, §1308(b)(3), substituted provision for interest rates prescribed by the Secretary but ''not in excess of 8 percent per annum'' for former such provision but ''(A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 8 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the rate prevailing in the private market for similar loans, as determined by the Secretary''.

1984—Subsec. (d). Pub. L. 98–258 inserted provision that, if farm assets (including land, livestock, and equipment) are used as collateral to secure a loan made under this subchapter, the Secretary shall value the assets based on the higher of (A) the value of the assets on the day before the date the governor of the State in which the farm is located requests assistance under this subchapter or the Disaster Relief Act of 1974 for any portion of such State affected by the disaster with respect to which the application for the loan is made, or (B) the value of the assets one year before such day.

1981—Subsec. (b)(1). Pub. L. 97–35 in cl. (A) increased amount from 5 to 8 per centum, and in cl. (B) substituted provisions relating to a rate not in excess of the rate prevailing in the private market for similar loans, for provisions relating to a rate not in excess of current average market yield on outstanding United States marketable obligations, plus additional charges and adjustments.

1980—Subsec. (a). Pub. L. 96–348, § 3(a), (b)(1), repealed section 120 of Pub. L. 96–302 (see par. below) and amended subsec. (a) generally, substituting provisions relating to the limitation on loans made or insured under this subchapter and authorizing excess loan amounts for provisions relating to the interest rates, maturity and security of loans made or insured under this chapter.

Pub. L. 96–302, § 120(b) (see par. above), substituted interest rate provisions of first sentence for prior provision for loans ''(1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary'' and inserted proviso in second sentence for repayment of subsec. (a)(1)(B) loans.

Subsec. (b). Pub. L. 96–438, § 3(b)(1), substituted provisions relating to interest rates on loans made or insured under this subchapter for provisions relating to eligibility of political subdivisions of states for grants under this chapter.

Subsecs. (c) to (e). Pub. L. 96–438, § 3(b)(1), added subsecs. (c) to (e).

1978—Subsecs. (b), (c). Pub. L. 95–334 redesignated subsec. (c) as (b). Former subsec. (b), which related to reductions in the interest rate based on interest rate of the Small Business Administration, was struck out.

1977—Subsec. (a). Pub. L. 95–89 designated existing provisions as subsec. (a) and struck out last proviso prescribing for any loan made by the Small Business Administration in connection with a disaster occurring on or after Aug. 5, 1975, under section 636(b)(1), (2), or (4) of title 15 a rate of interest determined in the first paragraph following section 636(b)(8) of title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of title 15, now covered in subsec. (b) of this section.

Subsecs. (b), (c). Pub. L. 95–89 added subsecs. (b) and (c).

1975—Pub. L. 94–68 made the existing rate of 5 percent applicable to loans up to the amount of the actual loss caused by the disaster, inserted provisions that for loans or portions of loans in excess of that amount the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary, and inserted provisos relating to security, disasters occurring after Jan. 1, 1975, and loans made by Small Business Administration.

1973—Pub. L. 93–24 substituted ''5'' for ''3'' per centum.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 624 of Pub. L. 104–127 effective Apr. 4, 1996, and amendment by section 625 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–258 applicable to disasters occurring after May 30, 1983, see section 602(c) of Pub. L. 98–258, set out as a note under section 1961 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 162(b) of Pub. L. 97–35 provided that: ''The amendments made by this section [amending this section] shall apply to loans made with respect to disasters occurring after September 30, 1981''.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by section 3(b)(1) of Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

Amendment by Pub. L. 96–302 effective Oct. 1, 1980, see section 507 of Pub. L. 96–302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 119 of Pub. L. 95–334 provided that the amendment made by that section is effective Oct. 1, 1978.

SMALL BUSINESS DISASTER LOANS; INTEREST RATE; CANCELLATION OF LOANS

Loans by Small Business Administration in connection with any disaster occurring on or after Apr. 20, 1973 made under section 636(b)(1), (2), or (4) of Title 15, as subject to interest rate determined under this section and prohibition against cancellation of such loan under any provision of law, see section 9 of Pub. L. 93–24, set out as a note under section 636 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1963 of this title.

§ 1965. Repealed. Pub. L. 95–334, title I, § 120, Aug. 4, 1978, 92 Stat. 427

Section, Pub. L. 87–128, title III, § 325, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94–68, § 6, Aug. 5, 1975, 89 Stat. 382, authorized delegation of authority to State Directors of Farmers Home Administration for making emergency loans.

§ 1966. Emergency Credit Revolving Fund utilization

The Secretary is authorized to utilize the revolving fund created by section 1148a[1] of title 12 (hereinafter in this subchapter referred to as the ''Emergency Credit Revolving Fund'') for carrying out the purposes of this subchapter.

(Pub. L. 87–128, title III, § 326, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Section 1148a of title 12, referred to in text, was repealed by Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. See section 2252 of Title 12, Banks and Banking.

The Emergency Credit Revolving Fund, referred to in text, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1929 of this title.

§ 1967. Addition to Emergency Credit Revolving Fund of sums from liquidation of loans; authorization of appropriations

(a) All sums received by the Secretary from the liquidation of loans made under the provisions of this subchapter or under the Act of April 6, 1949, as amended, or the Act of August 31, 1954, and from the liquidation of any other assets acquired with money from the Emergency Credit Revolving Fund shall be added to and become a part of such fund.

(b) There are authorized to be appropriated to the Emergency Credit Revolving Fund such additional sums as the Congress shall from time to time determine to be necessary.

(Pub. L. 87–128, title III, § 327, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended,

[1] See References in Text note below.

which was classified to sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of August 31, 1954, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was classified as a note under section 1148a–1 of Title 12, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

ABOLITION OF EMERGENCY CREDIT REVOLVING FUND

The Emergency Credit Revolving Fund, referred to in this section and in section 1966 of this title, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

§ 1968. Repealed. Pub. L. 104–127, title VI, § 626, Apr. 4, 1996, 110 Stat. 1092

Section, Pub. L. 87–128, title III, § 328, as added Pub. L. 92–173, Nov. 24, 1971, 85 Stat. 491; amended Pub. L. 93–24, § 5, Apr. 20, 1973, 87 Stat. 25; Pub. L. 95–334, title I, § 109(b), Aug. 4, 1978, 92 Stat. 423, related to insurance of loans.

§ 1969. Repealed. Pub. L. 93–24, § 1, Apr. 20, 1973, 87 Stat. 24

Section, Pub. L. 87–128, title III, § 328, as added Pub. L. 92–385, § 5, Aug. 16, 1972, 86 Stat. 557, provided for emergency loans for major and natural disasters occurring between June 30, 1971, and July 1, 1973, providing in: subsec. (a) for cancellation of existing loans and the considerations in making grants, loans, and refinancing of loans; subsec. (b) for loans for loss or damage to agricultural crops; subsec. (c) for amount of loans and interest rates; subsec. (d) for availability of benefits irrespective of age; subsec. (e) for availability of benefits irrespective of approval date; and subsec. (f) for report to Congress.

LOANS TO ELIGIBLE APPLICANTS IN AREAS DETERMINED AS NATURAL DISASTER AREAS AFTER JANUARY 1, 1972, AND BEFORE DECEMBER 27, 1972; TIME FOR ACCEPTANCE OF APPLICATIONS

Section 8 of Pub. L. 93–24 provided that: ''Notwithstanding the repeal herein of section 5 of Public Law 92–385 [this section], and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92–385 [this section] to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act [Apr. 20, 1973].''

CONTINUATION OF SECRETARY'S AUTHORITY WITH RESPECT TO NATURAL DISASTERS OCCURRING AFTER DECEMBER 26, 1972, AND PRIOR TO APRIL 20, 1973

Pub. L. 93–237, § 4, Jan. 2, 1974, 87 Stat. 1024, provided that: ''Notwithstanding the provisions of Public Law 93–24 [which repealed this section], the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92–385 [this section] as such section was in effect prior to April 20, 1973.''

§ 1970. Eligibility for assistance based on production loss

The Secretary shall make financial assistance under this subchapter available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitutes a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 per centum loss of normal per acre or per animal production, or such lesser per centum of loss as the Secretary may determine, as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subtitle. Such loans shall be made available based upon 80 per centum, or such greater per centum as the Secretary may determine, of the total calculated actual production loss sustained by the applicant.

(Pub. L. 87–128, title III, § 329, as added Pub. L. 94–68, § 7, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 97–35, title I, § 163, Aug. 13, 1981, 95 Stat. 378.)

AMENDMENTS

1981—Pub. L. 97–35 increased specific per centum loss from 20 to 30, and authorized a lesser per centum loss pursuant to determinations by the Secretary under applicable criteria.

§ 1971. Repealed. Pub. L. 99–198, title XIII, § 1308(d), Dec. 23, 1985, 99 Stat. 1523

Section, Pub. L. 87–128, title III, § 330, as added Pub. L. 94–68, § 8, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 96–438, § 3(b)(2), Oct. 13, 1980, 94 Stat. 1875, authorized additional emergency loans.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 25 section 492.

§ 1981. Farmers Home Administration

(a) Appointment and compensation of Administrator; transfer of powers, duties, and assets pertaining to agricultural credit

In accordance with section 2006a of this title, for purposes of this chapter, and for the administration of assets under the jurisdiction of the Secretary of Agriculture pursuant to the Farmers Home Administration Act of 1946, as amended, the Bankhead-Jones Farm Tenant Act, as amended, the Act of August 28, 1937, as amended, the Act of April 6, 1949, as amended, the Act of August 31, 1954, as amended, and the power and duties of the Secretary under any other Act authorizing agricultural credit, the Secretary may assign and transfer such powers, duties, and assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.

(b) Powers of Secretary of Agriculture

The Secretary may—

(1) administer his powers and duties through such national, area, State, or local offices and employees in the United States as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he determines that the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary

shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

(2) accept and utilize voluntary and uncompensated services, and, with the consent of the agency concerned, utilize the officers, employees, equipment, and information of any agency of the Federal Government, or of any State, territory, or political subdivision;

(3) within the limits of appropriations made therefor, make necessary expenditures for purchase or hire of passenger vehicles, and such other facilities and services as he may from time to time find necessary for the proper administration of this chapter;

(4) compromise, adjust, reduce, or charge-off debts or claims (including debts and claims arising from loan guarantees), and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or the Rural Development Administration, except for activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.]. In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph. The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection. The Secretary may release borrowers or others obligated on a debt, except for debt incurred under the Housing Act of 1949, from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim, except that no compromise, adjustment, reduction, or charge-off of any claim may be made or carried out—

(A) with respect to farmer program loans, on terms more favorable than those recommended by the appropriate county committee utilized pursuant to section 1982[1] of this title; or

(B) after the claim has been referred to the Attorney General, unless the Attorney General approves;

(5) except for activities conducted under the Housing Act of 1949 [42 U.S.C. 1441 et seq.], collect all claims and obligations administered by the Farmers Home Administration, or under any mortgage, lease, contract, or agreement entered into or administered by the Farmers Home Administration and, if in his judgment necessary and advisable, pursue the same to final collection in any court having jurisdiction;

(6) release mortgage and other contract liens if it appears that they have no present or prospective value or that their enforcement likely would be ineffectual or uneconomical;

(7) obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14[1] of title 6, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;

(8) consent to (A) long-term leases of facilities financed under this subchapter notwithstanding the failure of the lessee to meet any of the requirements of this subchapter if such long-term leases are necessary to ensure the continuation of services for which financing was extended to the lessor, and (B) the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Rural Development Administration under this chapter or by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government, and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower; and

(9) notwithstanding that an area ceases, or has ceased, to be ''rural'', in a ''rural area'', or an eligible area, make loans and grants, and approve transfers and assumptions, under this chapter on the same basis as though the area still was rural in connection with property securing any loan made, insured, or held by the Secretary under this chapter or in connection with any property held by the Secretary under this chapter.

(c) Delinquent claims and obligations

The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) of this section the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.

(d) Temporary authority to enter into contracts

(1) Definitions

In this subsection:

(A) Eligible financial institution

The term ''eligible financial institution'' means a financial institution with substantial experience in farm, ranch, or aquaculture lending that is regulated by the Comptroller of the Currency, the Farm Credit Administration, or a similar regulatory body.

(B) Pilot project

The term ''pilot project'' includes services related to borrower loan documentation, financial information, credit history, and appraisals of real estate and chattel.

(2) Authority

The Secretary may enter into a contract with an eligible financial institution for servicing a farmer program loan under this chapter, including 1 or more pilot projects.

[1] See References in Text note below.

(3) Report

Not later than September 30, 1997, and September 30 of each year thereafter, the Secretary shall report to Congress on—

(A) the Secretary's experience in using contracts under paragraph (2); and

(B) recommendations for legislation related to this subsection, if any.

(4) Savings clause

Nothing in this subsection shall limit the authority of the Secretary or an eligible financial institution to contract for any services under this Act or any other law.

(5) Sunset provision

This subsection shall be effective until September 30, 2002.

(e) Private collection agency

The Secretary may use a private collection agency to collect a claim or obligation described in subsection (b)(5) of this section.

(Pub. L. 87–128, title III, §331, Aug. 8, 1961, 75 Stat. 312; Pub. L. 90–488, §11, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, §124, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, §121, Aug. 4, 1978, 92 Stat. 427; Pub. L. 97–98, title XVI, §1603, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, §1309, Dec. 23, 1985, 99 Stat. 1523; Pub. L. 100–233, title VI, §615(c), Jan. 6, 1988, 101 Stat. 1682; Pub. L. 101–624, title XVIII, §§1805, 1806, title XXIII, §§2303(a), 2388(d)(1), Nov. 28, 1990, 104 Stat. 3819, 3981, 4052; Pub. L. 102–237, title V, §501(c), title VII, §701(h)(1)(E), Dec. 13, 1991, 105 Stat. 1866, 1880; Pub. L. 103–248, §2, May 11, 1994, 108 Stat. 619; Pub. L. 103–354, title II, §226(h), Oct. 13, 1994, 108 Stat. 3216; Pub. L. 104–127, title VI, §§631, 632, title VII, §748, Apr. 4, 1996, 110 Stat. 1092, 1128.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (b)(1), (3), (8), (9), and (d)(2), see note set out under section 1921 of this title.

The Farmers Home Administration Act of 1946, as amended, referred to in subsec. (a), is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, which was classified to sections 1001 to 1005, 1005a to 1005d, 1007, 1008, 1009, 1015 to 1029, 1030, and 1031 of this title, section 371 of Title 12, Banks and Banking, and section 82h of Title 31, Money and Finance, and in so far as it amended provisions of Title I, II, and IV of the Bankhead-Jones Farm Tenant Act, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

The Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of act July 22, 1937, as amended, is classified to sections 1010 to 1012 and 1013a of this title. Titles I, II, and IV of act July 22, 1937, as amended, were formerly classified to sections 1001 to 1005, 1005a to 1005d, 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1026, and 1027 to 1029 of this title, respectively, were repealed by section 341(a) of Pub. L. 87–128, and are covered by this chapter.

Act of August 28, 1937, as amended, referred to in subsec. (a), is act Aug. 28, 1937, ch. 870, 50 Stat. 869, as amended, which was formerly classified to sections 590r to 590x–4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was formerly classified to sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of August 31, 1954, as amended, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was formerly classified as a note under section 1148a–1 of Title 12, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

The Housing Act of 1949, as amended, referred to in subsec. (b)(4), (5), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (b)(4), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

Section 1982 of this title, referred to in subsec. (b)(4)(A), was repealed by Pub. L. 103–354, title II, §227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

Section 14 of title 6, referred to in subsec. (b)(7), was repealed by Pub. L. 92–310, title II, §203(1), June 6, 1972, 86 Stat. 202. For provisions relating to surety bonds of Federal personnel, see section 9301 et seq. of Title 31, Money and Finance.

This Act, referred to in subsec. (d)(4), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–127, §748, inserted ''(including debts and claims arising from loan guarantees)'' after ''debts or claims'', substituted ''Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or'' for ''Farmers Home Administration or'', and inserted ''In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.'' after ''activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.].''

Subsec. (d). Pub. L. 104–127, §631, added subsec. (d).

Subsec. (e). Pub. L. 104–127, §632, added subsec. (e).

1994—Subsec. (a). Pub. L. 103–354 substituted ''assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.'' for ''assets to the Farmers Home Administration, to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, who shall receive basic compensation as provided by law for that office, or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office.''

Subsec. (c). Pub. L. 103–248 added subsec. (c).

1991—Pub. L. 102–237, §501(c)(2)(B)(i), amended directory language of Pub. L. 101–624, §2388(d)(1). See 1990 Amendment note below.

Subsec. (b)(1), (2). Pub. L. 102–237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(3). Pub. L. 102–237, §701(h)(1)(E), substituted ''this chapter'' for ''this Act''.

Pub. L. 102–237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(4). Pub. L. 102–237, §501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, §2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pub. L. 102–237, §501(c)(1), struck out ''this chapter'' after ''activities under the Housing Act of 1949'' and substituted ''1949, from'' for ''1949 from''.

Subsec. (b)(4)(A). Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated Pub. L. 101–624, § 2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(4)(B). Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated Pub. L. 101–624, § 2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(5). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(6). Pub. L. 102–237, § 501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (2). See 1990 Amendment note below.

Subsec. (b)(7). Pub. L. 102–237, § 501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (3). See 1990 Amendment note below.

Subsec. (b)(8). Pub. L. 102–237, § 501(c)(2)(B)(ii)–(v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (4). See 1990 Amendment note below.

Subsec. (b)(9). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pars. (c) to (g). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Par. (h). Pub. L. 102–237, § 501(c)(2)(B)(iii), repealed Pub. L. 101–624, § 2388(d)(1)(A)(iv). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), amended Pub. L. 101–624, § 1805(b), and repealed Pub. L. 101–624, § 1805(c)(5). See 1990 Amendment note below.

Pars. (i), (j). Pub. L. 102–237, § 501(c)(2)(A), amended Pub. L. 101–624, § 1805(b), and repealed Pub. L. 101–624, § 1805(c)(5). See 1990 Amendment note below.

1990—Pub. L. 101–624, § 2388(d)(1), was amended in its directory language by Pub. L. 102–237, § 501(c)(2)(B)(i), resulting in no change in text.

Subsec. (a). Pub. L. 101–624, §§ 2303(a)(1), 2388(d)(1)(B), designated first undesignated par. as subsec. (a) and substituted ''In accordance with section 2006a of this title, for purposes of this chapter, and'' for ''For the purposes of this chapter and'', and inserted before period at end '', or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office''.

Subsec. (b). Pub. L. 101–624, § 2388(d)(1)(B), designated second undesignated par. beginning ''The Secretary may—'' as subsec. (b).

Subsec. (b)(1) to (3). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated pars. (a) to (c) as (1) to (3), respectively, of subsec. (b).

Subsec. (b)(4). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (d) as (4) of subsec. (b).

Pub. L. 101–624, §§ 1805(a)(1)(A), (B), 2303(a)(2), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration'' in first sentence, substituted '', except for activities under the Housing Act of 1949'' for ''under any of its programs, as circumstances may require, to carry out'' in first sentence, and substituted '', except for debt incurred under the Housing Act of 1949'' for ''incurred under this chapter'' in third sentence.

Subsec. (b)(4)(A). Pub. L. 101–624, § 2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated subpar. (1) as (A).

Pub. L. 101–624, § 1805(a)(1)(C), inserted ''with respect to farmer program loans,'' before ''on terms''.

Subsec. (b)(4)(B). Pub. L. 101–624, § 2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated subpar. (2) as (B).

Subsec. (b)(5). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (e) as (5) of subsec. (b).

Pub. L. 101–624, § 1805(a)(2), inserted ''except for activities conducted under the Housing Act of 1949,'' before ''collect'', struck out ''arising or'' after ''obligations'', substituted ''by the Farmers Home Administration'' for ''under this chapter'' before '', or under any'' and ''by the Farmers Home Administration'' for ''pursuant to this chapter'' before ''and, if in his''.

Subsec. (b)(6). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (f) as (6) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(ii), substituted ''release'' for ''Release''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), as amended by Pub. L. 102–237, § 501(c)(2)(B)(ii), realigned margin.

Pub. L. 101–624, § 1805(c)(1), (2), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (ii), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(7). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (g) as (7) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(iii), substituted ''obtain'' for ''Obtain''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), as amended by Pub. L. 102–237, § 501(c)(2)(B)(ii), realigned margin.

Pub. L. 101–624, § 1805(c)(1), (3), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (iii), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(8). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (h) [par. (i) prior to redesignation by Pub. L. 101–624, § 1805(b), as amended] as (8) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(iv)(II), formerly (v)(II), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (iv), redesignated former subpars. (1) and (2) as (A) and (B), respectively.

Pub. L. 101–624, § 2303(a)(3), inserted ''Rural Development Administration under this chapter or by the'' before ''Farmers Home Administration''.

Pub. L. 101–624, § 1806, inserted before semicolon at end '', and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv)(I), formerly (v)(I), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(ii)–(iv), realigned margin and substituted ''consent'' for ''Consent''.

Pub. L. 101–624, § 1805(c)(1), (4), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv)(I), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(9). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (i) [par. (j) prior to redesignation by Pub. L. 101–624, § 1805(b), as amended] as (9) of subsec. (b).

Pars. (c) to (g). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), (B), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated former pars. (c) to (g) as (3) to (7), respectively, of subsec. (b). See above.

Par. (h). Pub. L. 101–624, § 2388(d)(1)(A)(iv), which directed substitution of ''not'' for ''Not'' before ''require'', was repealed by Pub. L. 102–237, § 501(c)(2)(B)(iii).

Pub. L. 101–624, § 1805(c)(5), which redesignated par. (i) as (h), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Pub. L. 101–624, § 1805(b), as amended by Pub. L. 102–237, § 501(c)(2)(A), redesignated par. (i) as (h) and struck out par. (h) which read as follows: ''Not require borrowers to pay interest accrued after December 31, 1972, on interest which is not more than 90 days overdue on any loan held or insured by the Farmers Home Administration;''.

Pars. (i), (j). Pub. L. 101–624, §1805(c)(5), which redesignated pars. (i) and (j) as (h) and (i), respectively, was repealed by Pub. L. 102–237, §501(c)(2)(A).

Pub. L. 101–624, §1805(b), as amended by Pub. L. 102–237, §501(c)(2)(A), redesignated pars. (i) and (j) as (h) and (i), respectively. Pars. (h) and (i) subsequently redesignated pars. (8) and (9) of subsec. (b). See above.

1988—Par. (d). Pub. L. 100–233 inserted ''or debts'' before ''claims'', and inserted ''The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.''

1985—Par. (d). Pub. L. 99–198, §1309, in amending par. (d) generally, substituted provisions authorizing the Secretary to compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Farmers Home Administration to carry out this chapter for provisions which had authorized the Secretary to compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts and agreements entered into or administered by the Administration under any of its programs, but not in the event of claims of $25,000 or more without the approval of the Administrator, substituted provisions authorizing the Secretary to release borrowers or others obligated on a debt incurred under this chapter from personal liability with or without consideration at the time of the compromise, adjustment, reduction or charge-off of any claim for provisions authorizing the Secretary to release from personal liability, with or without payment of any consideration at the time of adjustment of the claims, borrowers who transferred the security property to approved applicants, to other than approved applicants, or for amounts less than the indebtedness secured thereby, struck out provisions that compromise, adjustment, or reduction of the claim shall be based on the value of the security and a determination of the debtor's reasonable ability to pay considering his other assets and income, and struck out provisions relating to any claim due and payable for five years or more and to partial releases and subordination of mortgages.

1981—Par. (i). Pub. L. 97–98 designated existing provisions following ''consent to'' as cl. (2) and added cl. (1).

1978—Pub. L. 95–334 in par. (a) struck out references to Puerto Rico and the Virgin Islands, in par. (d) substituted ''$25,000'' for ''$15,000'', and added par. (j).

1972—Par. (a). Pub. L. 92–419, §124(1), authorized the Secretary of Agriculture, until Jan. 1, 1975, to make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter, and required the Secretary, prior to June 30, 1974, to report to Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit.

Pars. (d) to (i). Pub. L. 92–419, §124(2), substituted a semicolon for a period at end of lettered pars. (d), (e) and (f) and added pars. (g) to (i).

1968—Par. (f). Pub. L. 90–488 added par. (f).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 501(c) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(E) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(b)(3), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

CONTINUATION OF SMALL FARMER TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Section 1328 of Pub. L. 99–198 provided that: ''The Secretary of Agriculture shall, during the period beginning on the date of enactment of this Act [Dec. 23, 1985] and ending on September 30, 1988, maintain at substantially current levels the small farmer training and technical assistance program in the office of the Administrator of the Farmers Home Administration.''

REAMORTIZATION OF DISTRESSED FARMERS HOME ADMINISTRATION LOANS FROM REVENUES FROM SOFTWOOD TIMBER CROP PLANTINGS ON MARGINAL LAND

Pub. L. 98–258, title VI, §608, Apr. 10, 1984, 98 Stat. 140, as amended by Pub. L. 99–198, title XII, §1254, Dec. 23, 1985, 99 Stat. 1517, provided that:

''(a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') may implement a program, pursuant to the recommendations contained in the study mandated by section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1421 [1981] note), under which a distressed loan (as determined by the Secretary) made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or a portion thereof, may be reamortized with the use of future revenue produced from the planting of softwood timber crops on marginal land (as determined by the Secretary) that—

''(A) was previously used to produce an agricultural commodity or as pasture; and

''(B) secures a loan made or insured under such Act.

''(2) Accrued interest on a loan reamortized under this section may be capitalized and interest charged on such interest.

''(3) All or a portion of the payments on such reamortized loan may be deferred until such softwood timber crop produces revenue or for a term of 45 years, whichever comes first.

''(4) Repayment of such reamortized loan shall be made not later than 50 years after the date of reamortization.

''(b) The interest rate on such reamortized loans shall be determined by the Secretary, but not in excess of the current average yield on outstanding marketable obligations of the United States with periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary and adjusted to the nearest one-eighth of 1 percent.

''(c) To be eligible for such program—

''(1) the borrower of such reamortized loan must place not less than 50 acres of such land in softwood timber production;

''(2) such land (including timber) may not have any lien against such land other than a lien for—

''(A) a loan made or insured under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] to secure such reamortized loan; or

''(B) a loan made under this section, at the time of reamortization or thereafter, that is subject to a lien on such land (including timber) in favor of the Secretary; and

''(3) the total amount of loans secured by such land (including timber) may not exceed $1,000 per acre.

''(d)(1) To assist such borrowers to place such land in softwood timber production, the Secretary may make loans to such borrowers for such purpose in an aggregate amount not to exceed the actual cost of tree planting for land placed in the program.

''(2) Any such loan shall be secured by the land (including timber) on which the trees are planted.

''(3) Such loans shall be made on the same terms and conditions as are provided in this section for reamortized loans.

''(e) The Secretary shall issue such rules as are necessary to carry out this section, including rules prescribing terms and conditions for—

''(1) reamortizing and making loans under this section;

''(2) entering into security instruments and agreements under this section; and

''(3) management and harvesting practices of the timber crop.

''(f) There are authorized to be appropriated such sums as are necessary to carry out this section.

''(g) No more than 50,000 acres may be placed in such program.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1991, 2005 of this title.

§ 1981a. Loan moratorium and policy on foreclosures

In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration or by the Rural Development Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(Pub. L. 87–128, title III, § 331A, as added Pub. L. 95–334, title I, § 122, Aug. 4, 1978, 92 Stat. 427; amended Pub. L. 101–624, title XXIII, § 2303(b), Nov. 28, 1990, 104 Stat. 3981.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1990—Pub. L. 101–624 inserted ''or by the Rural Development Administration'' after ''Farmers Home Administration''.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 102–341, title III, Aug. 14, 1992, 106 Stat. 897.

Pub. L. 102–142, title III, Oct. 28, 1991, 105 Stat. 902.

Pub. L. 101–506, title II, Nov. 5, 1990, 104 Stat. 1333.

Pub. L. 101–161, title II, Nov. 21, 1989, 103 Stat. 969.

Pub. L. 100–460, title II, Oct. 1, 1988, 102 Stat. 2246.

Pub. L. 100–202, § 101(k) [title II], Dec. 22, 1987, 101 Stat. 1329–322, 1329–340.

Pub. L. 99–500, § 101(a) [title II], Oct. 18, 1986, 100 Stat. 1783, 1783–16, and Pub. L. 99–591, § 101(a) [title II], Oct. 30, 1986, 100 Stat. 3341, 3341–16.

Pub. L. 99–190, § 101(a) [H.R. 3037, title II], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, § 101(a) [H.R. 5743, title II], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, § 101(d) [H.R. 3223, title II], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title II, Dec. 18, 1982, 96 Stat. 1800.

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS

Pub. L. 100–387, title III, § 313(a), Aug. 11, 1988, 102 Stat. 949, provided that: ''It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

''(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] outstanding for such farmers and ranchers;

''(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 [Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568, see Tables for classification] and similar provisions of law for such farmers and ranchers; and

''(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.''

§ 1981b. Farm loan interest rates

Any loan for farm ownership purposes under subchapter I of this chapter, farm operating purposes under subchapter II of this chapter, or disaster emergency purposes under subchapter III of this chapter, other than a guaranteed loan, that is deferred, consolidated, rescheduled, or reamortized under this chapter shall, notwithstanding any other provision of this chapter, bear interest on the balance of the original loan and for the term of the original loan at a rate that is the lower of (1) the rate of interest on the original loan or (2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time of the deferral, consolidation, rescheduling, or reamortization.

(Pub. L. 87–128, title III, § 331B, as added Pub. L. 98–258, title VI, § 605, Apr. 10, 1984, 98 Stat. 139.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

ADJUSTMENT OF INTEREST RATES

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 428, provided that: ''The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided*, That such rate adjustments shall constitute a change in the loan agreement and not a new loan.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1946 of this title.

§ 1981c. Oil and gas royalty payments on loans

(a) The Secretary shall permit a borrower of a loan made or insured under this chapter to make a prospective payment on such loan with proceeds from—

(1) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

(2) the sale of oil, gas, or other minerals removed from real property used to secure such loan, if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

(b) Subsection (a) of this section shall not apply to a borrower of a loan made or insured under this chapter with respect to which a liquidation or foreclosure proceeding is pending on December 23, 1985.

(Pub. L. 87–128, title III, § 331C, as added Pub. L. 99–198, title XIII, § 1310(a), Dec. 23, 1985, 99 Stat. 1523.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1981d. Notice of loan service programs

(a) Requirement

The Secretary shall provide notice by certified mail to each borrower who is at least 90 days past due on the payment of principal or interest on a loan made or insured under this chapter.

(b) Contents

The notice required under subsection (a) of this section shall—

(1) include a summary of all primary loan service programs, preservation loan service programs, debt settlement programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

(4) provide any relevant forms, including applicable response forms;

(5) advise the borrower that a copy of regulations is available on request; and

(6) be designed to be readable and understandable by the borrower.

(c) Contained in regulations

All notices required by this section shall be contained in the regulations implementing this chapter.

(d) Timing

The notice described in subsection (b) of this section shall be provided—

(1) at the time an application is made for participation in a loan service program;

(2) on written request of the borrower; and

(3) before the earliest of—

(A) initiating any liquidation;

(B) requesting the conveyance of security property;

(C) accelerating the loan;

(D) repossessing property;

(E) foreclosing on property; or

(F) taking any other collection action.

(e) Consideration of borrowers for loan service programs

The Secretary shall consider a farmer program borrower for all loan service programs if, within 60 days after receipt of the notice required in this section or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.

(Pub. L. 87–128, title III, § 331D, as added Pub. L. 100–233, title VI, § 605, Jan. 6, 1988, 101 Stat. 1666; amended Pub. L. 101–624, title XVIII, § 1807, Nov. 28, 1990, 104 Stat. 3819; Pub. L. 102–554, § 10, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 104–127, title VI, § 633, Apr. 4, 1996, 110 Stat. 1092.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''90 days past due on'' for ''180 days delinquent in''.

1992—Subsec. (e). Pub. L. 102–554, which directed the insertion of ''or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period'' after ''not later than 60 days after receipt of the notice required in this section'', was executed by making the insertion after ''within 60 days after receipt of the notice required in this section'' to reflect the probable intent of Congress.

1990—Subsec. (b)(1). Pub. L. 101–624, § 1807(1), inserted ''debt settlement programs,'' after ''preservation loan service programs''.

Subsec. (e). Pub. L. 101–624, § 1807(2), substituted ''60 days'' for ''45 days''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1807(1) of Pub. L. 101–624 effective 120 days after Nov. 28, 1990, see section 1861(b) of Pub. L. 101–624, set out as a note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1991, 2008g of this title.

§ 1981e. Planting and production history guidelines

(a) In general

The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) Calculation of yields

(1) In general

For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this chapter (except for loans under subchapter III of this chapter), the Sec-

retary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

(2) Affected by a disaster

For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

(3) Application of subsection

Paragraph (1) shall apply to all actions taken by the Secretary to carry out this chapter (except for loans under subchapter III of this chapter) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.

(Pub. L. 87–128, title III, § 331E, as added Pub. L. 100–233, title VI, § 606, Jan. 6, 1988, 101 Stat. 1667; amended Pub. L. 102–237, title V, § 501(d)(1), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102–552, title V, § 516(g)(1), Oct. 28, 1992, 106 Stat. 4138.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a) and (b)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (b)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–552, § 516(g)(1)(A), substituted ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)'' for ''Disaster Relief Act of 1974''.

Subsec. (b)(2). Pub. L. 102–552, § 516(g)(1)(B), inserted ''Robert T. Stafford'' before ''Disaster Relief''.

1991—Pub. L. 102–237 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(g)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section] shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) [amending this section and enacting provisions set out below] took effect.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 501(d)(3) of Pub. L. 102–237 provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A) [set out below].

''(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act [Dec. 13, 1991].''

REGULATIONS

Section 501(d)(2) of Pub. L. 102–237 provided that:

''(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act [Dec. 13, 1991] and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) [amending this section] beginning in crop year 1992.

''(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).''

§ 1981f. Underwriting forms and standards

In the administration of this chapter, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.

(Pub. L. 87–128, title III, § 331F, as added Pub. L. 101–624, title XVIII, § 1808(a), Nov. 28, 1990, 104 Stat. 3820.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

REGULATIONS

Section 1808(b) of Pub. L. 101–624 provided that: ''The Secretary of Agriculture shall not issue final regulations providing for the use of ratios and standards for determining the degree of potential loan risk under section 331F of the Consolidated Farm and Rural Development Act [7 U.S.C. 1981f] (as added by subsection (a) of this section), prior to the submission of the study and report on the effects of the regulations required by section 621 of the Agricultural Credit Act of 1987 (7 U.S.C. 1989 note).''

§ 1982. Repealed. Pub. L. 103–354, title II, § 227(b)(1), Oct. 13, 1994, 108 Stat. 3218

Section, Pub. L. 87–128, title III, § 332, Aug. 8, 1961, 75 Stat. 314; Pub. L. 99–198, title XIII, § 1311, Dec. 23, 1985, 99 Stat. 1524; Pub. L. 100–233, title VI, § 607, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101–624, title XVIII, § 1809, Nov. 28, 1990, 104 Stat. 3820; Pub. L. 102–554, § 11, Oct. 28, 1992, 106 Stat. 4151, related to county committees.

§ 1983. Special conditions and limitations on loans

In connection with loans made or insured under this chapter, the Secretary shall require—

(1) the applicant (A) to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, and (B) to furnish an appropriate written financial statement;

(2) except with respect to a loan under section 1926, 1932, or 1944 of this title, the county or area committee established under section 590h(b)(5)(B) of title 16 to certify in writing—

(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

(B) that a review of the continued eligibility of the borrower for the loan has been conducted;

(3) except for guaranteed loans, an agreement by the borrower that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source (or, in the case of a borrower under section 1934 of this title, the borrower may be able to obtain a loan under section 1922 of this title), at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan;

(4) such provision for supervision of the borrower's operations as the Secretary shall deem necessary to achieve the objectives of the loan and protect the interests of the United States; and

(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, for a loan under subchapter I or II of this chapter to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.

(Pub. L. 87–128, title III, §333, Aug. 8, 1961, 75 Stat. 314; Pub. L. 90–488, §12, Aug. 15, 1968, 82 Stat. 771; Pub. L. 91–620, §3, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92–419, title I, §§118(b), 125, 126, Aug. 30, 1972, 86 Stat. 664, 666; Pub. L. 95–334, title I, §123, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96–438, §3(c), Oct. 13, 1980, 94 Stat. 1875; Pub. L. 97–98, title XVI, §1604, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 101–624, title XVIII, §1810, title XXIII, §2388(e), Nov. 28, 1990, 104 Stat. 3820, 4053; Pub. L. 102–237, title V, §501(e), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102–554, §12, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 103–354, title II, §227(b)(2), Oct. 13, 1994, 108 Stat. 3218; Pub. L. 104–127, title VI, §§634, 635(a), 636, Apr. 4, 1996, 110 Stat. 1093.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in introductory provisions, see note set out under section 1921 of this title.

AMENDMENTS

1996—Par. (1)(B). Pub. L. 104–127, §634, substituted ''an appropriate written financial statement'' for ''a written statement showing the applicant's net worth''.

Pars. (2) to (4). Pub. L. 104–127, §635(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 104–127, §636, added par. (5) and struck out former par. (5) which read as follows: ''the applications of veterans for loans under subchapter I or II of this chapter to be given preference over similar applications of nonveterans on file in any county or area office at the same time. Veterans as used herein shall mean persons who served in the Armed Forces of the United States during any war between the United States and any other nation, during the Korean conflict or the Vietnam era and who were discharged or released therefrom under conditions other than dishonorable.''

Pub. L. 104–127, §635(a)(1), redesignated par. (4) as (5).

1994—Pars. (2) to (5). Pub. L. 103–354 redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) relating to certification by county committee of applicant's eligibility for loan.

1992—Par. (2)(A)(iii). Pub. L. 102–554 substituted ''5 years'' for ''2 years''.

1991—Par. (2)(A). Pub. L. 102–237 redesignated cls. (1) to (3) as (i) to (iii), respectively.

1990—Pub. L. 101–624, §2388(e), redesignated pars. (a) to (e) as (1) to (5), respectively, and in par. (1) redesignated subpars. (1) and (2) as (A) and (B), respectively; in par. (2) redesignated subpars. (1) and (2) as (A) and (B), respectively, and in subpar. (A) redesignated cls. (A) to (C) as (1) to (3), respectively; in par. (3) made technical amendments to references to sections 1934 and 1922 of this title involving original act and requiring no change in text; and in par. (5) made technical amendments to reference to subchapter I or II of this chapter involving original act and requiring no change in text.

Pub. L. 101–624, §1810, amended par. (b) generally. Prior to amendment, par. (b) read as follows: ''except for loans under sections 1926, 1932, 1944 and 1961(a)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(a)(2) of this title, the Secretary shall require the recommendation of the county committee as to the making or insuring of the loan: *Provided*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;''.

1981—Par. (a). Pub. L. 97–98 designated existing provisions after ''the applicant'' as cl. (1), and added cl. (2).

1980—Par. (b). Pub. L. 96–438 substituted ''section 1961(a)(2)'' for ''section 1961(b)(2)'' in two places.

1978—Par. (b). Pub. L. 95–334, §123(1), inserted proviso relating to appeal and review procedure for any determination regarding a certification, etc.

Par. (c). Pub. L. 95–334, §123(2), (3), inserted provisions excepting guaranteed loans and provisions relating to borrowers under section 1934 of this title obtaining loans under section 1922 of this title.

1972—Par. (a). Pub. L. 92–419, §125, inserted '', and the Secretary shall determine,'' after ''in writing''.

Par. (b). Pub. L. 92–419, §§118(b), 126, inserted reference to section 1932 of this title and substituted ''section 1961(b)(2) of this title'' for ''said sections'', respectively.

1970—Pub. L. 91–620 included persons who served during the Vietnam era within the definition of ''Veterans'' in par. (e).

1968—Par. (b). Pub. L. 90–488 struck out ''farming'' from phrase ''proposed farming operations''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1932 of this title.

§ 1983a. Prompt approval of loans and loan guarantees

(a) Applications; time for action by Secretary; notice; statement of reasons

(1) The Secretary shall approve or disapprove an application for a loan or loan guarantee made under this chapter, and notify the applicant of such action, not later than 60 days after the Secretary has received a complete application for such loan or loan guarantee.

(2)(A) If an application for a loan or loan guarantee under this chapter (other than under subchapter II of this chapter) is incomplete, the Secretary shall inform the applicant of the reasons such application is incomplete not later than 20 days after the Secretary has received such application.

(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subchapter II of this chapter, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt, and the reasons the application is pending.

(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subchapter II of this chapter on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken.

(3) If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, the Secretary shall state the reasons for the disapproval in the notice required under paragraph (1).

(4)(A) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 1932(a) of this title, or for a loan under section 1926(a) of this title, that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make the loan or guarantee shall not be disapproved but shall be placed in pending status.

(B) The Secretary shall retain the pending application and reconsider the application beginning on the date that sufficient funds become available.

(C) Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.

(b) Loan proceeds; time for receipt

(1) Except as provided in paragraph (2), if an application for an insured loan under this chapter is approved by the Secretary, the Secretary shall provide the loan proceeds to the applicant not later than 15 days (or such longer period as the applicant may approve) after the application for the loan is approved by the Secretary.

(2) If the Secretary is unable to provide the loan proceeds to the applicant within such 15-day period because sufficient funds are not available to the Secretary for such purpose, the Secretary shall provide the loan proceeds to the applicant as soon as practicable (but in no event later than 15 days unless the applicant agrees to a longer period) after sufficient funds for such purpose become available to the Secretary.

(c) Reconsideration of applications; time for action by Secretary

If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, but such action is subsequently reversed or revised as the result of an appeal within the Department of Agriculture or to the courts of the United States and the application is returned to the Secretary for further consideration, the Secretary shall act on the application and provide the applicant with notice of the action within 15 days after return of the application to the Secretary.

(d) Approved lender designation applications; time for decision by Secretary

In carrying out the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, the Secretary shall ensure that each request of a lending institution for designation as an approved lender under such program is reviewed, and a decision made on the application, not later than 15 days after the Secretary has received a complete application for such designation.

(e) Processing loan applications; personnel and other resources made available; use of authorities of law

(1) As soon as practicable after December 23, 1985, the Secretary shall take such steps as are necessary to make personnel, including the pay-

ment of overtime for such personnel, and other resources of the Department of Agriculture available to the Farmers Home Administration as are sufficient to enable the Farmers Home Administration to expeditiously process loan applications that are submitted by farmers and ranchers.

(2) In carrying out paragraph (1), the Secretary may use any authority of law provided to the Secretary, including—

(A) the Agricultural Credit Insurance Fund established under section 1929 of this title; and

(B) the employment procedures used in connection with the emergency loan program established under subchapter III of this chapter.

(f) Graduation of seasoned direct loan borrowers to loan guarantee program

(1) As used in this subsection:

(A) The term ''approved lender'' means a lender approved prior to October 28, 1992, by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 1989[1] of this title.

(B) The term ''seasoned direct loan borrower'' means a borrower receiving a direct loan under this chapter who has been classified as ''commercial'' or ''standard'' under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

(2) The Secretary, or a contracting third party, shall annually review under section 2006b of this title the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

(3) In accordance with section 2006d of this title, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

(4) VERIFICATION.—

(A) IN GENERAL.—The Secretary shall provide a prospectus of a seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower.

(B) NOTIFICATION.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

(C) CREDIT EXTENDED.—If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subchapter I or II of this chapter, except as otherwise provided in this subsection.

(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subchapter I or II of this chapter, whichever is applicable.

(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 1999 of this title.

(g) Simplified application for guaranteed loans of $50,000 or less

(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this chapter of loans the principal amount of which is $50,000 or less.

(2) In developing the application, the Secretary shall—

(A) consult with commercial and cooperative lenders; and

(B) ensure that—

(i) the form can be completed manually or electronically, at the option of the lender;

(ii) the form minimizes the documentation required to accompany the form;

(iii) the cost of completing and processing the form is minimal; and

(iv) the form can be completed and processed in an expeditious manner.

(Pub. L. 87–128, title III, §333A, as added Pub. L. 99–198, title XIII, §1312(a), Dec. 23, 1985, 99 Stat. 1524; amended Pub. L. 101–624, title XVIII, §1811, title XXIII, §2388(f), Nov. 28, 1990, 104 Stat. 3821, 4053; Pub. L. 102–554, §§13–15, Oct. 28, 1992, 106 Stat. 4152, 4153; Pub. L. 104–127, title VI, §637, Apr. 4, 1996, 110 Stat. 1093.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (b)(1), (c), (f)(1)(B), and (g)(1), see note set out under section 1921 of this title.

Section 1989 of this title, referred to in subsec. (f)(1)(A), was in the original ''section 114'', and was translated as meaning section 339 of Pub. L. 87–128, which is classified to section 1989 of this title, to reflect the probable intent of Congress, because Pub. L. 87–128 does not contain a section 114 and section 1989 provides for a lender certification program.

AMENDMENTS

1996—Subsec. (f)(4). Pub. L. 104–127, §637(1), inserted heading.

Subsec. (f)(4)(A). Pub. L. 104–127, §637(1), designated first sentence of par. (4) as subpar. (A), inserted heading, and directed the substitution of ''The Secretary shall provide a prospectus of a seasoned'' for ''With'' and all that follows through ''seasoned'', which was ex-

[1] See References in Text note below.

ecuted by making the substitution for all that follows through ''seasoned'' the first place appearing resulting in making the substitution for ''With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned'', to reflect the probable intent of Congress.

Subsec. (f)(4)(B), (C). Pub. L. 104–127, § 637(2), added subpar. (B), designated second sentence of par. (4) as subpar. (C), and inserted heading.

1992—Subsec. (a)(2). Pub. L. 102–554, § 13, designated existing provisions as subpar. (A), inserted ''(other than under subchapter II of this chapter)'' after ''under this chapter'', and added subpar. (B).

Subsec. (f). Pub. L. 102–554, § 14, added subsec. (f).

Subsec. (g). Pub. L. 102–554, § 15, added subsec. (g).

1990—Subsec. (a)(4). Pub. L. 101–624, § 1811, added par. (4).

Subsec. (c). Pub. L. 101–624, § 2388(f), substituted ''If'' for ''In''.

EFFECTIVE DATE

Section 1312(b) of Pub. L. 99–198 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective with respect to applications for loans or loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) received by the Secretary of Agriculture after the date of enactment of this Act [Dec. 23, 1985].''

§ 1983b. Repealed. Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233

Section, Pub. L. 87–128, title III, § 333B, as added Pub. L. 99–198, title XIII, § 1313(a), Dec. 23, 1985, 99 Stat. 1525; amended Pub. L. 100–233, title VI, § 608, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101–624, title XVIII, § 1812, Nov. 28, 1990, 104 Stat. 3821, related to appeals from adverse decisions under Consolidated Farm and Rural Development Act. See section 6991 et seq. of this title.

§ 1983c. Provision of information to borrowers

(a) In general

On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

(1) One copy of each document signed by the borrower.

(2) One copy of each appraisal performed with respect to the loan.

(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

(b) Construction of section

Subsection (a) of this section shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before January 6, 1988, unless such duty is in direct conflict with any duty imposed by subsection (a) of this section.

(Pub. L. 87–128, title III, § 333C, as added Pub. L. 100–233, title VI, § 609, Jan. 6, 1988, 101 Stat. 1668.)

§ 1984. Taxation

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this chapter other than property used for administrative purposes shall be subject to taxation by State, territory, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided, however*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

(2) any notes or lien instruments administered under this chapter which are made, assigned, or held by a person otherwise liable for such tax; or

(3) the value of any property conveyed or transferred to the Secretary,

whether as a tax on the instrument, the privilege of conveying or transferring or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(Pub. L. 87–128, title III, § 334, Aug. 8, 1961, 75 Stat. 315.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1985. Security servicing

(a) Preservation and protection of security, lien, or priority of lien securing loan

The Secretary is authorized and empowered to make advances, without regard to any loan or total indebtedness limitation, to preserve and protect the security for or the lien or priority of the lien securing any loan or other indebtedness owing to, insured by, or acquired by the Secretary under this chapter or under any other programs administered by the Farmers Home Administration or the Rural Development Administration; to bid for and purchase at any execution, foreclosure, or other sale or otherwise to acquire property upon which the United States has a lien by reason of a judgment or execution arising from, or which is pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of, any such indebtedness whether or not such property is subject to other liens, to accept title to any property so purchased or acquired; and to sell, manage, or otherwise dispose of such property as hereinafter provided.

(b) Operation or lease of realty

Except as provided in subsections (c) and (e) of this section, real property administered under the provisions of this chapter may be operated or leased by the Secretary for such period or periods as the Secretary may deem necessary to protect the Government's investment therein.

(c) Sale of property

(1) In general

Subject to this subsection and subsection (e)(1)(A) of this section, the Secretary shall offer to sell real property that is acquired by the Secretary under this chapter using the following order and method of sale:

(A) Advertisement

Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

(B) Beginning farmer or rancher

(i) In general

Not later than 75 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher at current market value based on a current appraisal.

(ii) Random selection

If more than 1 qualified beginning farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

(iii) Appeal of random selection

A random selection or denial by the Secretary of a beginning farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

(C) Public sale

If no acceptable offer is received from a qualified beginning farmer or rancher under subparagraph (B) not later than 75 days after acquiring the real property, the Secretary shall, not later than 30 days after the 75-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

(2) Transitional rules

(A) Previous lease

In the case of real property acquired prior to April 4, 1996, that the Secretary leased prior to April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

(B) Previously in inventory

In the case of real property acquired prior to April 4, 1996, that the Secretary has not leased, not later than 60 days after April 4, 1996, the Secretary shall offer to sell the property in accordance with paragraph (1).

(3) Interest

(A) In general

Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

(B) Conservation

The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

(4) Other law

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) shall not apply to any exercise of authority under this chapter.

(5) Lease of property

(A) In general

Subject to subparagraph (B), the Secretary may not lease any real property acquired under this chapter.

(B) Exception

(i) Beginning farmer or rancher

The Secretary may lease or contract to sell to a beginning farmer or rancher a farm or ranch acquired by the Secretary under this chapter if the beginning farmer or rancher qualifies for a credit sale or direct farm ownership loan under subchapter I of this chapter but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

(ii) Term

The term of a lease or contract to sell to a beginning farmer or rancher under clause (i) shall be until the earlier of—

(I) the date that is 18 months after the date of the lease or sale; or

(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher.

(iii) Income-producing capability

In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

(6) Expedited determination

(A) In general

On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher for the purpose of acquiring farm inventory property.

(B) Appeal

The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

(C) Effects of determinations

(i) In general

The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

(I) selling farm inventory property to beginning farmers and ranchers; and

(II) disposing of real property in inventory.

(ii) Notification

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or the disposing of real property in inventory.

(d) Easements; condemnations

With respect to any real property administered under this chapter, the Secretary is authorized to grant or sell easements or rights-of-way for roads, utilities, and other appurtenances not inconsistent with the public interest. With respect to any rights-of-way over land on which the United States has a lien administered under this chapter, the Secretary may release said lien upon payment to the United States of adequate consideration, and the interest of the United States arising under any such lien may be acquired for highway purposes by any State or political subdivision thereof in condemnation proceedings under State law by service by certified mail upon the United States attorney for the district, the State Director of the Farmers Home Administration for the State in which the farm is located, and the Attorney General of the United States: *Provided, however*, That the United States shall not be required to appear, answer, or respond to any notice or writ sooner than ninety days from the time such notice or writ is returnable or purports to be effective, and the taking or vesting of title to the interest of the United States shall not become final under any proceeding, order, or decree until adequate compensation and damages have been finally determined and paid to the United States or into the registry of the court.

(e) Real property located within Indian reservation; conservation practices; adverse effects prohibition

(1)(A)(i) Except as provided in subparagraph (D), if—

(I) the Secretary acquires property under this chapter that is located within an Indian reservation; and

(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe;

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

(ii) For purposes of this subparagraph, the term ''Indian reservation'' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

(iii) Not later than 90 days after acquiring the property, the Secretary shall afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

(II) to an Indian corporate entity;

(III) to such Indian tribe.

(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

(I) persons who are members of such Indian tribe,

(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

(III) such Indian tribe itself.

(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

(II) such time as the lands are transferred into trust pursuant to clause (viii).

(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

(I) the amount of the outstanding lien of the United States against such real property, as of

the date the real property was acquired by the Secretary;

(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this chapter and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

(x) This subparagraph shall apply to all lands in the land inventory established under this chapter (as of November 28, 1990) that were (immediately prior to November 28, 1990) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise such right is received within 180 days after November 28, 1990, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).

(B) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.

(C) As used in this paragraph, the term ''borrower-owner'' means—

(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter; or

(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(D)(i) If—

(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this chapter; and

(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this chapter to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (A), as modified by this subparagraph.

(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this chapter to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

(I) the provisions of subparagraph (A), this subparagraph, and subsection (g)(6)[1] of this section;

(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

(aa) the Secretary may foreclose on the property;

(bb) in the event of foreclosure, the property will be offered for sale;

(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher;

(dd) the property may be purchased by another party; and

(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this chapter; and

(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this chapter.

(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the prop-

[1] See References in Text note below.

erty and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

(v) FORECLOSURE PROCEDURES.—

(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

(aa) the sale;

(bb) the fair market value of the property; and

(cc) the requirements of this subparagraph.

(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

(cc) the loan shall be treated as though the loan was made under sections 488 to 494 of title 25.

(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

(aa) the fair market value of the property; or

(bb) the outstanding principal and interest of the loan.

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.

(2) The Secretary shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

(3)(A) The Secretary may sell farmland administered under this chapter through an installment sale or similar device that contains such terms as the Secretary considers necessary to protect the investment of the Federal Government in such land.

(B) The Secretary may subsequently sell any contract entered into to carry out subparagraph (A).

(4) In the case of farmland administered under this chapter that is highly erodible land (as defined in section 3801 of title 16), the Secretary may require the use of specified conservation practices on such land as a condition of the sale or lease of such land.

(5) Notwithstanding any other provisions of law, compliance by the Secretary with this subsection shall not cause any acreage allotment, marketing quota, or acreage base assigned to such property to lapse, terminate, be reduced, or otherwise be adversely affected.

(6) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.

(f) Normal security income

(1) As used in this subsection, the term ''normal income security'' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 2001 of this title.

(4) The county committee in the county in which borrower's land is located shall determine

whether the borrower has complied with the requirements of paragraph (3)(A).

(5)(A) Within 45 days after January 6, 1988, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

(C) Within 12 months after a borrower has requested restructuring under section 2001 of this title, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 2001 of this title is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

(A) notify the borrower of such requirement; and

(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

(7) The Secretary shall issue regulations consistent with this section that—

(A) ensure the release of funds to each borrower; and

(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.

(g) Easements on inventoried property

(1) In general

Subject to paragraph (2), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property.

(2) Limitation

The Secretary shall not establish a wetland conservation easement on an inventoried property that—

(A) was cropland on the date the property entered the inventory of the Secretary; or

(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.

(3) Notification

The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

(4) Appraised value

The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

(Pub. L. 87–128, title III, §335, Aug. 8, 1961, 75 Stat. 315; Pub. L. 92–419, title I, §127, Aug. 30, 1972, 86 Stat. 666; Pub. L. 99–198, title XIII, §§1314(a), 1315, 1318(b)(1), Dec. 23, 1985, 99 Stat. 1526, 1528, 1531; Pub. L. 100–233, title VI, §§610, 611, Jan. 6, 1988, 101 Stat. 1669, 1673; Pub. L. 101–624, title XVIII, §§1813(a)–(h)(1), 1816(e), title XXIII, §§2303(c), 2388(g), Nov. 28, 1990, 104 Stat. 3821–3823, 3827, 3981, 4053; Pub. L. 102–237, title V, §501(f), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102–552, title V, §516(h)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 102–554, §§16, 17, Oct. 28, 1992, 106 Stat. 4154; Pub. L. 104–127, title VI, §§638, 639, Apr. 4, 1996, 110 Stat. 1093, 1097.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(4), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that Act relating to management and disposal of property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

This Act, referred to in subsec. (e)(1)(A)(vi), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

Subsection (g)(6) of this section, referred to in subsec. (e)(1)(D)(iii)(I), was redesignated subsection (g)(3) of this section by Pub. L. 104–127, title VI, §639(4), Apr. 4, 1996, 110 Stat. 1097.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, §638(1), substituted ''subsections (c) and (e)'' for ''subsection (e)''.

Subsec. (c). Pub. L. 104–127, §638(2), added subsec. (c) and struck out former subsec. (c) which authorized Secretary to determine whether real property administered under this chapter was suitable for disposition to persons eligible for assistance under provisions of any law administered by Farmers Home Administration or Rural Development Administration.

Subsec. (e)(1)(A). Pub. L. 104–127, §638(3)(A)(i)–(iii), redesignated subpar. (D) as (A), in cl. (i), substituted ''(D)'' for ''(G)'' in introductory provisions, added subcl. (I) and struck out former subcl. (I) which read as follows: ''the real property described in subparagraph (A)(i) is located within an Indian reservation,'', in subcl. (II), substituted a semicolon for '', and'' at end, and struck out subcl. (III) which read as follows: ''the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,'', in cl. (iii), substituted ''Not later than 90 days after acquiring the property, the Secretary shall'' for ''The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A),'', and struck out former subpar. (A) which authorized the Secretary, during 180-day period beginning on date of acquisition, or during applicable period under State law, to allow borrower-owner to purchase or lease prop-

erty, if such borrower-owner had acted in good faith with the Secretary.

Subsec. (e)(1)(B). Pub. L. 104–127, § 638(3)(A)(i), (ii), redesignated subpar. (E) as (B) and struck out former subpar. (B) which read as follows: ''Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.''

Subsec. (e)(1)(C). Pub. L. 104–127, § 638(3)(A)(i), (ii), redesignated subpar. (F) as (C) and struck out former subpar. (C) which authorized Secretary to give preference in sale or lease, with option to purchase, of property that had been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in specified order.

Subsec. (e)(1)(D). Pub. L. 104–127, § 638(3)(A)(ii), (iv), redesignated subpar. (G) as (D), in cl. (i), substituted ''(A)'' for ''(D)'' in concluding provisions, in cl. (iii)(I), substituted ''subparagraph (A)'' for ''subparagraphs (C)(i), (C)(ii), and (D)'', and added cl. (v) and struck out former cl. (v) which read as follows: ''If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

''(I) the sale;

''(II) the fair market value of the property; and

''(III) the requirements of this subparagraph.''

Former subpar. (D) redesignated (A).

Subsec. (e)(1)(E) to (G). Pub. L. 104–127, § 638(3)(A)(ii), redesignated subpars. (E) to (G) as (B) to (D), respectively.

Subsec. (e)(3). Pub. L. 104–127, § 638(3)(B), (C), (E), redesignated par. (4) as (3), struck out ''(i)'' before ''The Secretary may sell'', redesignated cl. (ii) of subpar. (A) as subpar. (B) and substituted ''subparagraph (A)'' for ''clause (i)'', struck out former subpar. (B) which read as follows: ''If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the appropriate county committee shall randomly select the operator who may purchase such land, on such basis as the Secretary may prescribe by regulation, in accordance with subsection (c)(2)(B)(iii) of this section.'', and struck out former par. (3) which directed the Secretary to issue regulations providing for leasing of real property, or leasing such property with option to purchase, on fair and equitable basis.

Subsec. (e)(4). Pub. L. 104–127, § 638(3)(E), redesignated par. (7) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 104–127, § 638(3)(D), (E), redesignated par. (8) as (5) and struck out former par. (5) which read as follows:

''(5)(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subchapter I of this chapter because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c) of this section. Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 1925 of this title.

''(B) The Secretary shall dispose of such subdivided farmland in accordance with this subsection.''

Subsec. (e)(6). Pub. L. 104–127, § 638(3)(D), (E), redesignated par. (10) as (6) and struck out former par. (6) which read as follows: ''If suitable farmland is available for disposition under this subsection, the Secretary shall—

''(A) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located;

''(B) post an announcement of the availability of such farmland in a prominent place in the local office of the Farmers Home Administration that serves the county in which the farmland is located; and

''(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland.''

Subsec. (e)(7), (8). Pub. L. 104–127, § 638(3)(E), redesignated pars. (7) and (8) as (4) and (5), respectively.

Subsec. (e)(9). Pub. L. 104–127, § 638(3)(D), struck out par. (9) which read as follows: ''Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 1983b of this title.''

Subsec. (e)(10). Pub. L. 104–127, § 638(3)(E), redesignated par. (10) as (6).

Subsec. (g). Pub. L. 104–127, § 639(1)(A), inserted heading.

Subsec. (g)(1). Pub. L. 104–127, § 639(1), inserted heading, substituted ''Subject to paragraph (2)'' for ''Subject to paragraphs (2) through (5)'', and struck out '', as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.)'' after ''inventoried property''.

Subsec. (g)(2). Pub. L. 104–127, § 639(2), added par. (2) and struck out former par. (2) which read as follows: ''In establishing the wetland conservation easements on land that is considered to be cropland as of November 28, 1990, the Secretary shall avoid, to the extent practicable, an adverse impact on the productivity of the croplands, as provided in this subsection.''

Subsec. (g)(3). Pub. L. 104–127, § 639(3), (4), redesignated par. (6) as (3), inserted heading, and struck out former par. (3) which read as follows: ''In order to avoid the adverse impact, the Secretary shall—

''(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

''(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

''(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

''(D) ensure that access to other portions of the property for farming and other uses is provided.''

Subsec. (g)(4). Pub. L. 104–127, § 639(3), (5), redesignated par. (7) as (4), inserted heading, and struck out former par. (4) which read as follows: ''The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands.''

Subsec. (g)(5). Pub. L. 104–127, § 639(3), struck out par. (5) which read as follows: ''If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C) of this section, or to a borrower who is a beginning farmer or rancher, from being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

''(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

''(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit.''

Subsec. (g)(6), (7). Pub. L. 104–127, §639(4), (5), redesignated pars. (6) and (7) as (3) and (4), respectively.

Subsec. (g)(8). Pub. L. 104–127, §639(3), struck out par. (8) which read as follows: ''Notwithstanding the limitations described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4).''

1992—Subsec. (c)(1). Pub. L. 102–554, §16, in fourth sentence, inserted ''(A)'' after ''shall be'' and ''or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale'' before period at end.

Subsec. (e)(1)(A)(i). Pub. L. 102–552, which, in amending directory language of Pub. L. 102–237, §501(f)(1), directed the substitution of ''the borrower-owner (as defined in subparagraph (F))'' for ''borrower-owner (as defined in subparagraph (F))'', was executed by making the substitution in text which did not contain a closing parenthesis after ''(F)'', to reflect the probable intent of Congress. See 1991 Amendment note below.

Subsec. (e)(1)(D)(i). Pub. L. 102–554, §17(1), substituted ''Except as provided in subparagraph (G), if'' for ''If''.

Subsec. (e)(1)(G). Pub. L. 102–554, §17(2), added subpar. (G).

1991—Subsec. (e)(1)(A)(i). Pub. L. 102–237, §501(f)(1), as amended by Pub. L. 102–552, substituted ''the borrower-owner (as defined in subparagraph (F))'' for ''the borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter (hereinafter referred to in this paragraph as the 'borrower-owner')''. See 1992 Amendment note above.

Subsec. (e)(1)(F). Pub. L. 102–237, §501(f)(2), added subpar. (F).

1990—Subsec. (a). Pub. L. 101–624, §§1813(a), 2303(c)(1), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration'' and substituted ''12 months from the date first published under paragraph (2)(D)'' for ''three years from the date of acquisition''.

Subsec. (c)(1). Pub. L. 101–624, §2303(c)(2), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration''.

Subsec. (c)(2)(A), (B). Pub. L. 101–624, §1813(e)(1), added subpar. (A) and subpar. (B) introductory provisions, redesignated former subpars. (A) through (D) as cls. (i) through (iv), respectively, of subpar. (B), and struck out former introductory provisions which read as follows: ''Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subchapter to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—''.

Subsec. (c)(2)(B)(ii). Pub. L. 101–624, §1813(g)(1), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''offer suitable land at a price not greater than that which reflects the appraised market value of such land;''.

Subsec. (c)(2)(B)(iii). Pub. L. 101–624, §1813(b)(1), inserted before semicolon '', except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee shall select between the qualified applicants on a random basis''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–624, §2388(g), substituted ''cause'' for ''caused''.

Subsec. (e)(1)(A)(i). Pub. L. 101–624, §1813(c), substituted ''real farm or ranch property (including the principal residence of the borrower)'' for ''real property''.

Pub. L. 101–624, §1816(e)(1), inserted before period at end '', if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with such loan''.

Subsec. (e)(1)(A)(iv). Pub. L. 101–624, §1813(d), added cl. (iv).

Subsec. (e)(1)(C)(i). Pub. L. 101–624, §1816(e)(2), inserted before period at end '', if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with the loan of such borrower-owner for which such property served as security''.

Subsec. (e)(1)(C)(iv), (v). Pub. L. 101–624, §1813(e)(2), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (e)(1)(D)(x). Pub. L. 101–624, §1813(f), added cl. (x).

Subsec. (e)(4)(B). Pub. L. 101–624, §1813(g)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''The Secretary shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land.''

Subsec. (e)(4)(C). Pub. L. 101–624, §1813(g)(2), redesignated former subpar. (C) as (B).

Pub. L. 101–624, §1813(b)(2), substituted ''shall randomly'' for ''shall, by majority vote,'' and inserted '', in accordance with subsection (c)(2)(B)(iii) of this section''.

Subsec. (g). Pub. L. 101–624, §1813(h)(1), added subsec. (g).

1988—Subsec. (c). Pub. L. 100–233, §610(a), designated existing provisions as par. (1), inserted provisions requiring the County Committee to classify or reclassify real property that is farmland, as being suitable for farming operation for such disposition unless property cannot be used to meet any of the purposes of section 1923 of this title, and added par. (2).

Subsec. (e)(1). Pub. L. 100–233, §610(b)(1), added par. (1) and struck out former par. (1) which read as follows: ''The Secretary shall to the extent practicable sell or lease farmland administered under this chapter in the following order of priority:

''(A) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

''(B) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms.''

Subsec. (e)(3). Pub. L. 100–233, §610(b)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, in subpar. (B) substituted ''Secretary shall determine if the lessee'' for ''Secretary shall give special consideration to a previous owner or operator of such land if such owner or operator'', added subpar. (D), and struck out former subpar. (A) which read as follows: ''The Secretary shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with paragraph (3), a lease with an option to purchase farmland administered under this chapter.''

Subsec. (e)(5)(A). Pub. L. 100–233, §610(b)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to an operator of not larger than a family-size farm because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for family-size farms, the Secretary shall subdivide such land into tracts suitable for such operator.''

Subsec. (e)(6)(C). Pub. L. 100–233, §610(b)(4), added subpar. (C).

Subsec. (e)(9), (10). Pub. L. 100–233, §610(b)(5), added pars. (9) and (10).

Subsec. (f). Pub. L. 100–233, § 611, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1) As used in this subsection, the term 'normal income security' has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1985).

''(2) Until such time as the Secretary accelerates a loan made or insured under this chapter, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay the essential household and farm operating expenses of the borrower, as determined by the Secretary.''

1985—Subsec. (b). Pub. L. 99–198, § 1314(a)(1), substituted ''Except as provided in subsection (e) of this section, real property'' for ''Real property''.

Subsec. (c). Pub. L. 99–198, § 1314(a)(2), substituted ''Except as provided in subsection (e) of this section, the Secretary'' for ''The Secretary'' and inserted sentence at end providing that notwithstanding the preceding sentence, the Secretary may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private nonprofit organization separately from the underlying fee or sum of all other rights possessed by the United States.

Pub. L. 99–198, § 1318(b)(1), which directed insertion of '', other than easements acquired under section 1997 of this title'' at end of last sentence, was executed to fifth sentence of subsec. (c), and not to sixth and last sentence as added by section 1314(a)(2)(B) of Pub. L. 99–198, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 99–198, § 1314(a)(3), added subsec. (e).

Subsec. (f). Pub. L. 99–198, § 1315, added subsec. (f).

1972—Subsec. (c). Pub. L. 92–419 substituted ''the provisions of any law administered by the Farmers Home Administration'' for ''subchapter I of this chapter'' in first sentence and ''such provisions'' for ''the provisions of subchapter I of this chapter'' in second sentence, struck out from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 638 of Pub. L. 104–127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, and amendment by section 639 of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(h)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending section 501(f) of Pub. L. 102–237, see 1992 Amendment note above] shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 [probably should be Food, Agriculture, Conservation, and Trade Act Amendments of 1991 [Pub. L. 102–237]] took effect.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1816 of Pub. L. 101–624 applicable to new applications submitted under section 2001 of this title on or after Nov. 28, 1990, see section 1861 of Pub. L. 101–624, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1314(b) of Pub. L. 99–198 provided that: ''The Secretary of Agriculture shall implement the amendments made by this section [amending this section] not later than 90 days after the date of enactment of this Act [Dec. 23, 1985].''

COMPLETION OF SALES OF FARMERS HOME ADMINISTRATION INVENTORY FARMS

Pub. L. 102–142, title VII, § 740, Oct. 28, 1991, 105 Stat. 915, provided that: ''Hereafter, the Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1985], had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family.''

FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS

Section 623 of Pub. L. 100–233, as amended by Pub. L. 101–624, title XVIII, § 1852, Nov. 28, 1990, 104 Stat. 3837, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

''(1) informing persons eligible for assistance under any other provision of this Act [see Short Title of 1988 Amendment note set out under section 2001 of Title 12, Banks and Banking] of—

''(A) the possiblity [sic] of acquiring such inventory farmland; and

''(B) various farm ownership loan programs; and

''(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991 through 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1929a, 1991, 2002 of this title.

§ 1986. Conflicts of interests

(a) Acceptance of fees, commissions, gifts, or other considerations prohibited

No officer, attorney, or other employee of the Secretary shall, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this chapter other than such salary, fee, or other compensation as he may receive as such officer, attorney, or employee.

(b) Acquisition of interest in land by certain officers or employees of Department of Agriculture prohibited; 3-year period

Except as otherwise provided in this subsection, no officer or employee of the Department of Agriculture who acts on or reviews an application made by any person under this chapter for a loan to purchase land may acquire, directly or indirectly, any interest in such land for a period of three years after the date on which such action is taken or such review is made. This prohibition shall not apply to a former member of a county committee provided for in section 1982[1] of this title upon a deter-

[1] See References in Text note below.

mination by the Secretary, prior to the acquisition of such interest, that such former member acted in good faith when acting on or reviewing such application.

(c) Certifications on loans to family members prohibited

No member of a county committee shall knowingly make or join in making any certification with respect to a loan to purchase any land in which he or any person related to him within the second degree of consanguinity or affinity has or may acquire any interest or with respect to any applicant related to him within the second degree of consanguinity or affinity.

(d) Penalties

Any persons violating any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $2,000 or imprisonment for not more than two years, or both.

(Pub. L. 87–128, title III, §336, Aug. 8, 1961, 75 Stat. 316; Pub. L. 98–258, title VI, §606, Apr. 10, 1984, 98 Stat. 140.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (b), see note set out under section 1921 of this title.

Section 1982 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–354, title II, §227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

AMENDMENTS

1984—Pub. L. 98–258 designated first, second, and third sentences of existing provisions as subsecs. (a), (c), and (d), respectively, and added subsec. (b).

§ 1987. Debt adjustment and credit counseling; "summary period" defined; loan summary statements

(a) The Secretary may provide voluntary debt adjustment assistance between farmers and their creditors and may cooperate with State, territorial, and local agencies and committees engaged in such debt adjustment, and may give credit counseling.

(b)(1) As used in this subsection, the term ''summary period'' means—

(A) the period beginning on December 23, 1985, and ending on the date on which the first loan summary statement is issued after December 23, 1985; or

(B) the period beginning on the date of issuance of the preceding loan summary statement and ending on the date of issuance of the current loan summary statement.

(2) On the request of a borrower of a loan made or insured (but not guaranteed) under this chapter, the Secretary shall issue to such borrower a loan summary statement that reflects the account activity during the summary period for each loan made or insured under this chapter to such borrower, including—

(A) the outstanding amount of principal due on each such loan at the beginning of the summary period;

(B) the interest rate charged on each such loan;

(C) the amount of payments made on and their application to each such loan during the summary period and an explanation of the basis for the application of such payments;

(D) the amount of principal and interest due on each such loan at the end of the summary period;

(E) the total amount of unpaid principal and interest on all such loans at the end of the summary period;

(F) any delinquency in the repayment of any such loan;

(G) a schedule of the amount and date of payments due on each such loan; and

(H) the procedure the borrower may use to obtain more information concerning the status of such loans.

(Pub. L. 87–128, title III, §337, Aug. 8, 1961, 75 Stat. 316; Pub. L. 99–198, title XIII, §1316, Dec. 23, 1985, 99 Stat. 1528.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b)(2), see note set out under section 1921 of this title.

AMENDMENTS

1985—Pub. L. 99–198 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1988. Appropriations

(a) Authorization

There is authorized to be appropriated to the Secretary such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the purposes of this chapter and for the administration of assets transferred to the Farmers Home Administration or the Rural Development Administration.

(b) Sale by lender and any holder of guaranteed portion of loan pursuant to regulations governing such sales; limitations; issuance of pool certificates representing ownership of guaranteed portion of guaranteed loan; terms and conditions, etc.; reporting requirements

(1)(A) The guaranteed portion of any loan made under this chapter may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

(ii) The loan is to have been fully disbursed to the borrower before the sale.

(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower

or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this chapter, or to impede or extinguish the rights of any party under any provision of this chapter.

(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this chapter. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

(3) On the adoption of final rules and regulations, the Secretary shall do the following:

(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this chapter and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term ''seller'' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

(C) Provide for adequate custody of any pooled guaranteed loans.

(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

(E) Require each market maker—

(i) to service all pools formed, and participations sold, by the market maker; and

(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

(F) Regulate market makers in pool certificates sold under this subsection.

(4) The Secretary may contract for goods and services to be used for the purposes of this subsection without regard to the provisions of titles 5, 40, and 41, and any regulations issued thereunder.

(Pub. L. 87–128, title III, § 338, Aug. 8, 1961, 75 Stat. 316; Pub. L. 89–429, § 5, May 24, 1966, 80 Stat. 167; Pub. L. 100–233, title VII, § 711(a), Jan. 6, 1988, 101 Stat. 1707; Pub. L. 100–399, title VI, § 605, Aug. 17, 1988, 102 Stat. 1006; Pub. L. 101–624, title XXIII, § 2303(d), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 104–127, title VII, § 749(a), Apr. 4, 1996, 110 Stat. 1129; Pub. L. 105–362, title I, § 101(a), Nov. 10, 1998, 112 Stat. 3281.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1998—Subsec. (b)(4), (5). Pub. L. 105–362 redesignated par. (5) as (4) and struck out former par. (4) which provided that not later than March 31 of each year, Secretary was to transmit to Congress a report on secondary market operations under subsec. (b) during preceding calendar year, and described contents of reports.

1996—Subsecs. (b) to (f). Pub. L. 104–127 redesignated subsec. (f) as (b) and struck out former subsecs. (b) to (e) which provided for: in subsec. (b), form and denomi-

nation of notes to obtain funds for making direct loans under this chapter as well as maturities, terms and conditions, interest rate, purchase by Treasury, and public debt transaction; in subsec. (c), establishment of Farmers Home Administration direct loan account as well as deposits into account, liabilities, obligations, expenditures, and net expenditure basis of budgeting; in subsec. (d), sale of notes and mortgages; and in subsec. (e), distribution of real estate loans among States.

1990—Subsec. (a). Pub. L. 101–624 inserted ''or the Rural Development Administration'' after ''Farmers Home Administration''.

1988—Subsec. (f)(5). Pub. L. 100–399 added par. (5).

Subsec. (f). Pub. L. 100–233 added subsec. (f).

1966—Subsec. (c). Pub. L. 89–429 inserted references to section 8 of the Watershed Protection and Flood Prevention Act, as amended, and section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of Title 12, Banks and Banking.

REGULATIONS

Section 711(b) of Pub. L. 100–233 provided that: ''Within 180 days after the date of the enactment of this Act [Jan. 6, 1988], the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section [amending this section and enacting provisions set out below].''

POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT

Section 711(c) of Pub. L. 100–233 provided that: ''The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) [now 338(b)] of the Consolidated Farm and Rural Development Act [7 U.S.C. 1988(f) [now 1988(b)]], as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.''

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1991 of this title; title 25 section 488.

§ 1989. Rules and regulations

(a) In general

The Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making or insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this chapter.

(b) Debt service margin requirements

Notwithstanding subsection (a) of this section, in providing farmer program loan guarantees under this chapter, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

(2) to cover the necessary living expenses of the family of the borrower; and

(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1).

(c) Certified Lenders Program

(1) In general

The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subchapter II of this chapter that are made by lending institutions certified by the Secretary.

(2) Certification requirements

The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

(3) Condition of certification

As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

(4) Effect of certification

Notwithstanding any other provision of law:

(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter.

(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

(5) Relationship to other requirements

Neither this subsection nor subsection (d) of this section shall affect the responsibility of the Secretary to certify eligibility, review financial information, and otherwise assess an application.

(d) Preferred Certified Lenders Program

(1) In general

Commencing not later than two years after October 28, 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (c) of this section;

(B) knowledge of the regulations concerning the guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

(2) Revocation of designation

The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender are excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

(3) Condition of certification

As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

(4) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary shall—

(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter;

(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

(C) be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.

(Pub. L. 87–128, title III, § 339, Aug. 8, 1961, 75 Stat. 318; Pub. L. 102–554, § 18, Oct. 28, 1992, 106 Stat. 4155; Pub. L. 106–31, title III, § 3019(a), May 21, 1999, 113 Stat. 99.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1999—Subsec. (b)(3). Pub. L. 106–31 struck out '', including expenses of replacing capital items (determined after taking into account depreciation of the items)'' after ''paragraph (1)''.

1992—Pub. L. 102–554, inserted section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

REGULATIONS

Section 23 of Pub. L. 102–554 provided that:

''(a) INTERIM REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act [see Short Title of 1992 Amendment note set out under section 1921 of this title] and the amendments made by this Act.

''(b) FINAL REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.''

Pub. L. 100–233, title VI, § 624, Jan. 6, 1988, 101 Stat. 1685, provided that: ''Within 150 days after the date of the enactment of this title [Jan. 6, 1988], and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title [enacting sections 1981d, 1981e, 1983c, and 2001 to 2005 of this title, amending sections 1927, 1927a, 1981, 1982, 1983b, 1985, 1991, 1997, 1999, and 2000 of this title, and amending provisions set out as a note under section 1999 of this title].''

STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS

Pub. L. 100–233, title VI, § 621, Jan. 6, 1988, 101 Stat. 1684, provided that: ''Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.], the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act [Jan. 6, 1988], are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.''

AVAILABILITY OF FUNDS FOR CONTINUING ASSISTANCE TO DELINQUENT BORROWERS; PROHIBITION ON USE OF FUNDS

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 429, provided in part that:

''Hereafter, funds appropriated or available to the Farmers Home Administration under this or any other

Act to make or to service farm loans shall be available for continuing assistance to delinquent borrowers on the basis of the policies contained in Farmers Home Administration Announcement Number 1113–1960, dated November 30, 1984.

''Hereafter, none of the funds appropriated or made available by this or any other Act, or otherwise made available to the Secretary of Agriculture or the Farmers Home Administration, may be used to implement section 1944.16(c)(1) of title 7, Code of Federal Regulations, as published in 52 Federal Register 11983 (April 14, 1987) or any other regulation that would have the same effect as such regulation.''

COORDINATED FINANCIAL STATEMENTS; USE OF SUBMISSION REQUIREMENT PROHIBITED

Pub. L. 99–198, title XIII, §1325, Dec. 23, 1985, 99 Stat. 1540, provided that: ''The Secretary of Agriculture shall not use or require the submission of the coordinated financial statement referred to in the proposed regulations of the Farmers Home Administration published in the Federal Register of November 8, 1983 (48 F.R. 51312–51317) in connection with an application submitted on or after the date of the enactment of this Act [Dec. 23, 1985] for any loan under any program of the Department of Agriculture carried out by the Farmers Home Administration.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1983a of this title.

§ 1990. Transfer of lands to Secretary

The President may at any time in his discretion transfer to the Secretary any right, interest, or title held by the United States in any lands acquired in the program of national defense and no longer needed therefor, which the President shall find suitable for the purposes of this chapter, and the Secretary shall dispose of such lands in the manner and subject to the terms and conditions of the chapter.

(Pub. L. 87–128, title III, §340, Aug. 8, 1961, 75 Stat. 318.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

DELEGATION OF FUNCTIONS

Authority of President under this section in his discretion to transfer to Secretary of Agriculture any right, interest or title held by United States in any lands acquired in program of national defense and no longer needed for that program, and to determine suitability of lands to be transferred, for purposes referred to in this section, delegated to Administrator of General Services, provided, that exercise by Administrator of authority delegated to him herein shall require concurrence of Secretary of Defense as to absence of further need of lands for national defense program, see section 1(15) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1991. Definitions

(a) As used in this chapter:

(1) The term ''farmer'' includes a person who is engaged in, or who, with assistance afforded under this chapter, intends to engage in, fish farming.

(2) The term ''farming'' shall be deemed to include fish farming.

(3) The term ''owner-operator'' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this chapter, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan.

(4) The word ''insure'' as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved by the Secretary.

(5) The term ''contract of insurance'' includes a contract of guarantee.

(6) The terms ''United States'' and ''State'' shall include each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(7) The term ''joint operation'' means a joint farming operation in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and income.

(8) The term ''beginning farmer or rancher'' means such term as defined by the Secretary.

(9) The term ''direct loan'' means a loan made or insured from funds in the account created by section 1929 of this title.

(10) The term ''farmer program loan'' means a farm ownership loan (FO) under section 1923 of this title, operating loan (OL) under section 1942 of this title, soil and water loan (SW) under section 1924 of this title, emergency loan (EM) under section 1961 of this title, economic emergency loan (EE) under section 202 of the Emergency Agricultural Credit Adjustment Act (title II of Public Law 95-334), economic opportunity loan (EO) under the Economic Opportunity Act of 1961 (42 U.S.C. 2942), softwood timber loan (ST) under section 1254 of the Food Security Act of 1985, or rural housing loan for farm service buildings (RHF) under section 1472 of title 42.

(11) The term ''qualified beginning farmer or rancher'' means an applicant, regardless of whether the applicant is participating in a program under section 1935 of this title—

(A) who is eligible for assistance under this chapter;

(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

(D)(i) in the case of an owner and operator of a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

(aa) materially and substantially participates in the operation of the farm or ranch; and

(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

(aa) materially and substantially participate in the operation of the farm or ranch; and

(bb) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 25 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture, except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter; and

(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.

(12) DEBT FORGIVENESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''debt forgiveness'' means reducing or terminating a farmer program loan made or guaranteed under this chapter, in a manner that results in a loss to the Secretary, through—

(i) writing down or writing off a loan under section 2001 of this title;

(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 1981 of this title;

(iii) paying a loss on a guaranteed loan under section 2005 of this title; or

(iv) discharging a debt as a result of bankruptcy.

(B) LOAN RESTRUCTURING.—The term ''debt forgiveness'' does not include consolidation, rescheduling, reamortization, or deferral.

(b) As used in sections 1927(e), 1981d, 1985(e) and (f), 1988(b), 2000(b) and (c), 2001, and 2005 of this title:

(1) The term ''borrower'' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

(2) The term ''loan service program'' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

(3) The term ''primary loan service program'' means—

(A) loan consolidation, rescheduling, or reamortization;

(B) interest rate reduction, including the use of the limited resource program;

(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

(D) any combination of actions described in subparagraphs (A), (B), and (C).

(4) PRESERVATION LOAN SERVICE PROGRAM.—The term ''preservation loan service program'' means homestead retention as authorized under section 2000 of this title.

(Pub. L. 87–128, title III, § 343, as added Pub. L. 87–703, title IV, § 401(5), Sept. 27, 1962, 76 Stat. 632; amended Pub. L. 89–586, Sept. 19, 1966, 80 Stat. 809; Pub. L. 92–419, title I, § 128(a), Aug. 30, 1972, 86 Stat. 666; Pub. L. 95–334, title I, § 124, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96–438, § 2(2), Oct. 13, 1980, 94 Stat. 1872; Pub. L. 99–198, title XIII, § 1301(b), Dec. 23, 1985, 99 Stat. 1519; Pub. L. 100–233, title VI, § 602, Jan. 6, 1988, 101 Stat. 1665; Pub. L. 101–624, title XVIII, § 1814, title XXIII, § 2388(h), Nov. 28, 1990, 104 Stat. 3824, 4053; Pub. L. 102–237, title VII, § 702(h)(1), Dec. 13, 1991, 105 Stat. 1880; Pub. L. 102–554, § 19, Oct. 28, 1992, 106 Stat. 4158; Pub. L. 104–127, title VI, §§ 640, 661(h), title VII, § 749(b)(2), Apr. 4, 1996, 110 Stat. 1098, 1107, 1129; Pub. L. 105–113, § 3(c), Nov. 21, 1997, 111 Stat. 2275.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 1921 of this title.

Section 202 of the Emergency Agricultural Credit Adjustment Act, referred to in subsec. (a)(10), is section 202 of Pub. L. 95–334, title II, Aug. 4, 1978, 92 Stat. 429, as amended, which was set out in a note preceding section 1961 of this title prior to repeal by Pub. L. 101–624, title XVIII, § 1851, Nov. 28, 1990, 104 Stat. 3837.

The Economic Opportunity Act of 1961, referred to in subsec. (a)(10), probably means the Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§ 2701 et seq.) of Title 42, The Public Health and Welfare, prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§ 2991 et seq.) and X (§ 2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Tables.

Section 1254 of the Food Security Act of 1985, referred to in subsec. (a)(10), is section 1254 of Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1517, which amended Pub. L. 98–258, § 608, set out as a note under section 1981 of this title.

AMENDMENTS

1997—Subsec. (a)(11)(F). Pub. L. 105–113 struck out ''taken under section 142 of title 13'' after ''census of agriculture''.

1996—Subsec. (a)(10). Pub. L. 104–127, § 661(h)(1), struck out ''recreation loan (RL) under section 1924 of this title,'' before ''emergency loan (EM)''.

Subsec. (a)(11). Pub. L. 104–127, § 640(1)(A), in introductory provisions, substituted ''applicant, regardless of whether the applicant is participating in a program under section 1935 of this title'' for ''applicant''.

Subsec. (a)(11)(F). Pub. L. 104–127, § 640(1)(B), substituted ''25 percent'' for ''15 percent'' and inserted before semicolon at end '', except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter''.

Subsec. (a)(12). Pub. L. 104–127, § 640(2), added par. (12).

Subsec. (b). Pub. L. 104–127, §§ 661(h)(2)(A), 749(b)(2), in introductory provisions, substituted ''1988(b), 2000(b) and (c)'' for ''1988(f), 1999(h), 2000(b) and (c)''.

Subsec. (b)(4). Pub. L. 104–127, § 661(h)(2)(B), added par. (4) and struck out former par. (4) which read as follows: ''The term 'preservation loan service program' means—

''(A) homestead retention as authorized under section 2000 of this title; and

''(B) a leaseback or buyback of farmland authorized under section 1985 of this title.''

1992—Subsec. (a). Pub. L. 102–554 substituted ''this chapter:'' and par. (1) for ''this chapter (1) the term 'farmers' shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming,'', in pars. (2) to (8), realigned margins and substituted ''The'' for ''the'' first place appearing in each par. and a period for a comma at end of each par., in par. (9), realigned margin and substituted ''The'' for ''the'' first place appearing and a period for '', and'' at end, in par. (10), realigned margin and substituted ''The'' for ''the'' first place appearing, and added par. (11).

1991—Subsec. (a)(1), (3). Pub. L. 102–237, § 702(h)(1)(A), (B), made technical amendment to directory language of Pub. L. 101–624, § 2388(h)(1), (2). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102–237, § 702(h)(1)(C), repealed Pub. L. 101–624, § 2388(h)(3). See 1990 Amendment note below.

1990—Subsec. (a)(1), (3). Pub. L. 101–624, § 2388(h)(1), (2), as amended by Pub. L. 102–237, § 702(h)(1)(A), (B), struck out ''and'' after ''fish farming,'' in par. (1), and ''and'' after ''such loan,'' in par. (3).

Subsec. (a)(5). Pub. L. 101–624, § 2388(h)(3), which directed substitution of '' 'contract of insurance' '' for ''contract of insurance'', was repealed by Pub. L. 102–237, § 702(h)(1)(C). See Construction of 1990 Amendment note below.

Subsec. (a)(8) to (10). Pub. L. 101–624, § 1814, added pars. (8) to (10).

1988—Pub. L. 100–233 designated existing provisions as subsec. (a) and added subsec. (b).

1985—Pub. L. 99–198 added cl. (7).

1980—Pub. L. 96–438 added cl. (3). For termination of former cl. (3) as added by Pub. L. 89–586, see Effective and Termination Date of 1966 Amendment note below.

1978—Pub. L. 95–334 added cl. (6).

1972—Pub. L. 92–419 added cls. (4) and (5).

1966—Pub. L. 89–586 struck out ''and'' before ''(2)'' and inserted cl. (3) defining ''owner-operator''. See Effective and Termination Date of 1966 Amendment note below.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 3(d) of Pub. L. 104–113 provided that: ''This section [amending this section and repealing section 142 of Title 13, Census] and the amendments made by this section shall take effect October 1, 1998.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 640(1) of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by sections 640(2) and 661(h) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(7) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATE OF 1966 AMENDMENT

Pub. L. 89–586, as amended by Pub. L. 90–426, July 26, 1968, 82 Stat. 445, provided in part that the amendment made by Pub. L. 89–586 is effective only for the period of time commencing with Sept. 19, 1966, and ending on June 30, 1970.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(h)(2) of Pub. L. 102–237, as amended by Pub. L. 102–552, title V, § 516(k), Oct. 28, 1992, 106 Stat. 4139, provided that: ''The Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title] shall be applied and administered as if the amendment made by section 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 [Pub. L. 101–624, amending this section] had never been enacted.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 492.

§ 1992. Loan limitations

No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under sections 1926(a)(1), 1932, or 1942(c) of this title unless the Secretary shall have determined that no other lender is willing to make such loan and assume 10 per centum of any loss sustained thereon. No contract guaranteeing any such loan by such other lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(Pub. L. 87–128, title III, § 344, as added Pub. L. 92–419, title I, § 129, Aug. 30, 1972, 86 Stat. 666; amended Pub. L. 94–35, § 2, June 16, 1975, 89 Stat.

214; Pub. L. 104–127, title VI, § 661(i), Apr. 4, 1996, 110 Stat. 1107.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in text, see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title. For complete classification of Rural Development Act of 1972 to the Code, see Short Title of 1972 Amendment note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''1926(a)(1), 1932, or 1942(c) of this title'' for ''1924(b), 1926(a)(1), 1932, 1942(b), or 1942(c) of this title''.

1975—Pub. L. 94–35 substituted ''guaranteed more than 90 per centum of the principal and interest on such loan'' for ''participate in more than 90 per centum of any loss sustained thereon''.

§ 1993. Repealed. Pub. L. 104–127, title VII, § 750, Apr. 4, 1996, 110 Stat. 1129

Section, Pub. L. 87–128, title III, § 345, as added Pub. L. 94–68, § 9, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 103–437, § 4(a)(7), Nov. 2, 1994, 108 Stat. 4582, related to testimony by Secretary of Agriculture before congressional committees.

§ 1994. Maximum amounts for loans authorized; long-term cost projections

(a) Maximum aggregate principal amounts for loans authorized

Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subchapter of this chapter during each three-year period thereafter shall not exceed such amounts as may be authorized by law after August 4, 1978. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this chapter, one against which direct and insured loans shall be charged and the other against which guaranteed loans shall be charged,.[1]

(b) Authorization for loans

(1) In general

The Secretary may make or guarantee loans under subchapters I and II of this chapter from the Agricultural Credit Insurance Fund provided for in section 1929 of this title in not more than the following amounts:

(A) Fiscal year 1996

For fiscal year 1996, $3,085,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,500,000,000 shall be for guaranteed loans, of which—

(I) $600,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $1,900,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(B) Fiscal year 1997

For fiscal year 1997, $3,165,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,580,000,000 shall be for guaranteed loans, of which—

(I) $630,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $1,950,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(C) Fiscal year 1998

For fiscal year 1998, $3,245,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,660,000,000 shall be for guaranteed loans, of which—

(I) $660,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $2,000,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(D) Fiscal year 1999

For fiscal year 1999, $3,325,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,740,000,000 shall be for guaranteed loans, of which—

(I) $690,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $2,050,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(E) Fiscal year 2000

For fiscal year 2000, $3,435,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

[1] So in original.

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,850,000,000 shall be for guaranteed loans, of which—

(I) $750,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $2,100,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(F) Fiscal year 2001

For fiscal year 2001, $3,435,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,850,000,000 shall be for guaranteed loans, of which—

(I) $750,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $2,100,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(G) Fiscal year 2002

For fiscal year 2002, $3,435,000,000, of which—

(i) $585,000,000 shall be for direct loans, of which—

(I) $85,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(II) $500,000,000 shall be for operating loans under subchapter II of this chapter; and

(ii) $2,850,000,000 shall be for guaranteed loans, of which—

(I) $750,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(II) $2,100,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(2) Beginning farmers and ranchers

(A) Direct loans

(i) Farm ownership loans

(I) In general

Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve 70 percent for qualified beginning farmers and ranchers.

(II) Down payment loans

Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve 60 percent for the down payment loan program under section 1935 of this title until April 1 of the fiscal year.

(ii) Operating loans

Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

(I) for each of fiscal years 1996 through 1998, 25 percent;

(II) for fiscal year 1999, 30 percent; and

(III) for each of fiscal years 2000 through 2002, 35 percent.

(iii) Funds reserved until September 1

Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

(B) Guaranteed loans

(i) Farm ownership loans

Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve 25 percent for qualified beginning farmers and ranchers.

(ii) Operating loans

Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

(iii) Funds reserved until April 1

Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

(C) Reserved funds for all qualified beginning farmers and ranchers

If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 1922, 1935, or 1941 of this title, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

(3) Transfer for down payment loans

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraph (B)—

(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 1935 of this title, if sufficient direct farm ownership loan funds are not otherwise available; and

(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

(B) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have

been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(4) Transfer for credit sales of farm inventory property

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subchapter III of this chapter for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

(B) Supplemental appropriations

The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

(C) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(c) Development of long-term cost projections for loan program authorizations

The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of $10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations at the time the requests for authorizations for those periods are submitted to Congress. Not later than fifteen days after October 13, 1980, the Secretary shall submit to such committees long-term cost projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.

(d) Low-income, limited-resource borrowers

(1) Notwithstanding any other provision of law, not less than 25 per centum of the loans for farm ownership purposes under subchapter I of this chapter, and not less than 25 per centum of the loans for farm operating purposes under subchapter II of this chapter, authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during each fiscal year shall be for low-income, limited-resource borrowers.

(2) The Secretary shall provide notification to farm borrowers under this chapter, as soon as practicable after April 10, 1984, and in the normal course of loan making and loan servicing operations, of the provisions of this chapter relating to low-income, limited-resource borrowers and the procedures by which persons may apply for loans under the low-income, limited-resource borrower program.

(Pub. L. 87–128, title III, § 346, as added Pub. L. 95–334, title I, § 125, Aug. 4, 1978, 92 Stat. 428; amended Pub. L. 96–438, § 4, Oct. 13, 1980, 94 Stat. 1876; Pub. L. 97–35, title I, § 164, Aug. 13, 1981, 95 Stat. 379; Pub. L. 98–258, title VI, § 607, Apr. 10, 1984, 98 Stat. 140; Pub. L. 99–198, title XIII, § 1317, Dec. 23, 1985, 99 Stat. 1529; Pub. L. 101–508, title I, § 1202(a), Nov. 5, 1990, 104 Stat. 1388–9; Pub. L. 101–624, title XXIII, § 2388(i), Nov. 28, 1990, 104 Stat. 4053; Pub. L. 102–237, title VII, §§ 701(h)(1)(F), 702(i), Dec. 13, 1991, 105 Stat. 1880, 1881; Pub. L. 102–554, § 20, Oct. 28, 1992, 106 Stat. 4159; Pub. L. 104–127, title VI, § 641, Apr. 4, 1996, 110 Stat. 1098.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (d)(2), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 641(1), in second sentence, struck out ''with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration'' before period at end.

Subsec. (b). Pub. L. 104–127, § 641(2), added subsec. (b) and struck out former subsec. (b), which set forth maximum amounts for direct and guaranteed loans under the Agricultural Credit Insurance Fund for fiscal years 1991 to 1995.

1992—Subsec. (b)(2). Pub. L. 102–554, § 20(b), inserted sentence at end.

Subsec. (b)(3)(D) to (G). Pub. L. 102–554, § 20(c), (d), added subpars. (D) to (G).

Subsec. (b)(5), (6). Pub. L. 102–554, § 20(a), (e), added pars. (5) and (6).

1991—Subsec. (b). Pub. L. 102–237, § 702(i), repealed Pub. L. 101–624, § 2388(i). See 1990 Amendment note below.

Subsec. (b)(3)(C). Pub. L. 102–237, § 701(h)(1)(F), substituted ''this chapter'' for ''this Act'' in two places.

1990—Subsec. (b). Pub. L. 101–624, § 2388(i), which amended subsec. (b), in par. (1)(B), by striking ''subparagraph (C)'' and inserting ''paragraph (3)''; in par. (1)(C), by striking ''subparagraph (A)'' and inserting ''paragraph (1)''; by redesignating pars. (1)(A), (B), (C), (D)(i), and (E) as (1), (2), (3), (4), and (5), respectively; in par. (2), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively; in subpars. (A) to (C) of par. (2), by redesignating subcls. (I) and (II) as cls. (i) and (ii), respectively; and in par. (5), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively, was repealed by Pub. L. 102–237, § 702(i). See Construction of 1990 Amendment note below.

Pub. L. 101–508, § 1202(a), amended subsec. (b) generally, substituting present provisions for provisions relating to maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for fiscal years 1986 through 1988.

1985—Subsec. (b). Pub. L. 99–198, § 1317(a), amended subsec. (b) generally, substituting provisions setting maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for each of fiscal years ending September 30, 1986, through September 30, 1988, for provisions setting such amounts for each of fiscal years 1980, 1981, and 1982.

Subsecs. (d), (e). Pub. L. 99–198, § 1317, struck out subsec. (d) which authorized special amounts for fiscal

year 1982, redesignated subsec. (e) as (d), and in par. (1) substituted ''25 per centum'' for ''20 per centum'' wherever appearing and ''each fiscal year'' for ''fiscal year 1984''.

1984—Subsec. (e). Pub. L. 98–258 added subsec. (e).

1981—Subsec. (d). Pub. L. 97–35 added subsec. (d).

1980—Pub. L. 96–438 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(1)(F) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, and amendment by section 702(i) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(7), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(i) of Pub. L. 102–237 provided that: ''Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) [Pub. L. 101–624, amending this section] is hereby repealed and the Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title] shall be applied and administered as if the amendments made by such subsection had never been enacted.''

NULLIFICATION OF RESERVATION OF FUNDS DURING FISCAL YEAR 1999 FOR GUARANTEED LOANS FOR QUALIFIED BEGINNING FARMERS AND RANCHERS

Pub. L. 106–2, §1, Mar. 15, 1999, 113 Stat. 5, provided that: ''Amounts shall be made available pursuant to section 346(b)(1)(D) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1994(b)(1)(D)] for guaranteed loans, without regard to any reservation under section 346(b)(2)(B) of such Act.''

§ 1995. Participation and financial and technical assistance by other Federal departments, etc., to program participants

Notwithstanding any other provision of law, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or executive establishment, except that any limitation on joint participation is superseded by this section.

(Pub. L. 87–128, title III, §347, as added Pub. L. 95–334, title I, §125, Aug. 4, 1978, 92 Stat. 429.)

§ 1996. Loans to resident aliens

Notwithstanding the provisions of this chapter limiting the making and insuring of loans to citizens of the United States, the Secretary may make and insure loans under this chapter to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]: *Provided*, That no loans may be made or insured under this chapter to such aliens until the Secretary issues regulations establishing the terms and conditions under which such aliens may receive loans: *Provided further*, That the Secretary shall submit the regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least thirty days prior to the date the regulations are published in the Federal Register.

(Pub. L. 87–128, title III, §348, as added Pub. L. 96–438, §2(3), Oct. 13, 1980, 94 Stat. 1872.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

§ 1997. Conservation easements

(a) Definitions

For purposes of this section:

(1) The term ''governmental entity'' means any agency of the United States, a State, or a unit of local government of a State.

(2) The terms ''highly erodible land'' and ''wetland'' have the meanings, respectively, that such terms are given in section 3801 of title 16.

(3) The term ''wildlife'' means fish or wildlife as defined in section 3371(a) of title 16.

(4) The term ''recreational purposes'' includes hunting.

(b) Contracts on loan security properties

Subject to subsection (c) of this section, the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.

(c) Limitations

The Secretary may enter into a contract under subsection (b) of this section if—

(1) such property is wetland, upland, or highly erodible land;

(2) such property is determined by the Secretary to be suitable for the purposes involved; and

(3)(A) such property secures any loan made under any law administered by the Secretary and held by the Secretary; and

(B) such contract better enables a qualified borrower to repay the loan in a timely manner, as determined by the Secretary.

(d) Terms and conditions

The terms and conditions specified in each such contract shall—

(1) specify the purposes for which such real property may be used;

(2) identify the conservation measures to be taken, and the recreational and wildlife uses to be allowed, with respect to such real property; and

(3) require such owner to permit the Secretary, and any person or governmental entity designated by the Secretary, to have access to such real property for the purpose of monitoring compliance with such contract.

(e) Purchase; limitation upon cancellation or prepayment

(1) Subject to paragraph (2), the Secretary may reduce or forgive the outstanding debt of a borrower—

(A) in the case of a borrower to whom the Secretary has made one or more outstanding loans under laws administered by the Secretary, by canceling that part of the aggregate amount of such outstanding loans that bears the same ratio to such aggregate amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing such loans; or

(B) in any other case, by treating as prepaid that part of the principal amount of a new loan to the borrower issued and held by the Secretary under a law administered by the Secretary that bears the same ratio to such principal amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing the new loan.

(2) The amount so canceled or treated as prepaid pursuant to paragraph (1) shall not exceed—

(A) in the case of a delinquent loan, the value of the land on which the contract is entered into or the difference between the amount of the outstanding loan secured by the land and the value of the land, whichever is greater; or

(B) in the case of a nondelinquent loan, 33 percent of the amount of the loan secured by the land.

(f) Consultations with Director of Fish and Wildlife Service

If the Secretary elects to use the authority provided by this section, the Secretary shall consult with the Director of the Fish and Wildlife Service for purposes of—

(1) selecting real property in which the Secretary may enter into contracts under this section;

(2) formulating the terms and conditions of such contracts; and

(3) enforcing such contracts.

(g) Enforcement

The Secretary, and any person or governmental entity designated by the Secretary, may enforce a contract entered into by the Secretary under this section.

(Pub. L. 87–128, title III, § 349, as added Pub. L. 99–198, title XIII, § 1318(a), Dec. 23, 1985, 99 Stat. 1530; amended Pub. L. 100–233, title VI, § 612, Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–624, title XVIII, § 1815, title XXIII, § 2388(j), Nov. 28, 1990, 104 Stat. 3825, 4053; Pub. L. 104–127, title VI, § 642, Apr. 4, 1996, 110 Stat. 1102.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, § 642(1), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Subject to subsection (c) of this section, the Secretary may acquire and retain an easement in real property, for a term of not less than 50 years, for conservation, recreational, and wildlife purposes.''

Subsec. (c). Pub. L. 104–127, § 642(2)(A), inserted heading and substituted ''The Secretary may enter into a contract under subsection (b) of this section if'' for ''Such easement may be acquired or retained for real property if''.

Subsec. (c)(2). Pub. L. 104–127, § 642(2)(B), inserted ''and'' at end.

Subsec. (c)(3). Pub. L. 104–127, § 642(2)(C), struck out ''(i)'' after ''(3)(A)'', substituted ''administered by the Secretary'' for ''administered by the Farmers Home Administration'', redesignated cl. (ii) of subpar. (A) as subpar. (B), substituted ''such contract'' for ''such easement'' and a period for ''; or'' at end, and struck out former subpar. (B) which read as follows: ''such property is administered under this chapter by the Secretary; and''.

Subsec. (c)(4). Pub. L. 104–127, § 642(2)(D), struck out par. (4) which read as follows: ''such property was (except in the case of wetland and other wildlife habitat) row cropped each year of the 3-year period ending on December 23, 1985.''

Subsec. (d). Pub. L. 104–127, § 642(3), substituted ''contract'' for ''easement'' in introductory provisions and par. (3).

Subsec. (e). Pub. L. 104–127, § 642(4), in par. (1), substituted ''reduce or forgive the outstanding debt of a borrower'' for ''purchase any such easement from the borrower'' in introductory provisions, in subpars. (A) and (B), substituted ''administered by the Secretary'' for ''administered by the Farmers Home Administration'' and ''contract bears'' for ''easement bears'', and in par. (2)(A), substituted ''contract is entered into'' for ''easement is acquired''.

Subsec. (f). Pub. L. 104–127, § 642(5), in par. (1), substituted ''enter into contracts'' for ''acquire easements'' and in pars. (2) and (3), substituted ''contracts'' for ''easements''.

Subsec. (g). Pub. L. 104–127, § 642(6), substituted ''a contract entered into'' for ''an easement acquired''.

1990—Subsec. (a)(4), (5). Pub. L. 101–624, § 2388(j), redesignated par. (5) as (4).

Subsec. (c). Pub. L. 101–624, § 1815(1)(A)–(D), (F), (G), in introductory provision, struck out ''such property'' after ''real property if'', and inserted ''such property'' after par. (1), (2), (3)(A)(i), (3)(B), and (4) designations.

Subsec. (c)(3)(A)(ii). Pub. L. 101–624, § 1815(1)(E), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the borrower of such loan is unable, as determined by the Secretary, to repay such loan in a timely manner; or''.

Subsec. (e). Pub. L. 101–624, § 1815(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Any such easement acquired by the Secretary shall be purchased from the borrower involved by canceling that part of the aggregate amount of such outstanding loans of the borrower held by the Secretary under laws administered by the Farmers Home Administration that bears the same ratio to the aggregate amount of the outstanding loans of such borrower held by the Secretary under all such laws as the number of acres of the real property of such borrower that are subject to such easement bears to the aggregate number of acres securing such loans. In no case shall the amount so cancelled exceed the value of the land on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.''

Subsec. (h). Pub. L. 101–624, § 1815(9), struck out subsec. (h) which read as follows: ''This section shall not apply with respect to the cancellation of any part of any loan that was made after December 25, 1985.''

1988—Subsec. (c)(4). Pub. L. 100–233, § 612(1), inserted ''and other wildlife habitat'' after ''wetland''.

Subsec. (e). Pub. L. 100–233, § 612(2), inserted ''or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater'' at end of second sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

§ 1998. Guaranteed farm loan programs

Notwithstanding any other provision of this chapter, the Secretary shall ensure that farm loan guarantee programs carried out under this chapter are designed so as to be responsive to borrower and lender needs and to include provisions under reasonable terms and conditions for advances, before completion of the liquidation process, of guarantee proceeds on loans in default.

(Pub. L. 87–128, title III, § 350, as added Pub. L. 99–198, title XIII, § 1319, Dec. 23, 1985, 99 Stat. 1531.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1999. Interest rate reduction program

(a) Establishment of program

(1) In general

The Secretary shall establish and carry out in accordance with this section an interest rate reduction program for loans guaranteed under this chapter.

(2) Termination of authority

The authority provided by this subsection shall terminate on September 30, 2002.

(b) Contracts with lenders

Under such program, the Secretary shall enter into a contract with, and make payments to, a legally organized institution to reduce during the term of such contract the interest rate paid by a borrower on a guaranteed loan made by such institution if—

(1) the borrower—

(A) is unable to obtain sufficient credit elsewhere to finance the actual needs of the borrower at reasonable rates and terms, taking into consideration private and cooperative rates and terms for a loan for a similar purpose and period of time in the community in or near which the borrower resides;

(B) is otherwise unable to make payments on such loan in a timely manner; and

(C) has a total estimated cash income during the 24-month period beginning on the date such contract is entered into (including all farm and nonfarm income) that will equal or exceed the total estimated cash expenses to be incurred by the borrower during such period (including all farm and nonfarm expenses); and

(2) the lender reduces during the term of such contract the annual rate of interest payable on such loan by a minimum percentage specified in such contract.

(c) Payments to lenders

In return for a contract entered into by a lender under subsection (b) of this section for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 100 percent of the cost of reducing the annual rate of interest payable on such loan, except that such payments may not exceed the cost of reducing such rate by more than 4 percent.

(d) Duration of contracts

The term of a contract entered into under this section to reduce the interest rate on a guaranteed loan may not exceed the outstanding term of such loan.

(e) Agricultural Credit Insurance Fund use limitation

(1) Notwithstanding any other provision of this chapter, the Agricultural Credit Insurance Fund established under section 1929 of this title may be used by the Secretary to carry out this section.

(2) The total amount of funds used by the Secretary to carry out this section may not exceed $490,000,000.

(f) List of lender participants in guaranteed loan program

The Secretary shall make available to farmers, on request, a list of lenders in the area that participate in guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

(g) Foreclosure action provision in farm loan guarantees

Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this chapter after January 6, 1988, shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.

(Pub. L. 87–128, title III, § 351, as added Pub. L. 99–198, title XIII, § 1320, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100–233, title VI, § 613(b), (c), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–508, title I, § 1202(b)(1), (c), Nov. 5, 1990, 104 Stat. 1388–10, 1388–11; Pub. L. 104–105, title II, § 220, Feb. 10, 1996, 110 Stat. 184; Pub. L. 104–127, title VI, § 643(a), Apr. 4, 1996, 110 Stat. 1102.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(1), (e)(1), and (g), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–105 inserted heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

Subsec. (f). Pub. L. 104–127, § 643(a)(1), substituted ''The Secretary'' for ''Each Farmers Home Administration county supervisor'' and ''list of lenders'' for ''list of approved lenders'' and struck out ''the Farmers Home Administration'' before ''guaranteed farm loan programs''.

Subsec. (h). Pub. L. 104–127, § 643(a)(2), struck out subsec. (h) which established a demonstration project during 4-year period beginning Jan. 6, 1988, for purchase of Farm Credit System land.

1990—Subsec. (c). Pub. L. 101–508, § 1202(b)(1)(A), substituted ''100 percent'' for ''50 percent'' and ''4 percent'' for ''2 percent''.

Subsec. (d). Pub. L. 101–508, § 1202(b)(1)(B), struck out '', or 3 years, whichever is less'' after ''term of such loan''.

Subsec. (h)(1). Pub. L. 101–508, § 1202(c), substituted ''4-year'' for ''3-year''.

1988—Subsec. (b)(1)(C). Pub. L. 100–233, § 613(b)(1), substituted ''24-month'' for ''12-month''.

Subsecs. (f), (g). Pub. L. 100–233, §613(b)(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 100–233, §613(c), added subsec. (h).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 1320 of Pub. L. 99–198, as amended by Pub. L. 100–233, title VI, §613(a), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–508, title I, §1202(b)(2), Nov. 5, 1990, 104 Stat. 1388–11, which provided that this section was effective only for the period beginning Dec. 23, 1985, and ending Sept. 30, 1995, was repealed by Pub. L. 104–127, title VI, §643(b), Apr. 4, 1996, 110 Stat. 1103.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1983a of this title.

§ 2000. Homestead protection

(a) Definitions

As used in this section:

(1) The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) The term ''borrower-owner'' means—

(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1) of this section; or

(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(3) The term ''farm program loan'' means any loan made by the Administrator under the Small Business Act (15 U.S.C. 631 et seq.) for any of the purposes authorized for loans under subchapters[1] I or II of this chapter.

(4) The term ''homestead property'' means the principal residence and adjoining property possessed and occupied by a borrower-owner specified in paragraph (2) of this subsection, including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual.

(5) The term ''Secretary'' means the Secretary of Agriculture.

(b) Occupancy of homestead upon foreclosure, bankruptcy, or liquidation; appraisal; period of occupancy

(1) The Secretary or the Administrator shall, on application by a borrower-owner who meets the eligibility requirements of subsection (c)(1) of this section, permit the borrower-owner to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

(A) the Secretary forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a loan made or insured under this chapter;

(B) the Administrator forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

(C) the borrower-owner of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.

(2) The value of the homestead property shall be determined insofar as possible by an independent appraisal made within six months from the date of the borrower-owner's application to retain possession and occupancy of the homestead property.

(3) The period of occupancy of homestead property under this subsection may not exceed five years, but in no case shall the Secretary or the Administrator grant a period of occupancy less than three years, subject to compliance with the requirements of subsection (c) of this section.

(c) Terms and conditions

(1) To be eligible to occupy homestead property, a borrower-owner of a loan made or insured by the Secretary or the Administrator shall—

(A) apply for such occupancy not later than 30 days after the property is acquired by the Secretary or Administrator, or for property in inventory on January 6, 1988, the borrower-owner shall apply for occupancy not later than 30 days after January 6, 1988;

(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

(i) the size and location of the farming unit of the borrower-owner; and

(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower-owner and any spouse of the borrower-owner in at least 2 calendar years during any 6-year period described in subparagraph (B);

(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower-owner has, due to circumstances beyond the control of the borrower-owner, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

[1] So in original. Probably should be ''subchapter''.

(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term ''farming or ranching operations'' shall include rent paid by lessees of agricultural land during any period in which the borrower-owner, due to circumstances beyond the control of the borrower-owner, is unable to actively farm such land.

(3) For the purposes of paragraph (1)(E), the failure of the borrower-owner to make timely rental payments shall constitute cause for the termination of all rights of such borrower-owner to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower-owner or lessee the notice and hearing procedural rights described in section 1983b[2] of this title and shall comply with all applicable State and local laws governing eviction from residential property.

(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

(B) At any time during the period of occupancy, the borrower-owner shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower-owner from a list of three appraisers approved by the county supervisor.

(5) No rights of a borrower-owner under this section, and no agreement entered into between the borrower-owner and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower-owner or by operation of any law, except that in the case of death or incompetency of such borrower-owner, such rights and agreements shall be transferable to the spouse of the borrower-owner if the spouse agrees to comply with the terms and conditions thereof.

(6) Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996), the Secretary shall notify the borrower-owner from whom the property was acquired of the availability of homestead protection rights under this section.

(d) First right of refusal of reacquisition

At the end of the period of occupancy described in subsection (c) of this section, the Secretary or the Administrator shall grant to the borrower-owner a first right of refusal to reacquire the homestead property on such terms and conditions (which may include payment of principal in installments) as the Secretary or the Administrator shall determine. Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.

(e) Value as measure of reacquisition payment of principal

At the time any reacquisition agreement is entered into, the Secretary or the Administrator may not demand a total payment of principal that is in excess of the value of the homestead property as established under subsection (b)(2) of this section.

(f) Contract authority

The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

(g) Conflict between Federal and State law

In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower-owner to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.

(Pub. L. 87–128, title III, §352, as added Pub. L. 99–198, title XIII, §1321, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100–233, title VI, §614, Jan. 6, 1988, 101 Stat. 1675; Pub. L. 102–237, title V, §501(g), title VII, §701(h)(2), Dec. 13, 1991, 105 Stat. 1867, 1880; Pub. L. 102–552, title V, §516(i), (j)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 104–127, title VI, §644, Apr. 4, 1996, 110 Stat. 1103.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsecs. (a)(3) and (b)(1)(B), is Pub. L. 85–536, July 18, 1958, 72 Stat. 384, as amended, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

For definition of ''this chapter'', referred to in subsecs. (b)(1)(A) and (c)(6), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsec. (c)(3), was repealed by Pub. L. 103–354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233.

AMENDMENTS

1996—Subsec. (c)(1)(A). Pub. L. 104–127, §644(1), substituted ''30'' for ''90'' in two places.

Subsec. (c)(6). Pub. L. 104–127, §644(2), substituted ''Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996),'' for ''Within 30 days of the acquisition of the homestead property securing a loan made or insured under this chapter,'' and struck out at end ''For property in inventory on January 6, 1988, the Secretary shall make a good faith effort to notify the borrower-owner of the availability of homestead protection rights under this section within 60 days after January 6, 1988.''

1992—Subsec. (a)(4), (5). Pub. L. 102–552, §516(i), redesignated par. (4), defining ''Secretary'', as (5).

Subsec. (b)(2). Pub. L. 102–552, §516(j)(1), substituted ''borrower-owner's'' for ''borrower's''.

1991—Subsec. (a)(2) to (4). Pub. L. 102–237, §501(g), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted ''borrower-owner'' for ''borrower'' in redesignated par. (4).

Subsec. (b)(1). Pub. L. 102–237, §501(g)(2), substituted ''borrower-owner'' for ''borrower'' wherever appearing.

Subsec. (b)(3). Pub. L. 102–237, §701(h)(2), struck out ''be'' after ''shall''.

[2] See References in Text note below.

Subsecs. (c), (d), (g). Pub. L. 102–237, § 501(g)(2), substituted ''borrower-owner'' for ''borrower'' wherever appearing.

1988—Subsec. (a)(3). Pub. L. 100–233, § 614(1), inserted '', including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual''.

Subsec. (b)(1). Pub. L. 100–233, § 614(2), added par. (1) and struck out former par. (1) which read as follows: ''If the Secretary forecloses a loan made or insured under this chapter, the Administrator forecloses a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.), or a borrower of a loan made or insured by either agency declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the Secretary or Administrator may upon application by the borrower, permit the borrower to retain possession and occupancy of any principal residence of the borrower, and a reasonable amount of adjoining land for the purpose of family maintenance.''

Subsec. (c). Pub. L. 100–233, § 614(3), completely revised and restated subsec. (c), substituting pars. (1) to (6) for former pars. (1) to (8).

Subsec. (d). Pub. L. 100–233, § 614(3), inserted at end ''Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.''

Subsecs. (f), (g). Pub. L. 100–233, § 614(4), added subsecs. (f) and (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(j)(2) of Pub. L. 102–552 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) [amending section 1985 of this title] took effect.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(2) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1991 of this title.

§ 2001. Debt restructuring and loan servicing

(a) In general

The Secretary shall modify delinquent farmer program loans made or insured under this chapter, or purchased from the lender or the Federal Deposit Insurance Corporation under section 1929b of this title, to the maximum extent possible—

(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e) of this section), and debt set-aside (subject to subsection (e) of this section), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

(2) to ensure that borrowers are able to continue farming or ranching operations.

(b) Eligibility

To be eligible to obtain assistance under subsection (a) of this section—

(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary, except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section;

(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

(A) meet the necessary family living and farm operating expenses; and

(B) service all debts, including those of the loans restructured; and

(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

(c) Restructuring determinations

(1) Determination of net recovery

In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

(B) the value of the restructured loan, in accordance with paragraph (3).

(2) Recovery value

For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

(A)(i) the amount of the current appraised value of the interests of the borrower in the property securing the loan; plus

(ii) the value of the interests of the borrower in all other assets that are—

(I) not essential for necessary family living expenses;

(II) not essential to the operation of the farm; and

(III) not exempt from judgment creditors or in a bankruptcy action under Federal or State law; less

(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

(i) the payment of prior liens;

(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each

calculated for the average holding period for the type of property involved;

(iii) resale expenses, such as repairs, commissions, and advertising; and

(iv) other administrative and attorney's costs; plus

(C) the value, as determined by the Secretary, of any property not included in subparagraph (A)(i) if the property is specified in any security agreement with respect to such loan and the Secretary determines that the value of such property should be included for purposes of this section.

(3) Value of the restructured loan

(A) In general

For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

(B) Present value

For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

(C) Cash flow margin

For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses.

(4) Notification

Within 90 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

(A) make the calculations specified in paragraphs (2) and (3);

(B) notify the borrower in writing of the results of such calculations; and

(C) provide documentation for the calculations.

(5) Restructuring of loans

If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this chapter through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

(6) Termination of loan obligations

The obligations of a borrower to the Secretary under a loan shall terminate if—

(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b) of this section;

(B) the value of the restructured loan is less than the recovery value; and

(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.

(7) Negotiation of appraisal

(A) In general

In making a determination concerning restructuring under this subsection, the Secretary, at the request of the borrower, shall enter into negotiations concerning appraisals required under this subsection with the borrower.

(B) Independent appraisal

If the borrower, based on a separate current appraisal, objects to the decision of the Secretary regarding an appraisal, the borrower and the Secretary shall mutually agree, to the extent practicable, on an independent appraiser who shall conduct another appraisal of the borrower's property. The average of the two appraisals that are closest in value shall become the final appraisal under this paragraph. The borrower and the Secretary shall each pay one-half of the cost of the independent appraisal.

(d) Principal and interest write-down

(1) In general

(A) Priority consideration

In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

(B) Failure of creditors to agree

Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

(2) Participation of creditors

Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

(e) Shared appreciation arrangements

(1) In general

As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

(2) Terms

Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

(3) Percentage of recapture

The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

(4) Time of recapture

Recapture shall take place at the end of the term of the agreement, or sooner—

(A) on the conveyance of the real security property;

(B) on the repayment of the loans; or

(C) if the borrower ceases farming operations.

(5) Transfer of title

Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

(6) Notice of recapture

Beginning with fiscal year 2000 not later than 12 months before the end of the term of a shared appreciation arrangement, the Secretary shall notify the borrower involved of the provisions of the arrangement.

(f) Determination to restructure

If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

(g) Prerequisites to foreclosure or liquidation

No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

(1) until the borrower has been given the opportunity to appeal such decision; and

(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

(h) Time limits for restructuring

Once an appeal has been filed under section 1983b[1] of this title, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

(i) Notice of ineligibility for restructuring

(1) In general

A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

(2) Contents

The notice required under paragraph (1) shall contain—

(A) the determination and the reasons for the determination;

(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

(j) Independent appraisals

An appeal filed with the appeals division under section 1983b of this title may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

(k) Partial liquidations

If partial liquidations are performed (with the prior consent of the Secretary) as part of loan servicing by a guaranteed lender under this chapter, the Secretary shall not require full liquidation of a delinquent loan in order for the lender to be eligible to receive payment on losses.

***(l)* Disposition of normal income security**

For purposes of subsection (b)(2) of this section, if a borrower—

(1) disposed of normal income security prior to October 14, 1988, without the consent of the Secretary; and

(2) demonstrates that—

(A) the proceeds were utilized to pay essential household and farm operating expenses; and

(B) the borrower would have been entitled to a release of income proceeds by the Secretary if the regulations in effect on November 28, 1990, had been in effect at the time of the disposition,

the Secretary shall not consider the borrower to have acted without good faith to the extent of the disposition.

(m) Only 1 write-down or net recovery buy-out per borrower for loan made after January 6, 1988

(1) In general

The Secretary may provide for any one borrower not more than 1 write-down or net re-

[1] See References in Text note below.

covery buy-out under this section with respect to all loans made to the borrower after January 6, 1988.

(2) Special rule

For purposes of paragraph (1), the Secretary shall treat any loan made on or before January 6, 1988, with respect to which a restructuring, write-down, or net recovery buy-out is provided under this section after such date, as a loan made after such date.

(n) Liquidation of assets

The Secretary may not use the authority provided by this section to reduce or terminate any portion of the debt of the borrower that the borrower could pay through the liquidation of assets (or through the payment of the loan value of the assets, if the loan value is greater than the liquidation value) described in subsection (c)(2)(A)(ii) of this section.

(*o*) Lifetime limitation on debt forgiveness per borrower

The Secretary may provide not more than $300,000 in principal and interest forgiveness under this section per borrower.

(Pub. L. 87–128, title III, §353, as added Pub. L. 100–233, title VI, §615(a), Jan. 6, 1988, 101 Stat. 1678; amended Pub. L. 101–624, title XVIII, §1816(a)–(d), (f)–(h), Nov. 28, 1990, 104 Stat. 3826–3828; Pub. L. 102–237, title V, §501(h), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104–127, title VI, §§645, 661(j), Apr. 4, 1996, 110 Stat. 1103, 1107; Pub. L. 105–277, div. A, §101(a) [title VIII, §§807, 808], Oct. 21, 1998, 112 Stat. 2681, 2681–40; Pub. L. 106–31, title III, §3019(b), May 21, 1999, 113 Stat. 99.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (c)(5), and (k), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsec. (h), was repealed by Pub. L. 103–354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233.

AMENDMENTS

1999—Subsec. (c)(3)(C). Pub. L. 106–31 substituted ''110 percent'' for ''100 percent''.

1998—Subsec. (c)(3)(C). Pub. L. 105–277, §101(a) [title VIII, §808], substituted ''100 percent'' for ''110 percent''.

Subsec. (e)(6). Pub. L. 105–277, §101(a) [title VIII, §807], added par. (6).

1996—Subsec. (c)(3)(C). Pub. L. 104–127, §645(1)(A), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows:

''(i) ASSUMPTION.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 105 percent of the amount indicated for payment of debt obligations.

''(ii) AVAILABLE INCOME.—If an amount up to 105 percent of the debt payments of the borrower has been earmarked for such payments, the Secretary shall consider the income of the borrower to be adequate to meet the debt obligations of the borrower.''

Subsec. (c)(6). Pub. L. 104–127, §645(1)(B), added par. (6) and struck out former par. (6), which specified required conditions for termination of loan obligations, limited applicability of good faith requirement, authorized recapture by requiring borrower to enter into agreement before terminating loan obligations, and provided for limitation on recapture amount and treatment of intrafamily transfers.

Subsec. (k). Pub. L. 104–127, §645(2), (3), redesignated subsec. (*l*) as (k) and struck out heading and text of former subsec. (k). Text read as follows: ''The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.''

Subsec. (*l*). Pub. L. 104–127, §661(j), struck out ''and subparagraphs (A)(i) and (C)(i) of section 1985(e)(1) of this title,'' before ''if a borrower'' in introductory provisions.

Pub. L. 104–127, §645(3), redesignated subsec. (m) as (*l*).

Subsecs. (m) to (p). Pub. L. 104–127, §645(3), redesignated subsecs. (m) to (p) as (*l*) to (*o*), respectively.

1991—Subsec. (c)(6)(A)(ii). Pub. L. 102–237, §501(h)(1), substituted ''November 28, 1990'' for ''the date of enactment of this paragraph''.

Subsec. (m). Pub. L. 102–237, §501(h)(2), substituted ''section 1985(e)(1)'' for ''section 1985(e)(1)(A)''.

1990—Subsec. (b)(1). Pub. L. 101–624, §1816(a), inserted before semicolon at end '', except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section''.

Subsec. (c)(2)(A). Pub. L. 101–624, §1816(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the amount of the current appraised value of the property securing the loan; less''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–624, §1816(b)(2)(A), substituted ''costs; plus'' for ''costs.''

Subsec. (c)(2)(C). Pub. L. 101–624, §1816(b)(2)(B), added subpar. (C).

Subsec. (c)(3)(C). Pub. L. 101–624, §1816(c), added subpar. (C).

Subsec. (c)(4). Pub. L. 101–624, §1816(d), substituted ''90'' for ''60'' in introductory provisions.

Subsec. (c)(6). Pub. L. 101–624, §1816(f), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.''

Subsec. (c)(7). Pub. L. 101–624, §1816(g), added par. (7).

Subsecs. (*l*) to (p). Pub. L. 101–624, §1816(h), added subsecs. (*l*) to (p).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 645(1) of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by sections 645(2), (3) and 661(j) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1861 of title XVIII of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title [enacting sections 1981f and 2006a to 2006e of this title, section 2076a of Title 12, Banks and Banking, and section 494 of Title 25, Indians, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title, section 3132 of Title 5, Government Organization and Employees, sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and section 492 of Title 25, enacting provisions set out as notes under section 1981f of this title and section 2001 of Title 12, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] shall become effective on the date of enactment of this Act [Nov. 28, 1990].

''(b) NOTICE OF DEBT SETTLEMENT PROGRAMS.—The amendment made by section 1807(1) of this Act [amending section 1981d(b)(1) of this title] shall become effective 120 days after the date of enactment of this Act [Nov. 28, 1990].

''(c) DEBT RESTRUCTURING AND LOAN SERVICING.—

''(1) IN GENERAL.—Except as provided in section 353(c)(6)(A)(ii) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(c)(6)(A)(iii)] (as added by section 1816(f) of this Act) and in paragraph (3) of this subsection, section 1816 of this Act and the amendments made by such section 1816 [amending this section and section 1985 of this title] shall apply to new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act [Nov. 28, 1990].

''(2) DEFINITION OF NEW APPLICATION.—As used in paragraph (1), the term 'new application' means an application submitted by a borrower to initiate a debt restructuring consideration and not an application reconsidered after an appeal or revision of the original application.

''(3) LIQUIDATION OF ASSETS.—Section 353(*o*) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(*o*)] (as added by section 1816(h) of this Act) shall not apply until the Secretary of Agriculture has issued final regulations to carry out such section 353(*o*).

''(d) RESTORATION OF FIRST LIEN ON STOCK.—The amendment made by section 1833 of this Act [enacting section 2076a of Title 12 and amending section 2077 of Title 12] shall be effective as of January 7, 1988.

''(e) REGULATIONS.—As soon as practicable after the date of enactment of this Act [Nov. 28, 1990]—

''(1) the Secretary of Agriculture shall issue such regulations as are necessary to carry out subtitles A and C of this Act [probably means subtitles A (§§ 1801–1824) and C (§§ 1851–1854) of title XVIII of Pub. L. 101–624, enacting sections 1981f and 2006a to 2006e of this title and section 494 of Title 25, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title and section 492 of Title 25, enacting provisions set out as a note under section 1981f of this title, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] and the amendments made by such subtitles; and

''(2) the Farm Credit Administration shall issue such regulations as are necessary to carry out subtitle B of this Act [probably means subtitle B (§§ 1831–1843) of title XVIII of Pub. L. 101–624, enacting section 2076a of Title 12, amending section 3132 of Title 5 and sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and enacting provisions set out as a note under section 2001 of Title 12] and the amendments made by such subtitle.''

SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD

Section 615(d) of Pub. L. 100–233 provided that: ''The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section [enacting section 2001 of this title and amending sections 1927a and 1981 of this title]. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1985, 1991, 2001a, 2005, 2008h of this title.

§ 2001a. Debt restructuring and loan servicing for community facility loans

The Secretary shall establish and implement a program that is similar to the program established under section 2001 of this title, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 1926(a) of this title.

(Pub. L. 87–128, title III, § 353A, as added Pub. L. 101–624, title XXIII, § 2384(a), Nov. 28, 1990, 104 Stat. 4050.)

REGULATIONS

Section 2384(b) of Pub. L. 101–624 provided that: ''Not later than 120 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary shall promulgate regulations, modeled after those promulgated under such section 353 [7 U.S.C. 2001], that implement the program established under section 353A of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001a].''

§ 2002. Transfer of inventory lands

(a) In general

Subject to subsection (b) of this section, the Secretary may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

(1) with respect to which the rights of all prior owners and operators have expired;

(2) that is eligible to be disposed of in accordance with section 1985 of this title; and

(3) that—

(A) has marginal value for agricultural production;

(B) is environmentally sensitive; or

(C) has special management importance.

(b) Conditions

The Secretary may not transfer any property or interest in property under subsection (a) of this section unless—

(1) at least 2 public notices are given of the transfer;

(2) if requested, at least 1 public meeting is held prior to the transfer; and

(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.

(Pub. L. 87–128, title III, § 354, as added Pub. L. 100–233, title VI, § 616, Jan. 6, 1988, 101 Stat. 1682;

amended Pub. L. 104–127, title VI, § 646, Apr. 4, 1996, 110 Stat. 1103.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 designated existing provisions as subsec. (a), inserted heading, substituted ''Subject to subsection (b) of this section, the Secretary'' for ''The Secretary, without reimbursement,'' in introductory provisions, added par. (2) and struck out former par. (2) which read as follows: ''that is determined by the Secretary to be suitable or surplus; and'', and added subsec. (b).

§ 2003. Target participation rates

(a) Establishment

(1) In general

The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subchapter I of this chapter and will have the opportunity to purchase or lease inventory farmland.

(2) Group population

Except as provided in paragraph (3), in establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

(3) Gender

With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.

(b) Reservation and allocation

(1) Reservation

The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subchapter I of this chapter, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a) of this section.

(2) Allocation

The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

(3) Indian reservations

In distributing loan funds in counties within the boundaries of an Indian reservation, the Secretary shall allocate the funds on a reservation-wide basis.

(c) Operating loans

(1) Establishment

The Secretary shall establish annual target participation rates, that shall ensure that socially disadvantaged farmers or ranchers will receive loans made or insured under subchapter II of this chapter. In establishing such target rates, the Secretary shall consider the number of socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in that State.

(2) Reservation and allocation

The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subchapter II of this chapter that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county. Any funds reserved and allocated for purposes of this paragraph, but not used shall be reallocated within such State.

(d) Report

The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term ''socially disadvantaged group'' means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term ''socially disadvantaged farmer or rancher'' means a farmer or rancher who is a member of a socially disadvantaged group.

(f) Implementation consistent with Supreme Court holding

Not later than 180 days after April 4, 1996, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).

(Pub. L. 87–128, title III, § 355, as added Pub. L. 100–233, title VI, § 617, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 101–624, title XVIII, § 1817, title XXV, § 2501(f), Nov. 28, 1990, 104 Stat. 3829, 4065; Pub. L. 102–554, § 21(a), (b), Oct. 28, 1992, 106 Stat. 4161; Pub. L. 104–127, title VI, § 647, Apr. 4, 1996, 110 Stat. 1104.)

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–127 added subsec. (f).

1992—Subsec. (a)(2). Pub. L. 102–554, § 21(a)(1), substituted ''Except as provided in paragraph (3), in establishing'' for ''In establishing''.

Subsec. (a)(3). Pub. L. 102–554, § 21(a)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102–554, § 21(b), substituted '', ethnic, or gener'' for ''or ethnic''.

1990—Subsec. (b)(3). Pub. L. 101–624, § 1817, added par. (3).

Subsecs. (c), (d). Pub. L. 101–624, § 2501(f)(1)–(3), added subsec. (c), redesignated former subsec. (c) as (d), and struck out former subsec. (d) which read as follows: ''As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.''

Subsec. (e). Pub. L. 101–624, § 2501(f)(4), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title; title 16 section 590h.

§ 2004. Expedited clearing of title to inventory property

The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.

(Pub. L. 87–128, title III, § 356, as added Pub. L. 100–233, title VI, § 618, Jan. 6, 1988, 101 Stat. 1683.)

§ 2005. Payment of losses on guaranteed loans

(a) Payments to lenders

(1) Requirement

Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, for any borrower to whom a lender has made a loan guaranteed under this chapter, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

(2) Payment toward loan guarantee

Any amount paid to a lender under this subsection with respect to a loan guaranteed under this chapter shall be treated as payment towards satisfaction of the loan guarantee.

(b) Administration

(1) Loss by lender

If the lender of a guaranteed farmer program loan takes any action described in section 1981(b)(4) of this title with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

(A) the outstanding balance of the loan immediately before such action, exceeds

(B) the outstanding balance of the loan immediately after such action.

(2) Net present value of loan

The Secretary shall approve the taking of an action described in section 1981(b)(4) of this title by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

(3) Construction of subsection

This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 2001(e) of this title.

(Pub. L. 87–128, title III, § 357, as added Pub. L. 100–233, title VI, § 619, Jan. 6, 1988, 101 Stat. 1683; amended Pub. L. 101–624, title XXIII, § 2388(d)(2), Nov. 28, 1990, 104 Stat. 4053.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 1921 of this title.

AMENDMENTS

1990—Subsec. (b)(1), (2). Pub. L. 101–624 substituted ''1981(b)(4)'' for ''1981(d)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1991 of this title.

§ 2006. Waiver of mediation rights by borrowers

The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the mediation program of any State.

(Pub. L. 87–128, title III, § 358, as added Pub. L. 100–233, title V, § 512, Jan. 6, 1988, 101 Stat. 1664; amended Pub. L. 103–354, title II, § 282(f)(3), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 struck out ''agricultural loan'' before ''mediation program''.

§ 2006a. Borrower training

(a) In general

The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct loans made under this chapter in financial and farm management concepts associated with commercial farming.

(b) Contract

(1) In general

The Secretary may contract with State or private providers of farm management and

credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

(2) Consultation

The Secretary may consult with the chief executive officer of a State concerning the identity of the contracting organization and the process for contracting.

(c) Eligibility for loans

(1) In general

Subject to paragraph (2), to be eligible to obtain a direct loan under this chapter, a borrower must obtain management assistance under this section, appropriate to the management ability of the borrower (as determined by the appropriate county committee established pursuant to section 1982[1] of this title, during the determination of eligibility for the loan).

(2) Loan conditions

The need of a borrower who satisfies the criteria set out in section 1922(a)(2) or 1941(a)(2) of this title for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct loan under this chapter.

(d) Guidelines and curriculum

The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section.

(e) Payment

A borrower shall pay for training received under this section, and may use funds from operating loans made under subchapter II of this chapter to pay for the training.

(f) Waivers

The Secretary may waive the requirements of this section for an individual borrower on a determination by the county committee that the borrower demonstrates adequate knowledge in areas described in this section.

(Pub. L. 87–128, title III, §359, as added Pub. L. 101–624, title XVIII, §1818(a), Nov. 28, 1990, 104 Stat. 3829; amended Pub. L. 105–277, div. A, §101(a) [title VIII, §805(3)], Oct. 21, 1998, 112 Stat. 2681, 2681–39.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

Section 1982 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 103–354, title II, §227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §101(a) [title VIII, §805(3)(A)], struck out ''and guaranteed'' after ''direct''.

Subsec. (c). Pub. L. 105–277, §101(a) [title VIII, §805(3)(B)], struck out ''or guaranteed'' after ''direct'' in pars. (1) and (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1942, 1949, 1981, 2006b of this title.

[1] See References in Text note below.

§ 2006b. Loan assessments

(a) In general

After an applicant is determined eligible for assistance under this chapter by the appropriate county committee established pursuant to section 1982[1] of this title, the Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

(b) Determinations

In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

(3) the goals of the proposed farming plan of the applicant;

(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

(5) whether assistance is necessary under this chapter and, if so, the amount of the assistance.

(c) Contract

The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 2006a(b) of this title) to conduct loan assessments under this section.

(d) Review of loans

(1) In general

Loan assessments conducted under this section shall include biannual review of direct loans, and periodic review (as determined necessary by the Secretary) of guaranteed loans, made under this chapter to assess the progress of a borrower in meeting the goals for the farm or ranch operation.

(2) Contracts

The Secretary may contract with an entity that is eligible to provide borrower training under section 2006a(b) of this title to conduct loan reviews under paragraph (1).

(3) Problem assessments

If a borrower is delinquent in payments on a direct or guaranteed loan made under this chapter, the Secretary or the contracting entity shall determine the cause of, and action necessary to correct, the delinquency.

(e) Guidelines

The Secretary shall issue regulations providing guidelines for loan assessments conducted under this section.

(Pub. L. 87–128, title III, §360, as added Pub. L. 101–624, title XVIII, §1819, Nov. 28, 1990, 104 Stat. 3830.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (b)(5), and (d)(1), (3), see note set out under section 1921 of this title.

[1] See References in Text note below.

Section 1982 of this title, referred to in subsec. (a), was repealed by Pub. L. 103–354, title II, § 227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1935, 1949, 1983a of this title.

§ 2006c. Supervised credit

The Secretary shall provide adequate training to employees of the Farmers Home Administration on credit analysis and financial and farm management to—

(1) better acquaint the employees with what constitutes adequate financial data on which to base a direct or guaranteed loan approval decision; and

(2) ensure proper supervision of farmer program loans.

(Pub. L. 87–128, title III, § 361, as added Pub. L. 101–624, title XVIII, § 1820, Nov. 28, 1990, 104 Stat. 3830.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1949 of this title.

§ 2006d. Market placement

The Secretary shall establish a market placement program for qualified beginning farmers and ranchers and other borrowers of farmer program loans that the Secretary believes have a reasonable chance of qualifying for commercial credit with a guarantee provided under this chapter.

(Pub. L. 87–128, title III, § 362, as added Pub. L. 101–624, title XVIII, § 1821, Nov. 28, 1990, 104 Stat. 3831.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1949, 1983a of this title.

§ 2006e. Prohibition on use of loans for certain purposes

The Secretary shall not approve any loan under this chapter to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 3801(a)(16)[1] of title 16), or to engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in the case of such activity that is already commenced before November 28, 1990. This section shall not apply to a loan made or guaranteed under this chapter for a utility line.

(Pub. L. 87–128, title III, § 363, as added Pub. L. 101–624, title XVIII, § 1824, Nov. 28, 1990, 104 Stat. 3831; amended Pub. L. 102–237, title V, § 501(i), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104–127, title VII, § 751, Apr. 4, 1996, 110 Stat. 1129.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

[1] See References in Text note below.

Section 3801(a) of title 16, referred to in text, was subsequently amended, and section 3801(a)(16) no longer defines the term ''wetland''. However, such term is defined elsewhere in that section.

AMENDMENTS

1996—Pub. L. 104–127 inserted at end ''This section shall not apply to a loan made or guaranteed under this chapter for a utility line.''

1991—Pub. L. 102–237 inserted a closing parenthesis after ''3801(a)(16) of title 16'' and substituted ''before November 28, 1990'' for ''prior to the date of enactment of this section''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 2006f. Rural development certified lenders program

(a) Certified lenders program

(1) In general

The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

(2) Certification requirements

The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

(3) Condition of certification

As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

(4) Guarantee

Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

(5) Certifications

With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(6) Relationship to other requirements

This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

(b) Preferred certified lenders program

(1) In general

The Secretary may establish a preferred certified lenders program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (a) of this section;

(B) knowledge of the regulations concerning the particular guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

(2) Additional lending institutions

The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

(3) Revocation of designation

The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

(4) Condition of certification

As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

(5) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary may—

(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.

(Pub. L. 87–128, title III, §364, as added Pub. L. 104–127, title VII, §752, Apr. 4, 1996, 110 Stat. 1129.)

PRIOR PROVISIONS

A prior section 2006f, Pub. L. 87–128, title III, §364, as added Pub. L. 101–624, title XXIII, §2302(a)(1), Nov. 28, 1990, 104 Stat. 3979; amended Pub. L. 102–237, title VII, §701(d), Dec. 13, 1991, 105 Stat. 1879; Pub. L. 103–129, §4, Nov. 1, 1993, 107 Stat. 1366, established Rural Development Administration in Department of Agriculture and provided for the performance of specified functions, prior to repeal by Pub. L. 103–354, title II, §231(f)(3), Oct. 13, 1994, 108 Stat. 3219. See section 6911 et seq. of this title.

§§ 2007 to 2008c. Repealed. Pub. L. 104–127, title VII, §§ 701, 753(a), 754–756, Apr. 4, 1996, 110 Stat. 1108, 1131

Section 2007, Pub. L. 101–624, title XXIII, §2310, Nov. 28, 1990, 104 Stat. 3982, related to general provisions for programs under former sections 2007a to 2007e and 2008 to 2008c of this title, including applications, selection of States, duration of projects, and effective dates.

Section 2007a, Pub. L. 101–624, title XXIII, §2311, Nov. 28, 1990, 104 Stat. 3982; Pub. L. 102–237, title VII, §702(b), Dec. 13, 1991, 105 Stat. 1880, defined terms for purposes of former sections 2007a to 2007e of this title.

Section 2007b, Pub. L. 101–624, title XXIII, §2312, Nov. 28, 1990, 104 Stat. 3984, related to establishment and powers of Rural Partnerships Investment Board.

Section 2007c, Pub. L. 101–624, title XXIII, §2313, Nov. 28, 1990, 104 Stat. 3986; Pub. L. 102–237, title VII, §702(c), Dec. 13, 1991, 105 Stat. 1880, established Rural Business Investment Fund.

Section 2007d, Pub. L. 101–624, title XXIII, §2314, Nov. 28, 1990, 104 Stat. 3991; Pub. L. 102–237, title VII, §702(d), Dec. 13, 1991, 105 Stat. 1880, related to establishment of local revolving funds.

Section 2007e, Pub. L. 101–624, title XXIII, §2315, Nov. 28, 1990, 104 Stat. 3994; Pub. L. 102–237, title VII, §702(e), Dec. 13, 1991, 105 Stat. 1880, related to compliance with and enforcement of former sections 2007a to 2007e of this title and regulations promulgated thereunder.

Section 2008, Pub. L. 87–128, title III, §365, as added Pub. L. 101–624, title XXIII, §2316(a), Nov. 28, 1990, 104 Stat. 4000; amended Pub. L. 102–237, title VII, §701(e), Dec. 13, 1991, 105 Stat. 1879, related to system for delivery of certain rural development programs.

Section 2008a, Pub. L. 87–128, title III, §366, as added Pub. L. 101–624, title XXIII, §2316(a), Nov. 28, 1990, 104 Stat. 4004; amended Pub. L. 102–237, title VII, §701(f), Dec. 13, 1991, 105 Stat. 1879, related to State rural economic development review panel.

Section 2008b, Pub. L. 87–128, title III, §367, as added Pub. L. 101–624, title XXIII, §2317, Nov. 28, 1990, 104 Stat. 4008; amended Pub. L. 102–237, title VII, §701(g), Dec. 13, 1991, 105 Stat. 1879, related to limited transfer authority of loan amounts.

Section 2008c, Pub. L. 87–128, title III, §368, as added Pub. L. 101–624, title XXIII, §2317, Nov. 28, 1990, 104 Stat. 4009, related to allocation and transfer of loan guarantee authority.

§ 2008d. Recordkeeping of loans by borrower's gender

The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this chapter.

(Pub. L. 87–128, title III, §369, as added Pub. L. 102–554, §21(c), Oct. 28, 1992, 106 Stat. 4161.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6943 of this title.

§ 2008e. Prohibition under rural development programs

(a) Prohibition

Assistance under any rural development program administered by the Rural Development

Administration, the Farmers Home Administration, the Rural Electrification Administration, or any other agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under such rural development programs is not subject to such a condition. Such safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate, the prohibition in subsection (a) of this section.

(c) Regulations

Not later than 6 months after November 1, 1993, the Secretary shall issue interim final regulations to ensure compliance with subsection (a) of this section.

(Pub. L. 87–128, title III, § 370, as added Pub. L. 103–129, § 5, Nov. 1, 1993, 107 Stat. 1366.)

§ 2008f. Crop insurance requirement

(a) In general

As a condition of obtaining any benefit (including a direct loan, loan guarantee, or payment) described in subsection (b) of this section, a borrower must obtain at least catastrophic risk protection insurance coverage under section 1508 of this title for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

(b) Applicable benefits

Subsection (a) of this section shall apply to—

(1) a farm ownership loan (FO) under section 1923 of this title;

(2) an operating loan (OL) under section 1942 of this title; and

(3) an emergency loan (EM) under section 1961 of this title.

(Pub. L. 87–128, title III, § 371, as added Pub. L. 103–354, title I, § 119(b), Oct. 13, 1994, 108 Stat. 3208.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 2008g. Payment of interest as condition of loan servicing for borrowers

The Secretary may not reschedule or reamortize a loan for a borrower under this chapter who has not requested consideration under section 1981d(e) of this title unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.

(Pub. L. 87–128, title III, § 372, as added Pub. L. 104–127, title VI, § 648(a), Apr. 4, 1996, 110 Stat. 1104.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008h. Loan and loan servicing limitations

(a) Delinquent borrowers prohibited from obtaining direct operating loans

The Secretary may not make a direct operating loan under subchapter II of this chapter to a borrower who is delinquent on any loan made or guaranteed under this chapter.

(b) Prohibition of loans for borrowers that have received debt forgiveness

(1) Prohibitions

Except as provided in paragraph (2)—

(A) the Secretary may not make a loan under this chapter to a borrower that has received debt forgiveness on a loan made or guaranteed under this chapter; and

(B) the Secretary may not guarantee a loan under this chapter to a borrower that has received—

(i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this chapter; or

(ii) received debt forgiveness on more than 3 occasions on or before April 4, 1996.

(2) Exceptions

(A) In general

The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who—

(i) was restructured with a write-down under section 2001 of this title; or

(ii) is current on payments under a confirmed reorganization plan under chapters[1] 11, 12, or 13 of title 11.

(B) Emergency loans

The Secretary may make an emergency loan under section 1961 of this title to a borrower that—

(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this chapter; and

(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this chapter.

(c) No more than 1 debt forgiveness for borrower on direct loan

The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this chapter if the borrower has received debt forgiveness on another direct loan made under this chapter.

(Pub. L. 87–128, title III, § 373, as added Pub. L. 104–127, title VI, § 648(b), Apr. 4, 1996, 110 Stat. 1104; amended Pub. L. 105–277, div. A, § 101(a) [title VIII, § 801], Oct. 21, 1998, 112 Stat. 2681, 2681–37.)

[1] So in original. Probably should be ''chapter''.

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this chapter to a borrower who received debt forgiveness on a loan made or guaranteed under this chapter.

''(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 2001 of this title.''

§ 2008i. Short form certification of farm program borrower compliance

The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this chapter.

(Pub. L. 87–128, title III, § 374, as added Pub. L. 104–127, title VI, § 649, Apr. 4, 1996, 110 Stat. 1105.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008j. National Sheep Industry Improvement Center

(a) Definitions

In this section:

(1) Board

The term ''Board'' means the Board of Directors established under subsection (f) of this section.

(2) Center

The term ''Center'' means the National Sheep Industry Improvement Center established under subsection (b) of this section.

(3) Eligible entity

The term ''eligible entity'' means an entity that promotes the betterment of the United States sheep or goat industries and that is—

(A) a public, private, or cooperative organization;

(B) an association, including a corporation not operated for profit;

(C) a federally recognized Indian Tribe; or

(D) a public or quasi-public agency.

(4) Fund

The term ''Fund'' means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e) of this section.

(5) Intermediary

The term ''intermediary'' means a financial institution receiving Center funds for establishing a revolving fund and relending to an eligible entity.

(b) Establishment of Center

The Secretary shall establish a National Sheep Industry Improvement Center.

(c) Purposes

The purposes of the Center shall be to—

(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) optimize the use of available human capital and resources within the sheep or goat industries;

(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

(d) Strategic plan

(1) In general

The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

(2) Requirements

A strategic plan shall identify—

(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(C) funding priorities;

(D) selection criteria for funding; and

(E) a method of distributing funding.

(e) Revolving Fund

(1) Establishment

There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

(2) Contents of Fund

There shall be deposited in the Fund—

(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(C) fees and royalties collected by the Center from licensing or other arrangements re-

lating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

(E) donations or contributions accepted by the Center to support authorized programs and activities; and

(F) any other funds acquired by the Center.

(3) Use of Fund

(A) In general

The Center may use amounts in the Fund to make direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted under subsection (d) of this section.

(B) Continued existence

The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c) of this section. The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.

(C) Diverse area

The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

(D) Administration

The Center may not use more than 3 percent of the amounts in the portfolio of the Center for each fiscal year for the administration of the Center. The portfolio shall be calculated at the beginning of each fiscal year and shall include a total of—

(i) all outstanding loan balances;

(ii) the Fund balance;

(iii) the outstanding balance to intermediaries; and

(iv) the amount the Center paid for all equity interests.

(E) Influencing legislation

None of the amounts in the Fund may be used to influence legislation.

(F) Accounting

To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

(G) Uses of Fund

The Center may use amounts in the Fund to—

(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d) of this section, including participation with several States in a regional effort;

(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

(iv) accrue interest;

(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan;

(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center; or

(vii) purchase equity interests.

(4) Loans

(A) Rate

A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

(B) Term

The term of a loan may not exceed the shorter of—

(i) the useful life of the activity financed; or

(ii) 40 years.

(C) Source of repayment

The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

(D) Proceeds

All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

(5) Maintenance of effort

The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

(6) Funding

(A) Deposit of funds

All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

(B) Mandatory funds

Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Center not to exceed $20,000,000 to carry out this section.

(C) Additional funds

In addition to any funds provided under subparagraph (B), there is authorized to be appropriated $30,000,000 to carry out this section.

(f) Board of Directors

(1) In general

The management of the Center shall be vested in a Board of Directors.

(2) Powers

The Board shall—

(A) be responsible for the general supervision of the Center;

(B) review any contract, direct loan, loan guarantee, cooperative agreement, equity interest, investment, repayable grant, and grant to be made or entered into by the Center and any financial assistance provided to the Center;

(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

(3) Composition

The Board shall be composed of—

(A) 7 voting members, of whom—

(i) 4 members shall be active producers of sheep or goats in the United States;

(ii) 2 members shall have expertise in finance and management; and

(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

(B) 2 nonvoting members, of whom—

(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

(4) Nomination

(A) Nominating body

The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

(B) National organizations

A national organization is described in this subparagraph if the organization—

(i) consists primarily of active sheep or goat producers in the United States; and

(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

(5) Term of office

(A) In general

Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

(B) Staggered initial terms

The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

(C) Reappointment

A voting member may be reappointed for not more than one additional term.

(6) Vacancy

(A) In general

A vacancy on the Board shall be filled in the same manner as the original Board.

(B) Reappointment

A voting member appointed to fill a vacancy for an unexpired term may be reappointed for one full term.

(7) Chairperson

(A) In general

The Board shall select a chairperson from among the voting members of the Board.

(B) Term

The term of office of the chairperson shall be 2 years.

(8) Annual meeting

(A) In general

The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1) of this section.

(B) Location

The location of a meeting of the Board shall be established by the Board.

(9) Voting

(A) Quorum

A quorum of the Board shall consist of a majority of the voting members.

(B) Majority vote

A decision of the Board shall be made by a majority of the voting members of the Board.

(10) Conflicts of interest

(A) In general

Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

(i) the member;

(ii) any spouse of the member;

(iii) any child of the member;

(iv) any partner of the member;

(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

(vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

(B) Removal

Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

(C) Validity of action

An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(D) Disclosure

(i) In general

If a member of the Board makes a full disclosure of an interest and, prior to any

participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

(ii) Vote

A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(E) Remands

(i) In general

The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) of this section if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(ii) Reasons

In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

(iii) Conflicted members not to vote on remanded decisions

If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

(11) Compensation

(A) In general

A member of the Board shall not receive any compensation by reason of service on the Board.

(B) Expenses

A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

(12) Bylaws

The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

(13) Public hearings

Not later than 1 year after April 4, 1996, the Board shall hold public hearings on policy objectives of the program established under this section.

(14) Organizational system

The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

(15) Use of Department of Agriculture

The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

(g) Officers and employees

(1) Executive director

(A) In general

The Board shall appoint an executive director to be the chief executive officer of the Center.

(B) Tenure

The executive director shall serve at the pleasure of the Board.

(C) Compensation

Compensation for the executive director shall be established by the Board.

(2) Other officers and employees

The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

(3) Delegation

The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

(h) Consultation

To carry out this section, the Board may consult with—

(1) State departments of agriculture;

(2) Federal departments and agencies;

(3) nonprofit development corporations;

(4) colleges and universities;

(5) banking and other credit-related agencies;

(6) agriculture and agribusiness organizations; and

(7) regional planning and development organizations.

(i) Oversight

(1) In general

The Secretary shall review and monitor compliance by the Board and the Center with this section.

(2) Sanctions

If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

(A) cease making deposits to the Fund;

(B) suspend the authority of the Center to withdraw funds from the Fund; or

(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

(3) Rescission of sanctions

The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.

(j) Privatization

(1) In general

Privatization of a revolving fund for the purposes of assisting the United States sheep and goat industries shall occur on the earlier of—

(A) September 30, 2006; or

(B) the date as of which a total of $30,000,000 has been appropriated for the Center under subsection (e)(6)(C) of this section.

(2) Privatization proposal

On privatization of a revolving fund in accordance with paragraph (1), the Board shall submit to the Secretary, for approval, a privatization proposal that—

(A) delineates a private successor entity to the Center; and

(B) establishes a transition plan.

(3) Private successor entity

The private successor entity shall—

(A) have the purposes described in subsection (c) of this section;

(B) be organized under the laws of one of the States; and

(C) be able to continue the activities of the Center.

(4) Transition plan

The transition plan shall—

(A) identify any continuing role of the Federal Government with respect to the Center;

(B) provide for the transfer of all Center assets and liabilities to the private successor entity; and

(C) delineate the status of the Board and employees of the Center.

(5) Implementation

(A) In general

On approval by the Secretary of the private successor entity and the transition plan, the Center shall create the private successor entity and implement the transition plan.

(B) Authority

The Secretary shall have all necessary authority to implement the transition plan.

(6) Transfer of funds

On creation of the private successor entity, all funds held by the Department of the Treasury pursuant to this section shall be transferred to the private successor entity.

(7) Repeal

On the date the Secretary publishes notice in the Federal Register that the transition plan is complete, this section is repealed.

(Pub. L. 87–128, title III, §375, as added Pub. L. 104–127, title VII, §759, Apr. 4, 1996, 110 Stat. 1132; amended Pub. L. 106–78, title VIII, §816, Oct. 22, 1999, 113 Stat. 1182.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(2)(C), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1999—Subsec. (a)(5). Pub. L. 106–78, §816(a), added par. (5).

Subsec. (e)(3)(A). Pub. L. 106–78, §816(b)(1)(A), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d) of this section.''

Subsec. (e)(3)(B). Pub. L. 106–78, §816(b)(1)(B), inserted at end ''The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.''

Subsec. (e)(3)(D). Pub. L. 106–78, §816(b)(1)(C), (F), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: ''The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.''

Subsec. (e)(3)(E). Pub. L. 106–78, §816(b)(1)(F), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 106–78, §816(b)(1)(D), added subpar. (E) and struck out heading and text of former subpar. (E). Text read as follows: ''The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.''

Subsec. (e)(3)(F) to (H). Pub. L. 106–78, §816(b)(1)(F), redesignated subpars. (G) and (H) as (F) and (G), respectively. Former subpar. (F) redesignated (E).

Subsec. (e)(3)(H)(vii). Pub. L. 106–78, §816(b)(1)(E), added cl. (vii).

Subsec. (e)(6)(D). Pub. L. 106–78, §816(b)(2), struck out heading and text of subpar. (D). Text read as follows: ''No additional Federal funds shall be used to carry out this section beginning on the earlier of—

''(i) the date that is 10 years after April 4, 1996; or

''(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.''

Subsec. (f)(2)(B). Pub. L. 106–78, §816(c)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;''.

Subsec. (f)(5)(C). Pub. L. 106–78, §816(c)(2), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows: ''A voting member may be reelected for not more than 1 additional term.''

Subsec. (f)(6)(B). Pub. L. 106–78, §816(c)(3), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: ''A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.''

Subsec. (j). Pub. L. 106–78, §816(d), added subsec. (j).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917 of this title.

SUBCHAPTER V—RURAL COMMUNITY ADVANCEMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 917 of this title.

§ 2009. Definitions

In this subchapter:

(1) Rural and rural area

The terms ''rural'' and ''rural area'' mean, subject to section 1926(a)(7) of this title, a

city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

(2) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

(3) State director

The term ''State director'' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

(Pub. L. 87–128, title III, § 381A, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139.)

DEFINITION OF RURAL AREAS FOR CERTAIN BUSINESS AND COMMUNITY FACILITIES PROGRAMS

Pub. L. 106–78, title VII, § 730, Oct. 22, 1999, 113 Stat. 1164, provided that: ''Notwithstanding section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009), in fiscal year 2000 and thereafter, the definitions of rural areas for certain business programs administered by the Rural Business-Cooperative Service and the community facilities programs administered by the Rural Housing Service shall be those provided for in statute and regulations prior to the enactment of Public Law 104–127 [Apr. 4, 1996].''

Similar provisions were contained in Pub. L. 105–277, div. A, § 101(a) [title VII, § 735], Oct. 21, 1998, 112 Stat. 2681, 2681–29.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2009a. Establishment

The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

(Pub. L. 87–128, title III, § 381B, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009b. National objectives

The national objectives of the program established under this subchapter shall be to—

(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

(2) optimize the use of resources;

(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

(5) adopt flexible and innovative approaches to solving rural development problems.

(Pub. L. 87–128, title III, § 381C, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009c. Strategic plans

(a) In general

The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

(1) for each State for the delivery of assistance under this subchapter in the State; and

(2) for each federally recognized Indian tribe for the delivery of assistance under this subchapter to the Indian tribe.

(b) Assistance

(1) In general

Financial assistance for rural development provided under this subchapter for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

(2) Rural area

Assistance under this subchapter may only be provided in a rural area.

(3) Small communities

In carrying out this subchapter in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

(c) Review

The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

(d) Contents

A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recog-

nized Indian tribes in the State, and community-based organizations;

(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

(6) includes such other information as may be required by the Secretary.

(Pub. L. 87–128, title III, § 381D, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1140.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 950aaa–2, 2009f, 2009*l* of this title.

§ 2009d. Rural Development Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subchapter referred to as the ''Trust Fund'').

(b) Accounts

There are established in the Trust Fund the following accounts:

(1) The rural community facilities account.

(2) The rural utilities account.

(3) The rural business and cooperative development account.

(4) The national reserve account.

(5) The federally recognized Indian tribe account.

(c) Deposits into accounts

Notwithstanding any other provision of law, each fiscal year—

(1) all amounts made available to carry out the authorities described in subsection (d)(1) of this section for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

(2) all amounts made available to carry out the authorities described in subsection (d)(2) of this section for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

(3) all amounts made available to carry out the authorities described in subsection (d)(3) of this section for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

(d) Function categories

The function categories described in this subsection are the following:

(1) Rural community facilities

The rural community development category consists of all amounts made available for—

(A) community facility direct and guaranteed loans under section 1926(a)(1) of this title; or

(B) community facility grants under section 1926(a)(19) of this title.

(2) Rural utilities

The rural utilities category consists of all amounts made available for—

(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 1926(a) of this title;

(B) rural water or wastewater technical assistance and training grants under section 1926(a)(14) of this title;

(C) emergency community water assistance grants under section 1926a of this title; or

(D) solid waste management grants under section 1932(b) of this title.

(3) Rural business and cooperative development

The rural business and cooperative development category consists of all amounts made available for—

(A) rural business opportunity grants under section 1926(a)(11)(A) of this title;

(B) business and industry direct and guaranteed loans under section 1932(a)(1) of this title; or

(C) rural business enterprise grants or rural educational network grants under section 1932(c) of this title.

(e) National reserve account

(1) Transfers into account

(A) Initial transfer

Each fiscal year, the Secretary shall transfer to the national reserve account of the Trust Fund from each account specified in subsection (c) of this section not more than the applicable percentage of the amount deposited in each such account for the fiscal year under subsection (c) of this section.

(B) Repooling of unobligated funds allocated among the States

Not earlier than July 15 of each fiscal year, the Secretary shall transfer to the national reserve account from each account specified in subsection (c) of this section any amount in the account that is allocated for any State, and has not been obligated by the State director or obligated for specific approved projects in the State.

(2) Use

The Secretary may use amounts in the national reserve account of the Trust Fund, pursuant to any authority described in subsection (d) of this section—

(A) in the case of a fiscal year other than fiscal year 2001 or 2002—

(i) to meet situations of exceptional need;

(ii) to meet emergency situations; or

(iii) to provide funds to entities whose applications for funds provided under this subchapter have been approved and who have not received funds sufficient to meet the needs of the projects described in the applications; or

(B) in the case of fiscal years 2001 and 2002—

(i) to meet situations of exceptional need; or

(ii) to meet emergency situations.

(3) "Applicable percentage" defined

In paragraph (1), the term ''applicable percentage'' means, with respect to a fiscal year—

(A) 15 percent for fiscal year 1997;

(B) 12.5 percent for fiscal year 1998;

(C) 10 percent for fiscal year 1999;

(D) 7.5 percent for fiscal year 2000;

(E) 5 percent for fiscal year 2001; and
(F) 5 percent for fiscal year 2002.

(f) Federally recognized Indian tribe account

(1) Transfers into account

Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d) of this section.

(2) Use of funds

The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d) of this section.

(g) Allocation among States

The Secretary shall allocate the amounts in each account specified in subsection (c) of this section among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

(h) Availability of funds allocated for States

The Secretary shall make available to each State the total amount allocated for the State under subsection (g) of this section that remains after applying section 2009f of this title.

(Pub. L. 87–128, title III, § 381E, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1140; amended Pub. L. 105–86, title III, Nov. 18, 1997, 111 Stat. 2094.)

AMENDMENTS

1997—Subsec. (d)(3)(B). Pub. L. 105–86 inserted ''direct and'' after ''business and industry''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2009e, 2009f of this title.

§ 2009e. Transfers of funds

(a) General authority

Subject to subsection (b) of this section, the State Director[1] of any State may, during any fiscal year, transfer from each account specified in section 2009d(c) of this title a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

(b) Limitation

Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 2009d(d) of this title for the fiscal year.

(c) Exceptions

Subsections (a) and (b) of this section shall not apply to a transfer of funds by a State director if the State director certifies to the Secretary that—

(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

(Pub. L. 87–128, title III, § 381F, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1142.)

§ 2009f. Grants to States

(a) Simple grants

(1) Mandatory grant

The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 2009d(g) of this title.

(2) Permissive grant

Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 2009g of this title in an amount that does not exceed 5 percent of the total amount allocated for the State under section 2009d(g) of this title.

(3) Source of funds

The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 2009d(c) of this title, by reducing each such allocated amount by the same percentage.

(b) Matching grants

(1) In general

Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 2009d(h) of this title.

(2) Eligibility

A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

(A) expend from non-Federal sources in accordance with subsection (c) of this section an amount that is not less than 200 percent of the amount of the grant; and

(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c) of this section.

[1] So in original. Probably should not be capitalized.

(3) Source of funds

If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 2009d(c) of this title for the fiscal year, by reducing each allocated amount by the same percentage.

(c) Use of funds

A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 2009d(d) of this title in accordance with the State strategic plan referred to in section 2009c of this title.

(d) Maintenance of effort

The State shall provide assurances to the Secretary that funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.

(e) Appeals

The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

(f) Administrative costs

Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subchapter.

(g) Expenditure of funds by State

(1) In general

Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

(2) Failure to obligate

If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

(3) Noncompliance

(A) Review

The Secretary shall review and monitor State compliance with this section.

(B) Penalty

If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

(i) the Secretary shall notify the State of the finding; and

(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

(C) Other sanctions

In the case of a finding of noncompliance made pursuant to subparagraph (B), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

(h) No entitlement to contract, grant, or assistance

Nothing in this subchapter—

(1) entitles any person to assistance or a contract or grant; or

(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

(Pub. L. 87–128, title III, § 381G, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2009d, 2009g of this title.

§ 2009g. Guarantee and commitment to guarantee loans

(a) "Eligible public entity" defined

In this section, the term ''eligible public entity'' means any unit of general local government.

(b) Guarantee and commitment

The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 2009f of this title.

(c) Limitation

The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A) of this section) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 2009f of this title.

(d) Payment of principal, interest, and costs

Notwithstanding any other provision of this subchapter, a State to which a grant is made under section 2009f of this title may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

(e) Repayment contract; security

(1) In general

To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

(B) pledge any grant for which the issuer may become eligible under this subchapter; and

(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

(2) Security

To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subchapter as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

(f) Pledged grants for repayments

Notwithstanding any other provision of this subchapter, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) of this section to any repayments due the United States as a result of the guarantees.

(g) Outstanding obligations

The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) of this section shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

(h) Purchase of guaranteed obligations by Federal Financing Bank

Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

(i) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

(Pub. L. 87–128, title III, § 381H, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1145.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2009f of this title.

§ 2009h. Local involvement

An application for assistance under this subchapter shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

(Pub. L. 87–128, title III, § 381I, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009i. Interstate collaboration

The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subchapter.

(Pub. L. 87–128, title III, § 381J, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009j. Annual report

(a) In general

The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subchapter.

(b) Submission

Not later than March 1 of each year, the Secretary shall—

(1) submit the report required by subsection (a) of this section to Congress and the chief executives of the States participating in the program established under this subchapter; and

(2) make the report available to State and local participants.

(Pub. L. 87–128, title III, § 381K, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009k. Rural development interagency working group

(a) In general

The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

(b) Duties

The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

(Pub. L. 87–128, title III, § 381L, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009*l*. Duties of Rural Economic and Community Development State Offices

In carrying out this subchapter, the Director of a Rural Economic and Community Development State Office shall—

(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 2009c of this title is implemented;

(2) coordinate community development objectives within the State;

(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

(5) integrate State development programs with assistance under this subchapter.

(Pub. L. 87–128, title III, § 381M, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009m. Electronic transfer

The Secretary shall transfer funds in accordance with this subchapter through electronic transfer as soon as practicable after April 4, 1996.

(Pub. L. 87–128, title III, § 381N, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1147.)

§ 2009n. Rural venture capital demonstration program

(a) In general

The Secretary may designate for each fiscal year up to 10 community development venture capital organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

(b) Rural business investment pool

(1) Establishment

To be eligible to participate in the demonstration program, an organization referred to in subsection (a) of this section shall establish a rural business private investment pool (referred to in this subsection as a ''pool'') for the purpose of making equity investments in rural private business enterprises.

(2) Guarantee

From amounts in the national reserve account of the Trust Fund, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool.

(3) Amount

The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002.

(4) Term

The term of a guarantee provided under this subsection shall not exceed 10 years.

(5) Submission of plan

To be eligible to participate in the demonstration program, an organization referred to in subsection (a) of this section shall submit a plan that describes—

(A) potential sources and uses of the pool to be established by the organization;

(B) the utility of the guarantee authority in attracting capital for the pool; and

(C) on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and businesses of the existence of the pool.

(6) Competition

(A) In general

The Secretary shall conduct a competition for the designation and establishment of pools.

(B) Priority

In conducting the competition, the Secretary shall give priority to organizations that—

(i) have a demonstrated record of performance, or have a board and executive director with experience, in venture capital, small business equity investment, or community development finance;

(ii) propose to serve low-income communities;

(iii) propose to maintain an average investment of not more than $500,000 from the pool of the organization;

(iv) invest funds statewide or in a multicounty region; and

(v) propose to target job opportunities resulting from the investments primarily to economically disadvantaged individuals, as determined by the Secretary.

(C) Geographic diversity

To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.

(Pub. L. 87–128, title III, § 381O, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1147.)

CHAPTER 51—FOOD STAMP PROGRAM

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2270, 3175a, 3175b of this title; title 8 sections 1255a, 1612; title 21 section 862a; title 26 sections 32, 51, 6103, 6109; title 29 sections 49b, 1503, 1645, 2801; title 42 sections 405, 503, 608, 608a, 1314a, 1320b–7, 1382, 1383, 1437f, 1758, 1766, 1786, 3012, 3056g, 3058e, 3058k, 5179, 8622, 8624, 9858i; title 43 section 1626; title 48 section 1841.

§ 2011. Congressional declaration of policy

It is declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(Pub. L. 88–525, § 2, Aug. 31, 1964, 78 Stat. 703; Pub. L. 91–671, § 1, Jan. 11, 1971, 84 Stat. 2048; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958.)

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1977—Pub. L. 95–113 substituted ''a more nutritious diet'' for ''a nutritionally adequate diet'' as the object of the program.

1971—Pub. L. 91–671 provided for cooperation in utilization of Nation's abundance of food by other agencies, struck out ''to the maximum extent practicable'' be-

fore ''to safeguard the health'', enunciated finding that limited food purchasing power of low-income households contributes to hunger and malnutrition, and substituted ''promote the distribution'' for ''will tend to cause the distribution'' and authorization of a program (to alleviate hunger and malnutrition) which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade for prior authorization of a program (to effectuate policy of Congress and purposes of this chapter) which will permit such households to receive a greater share of Nation's abundance of food.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–225, § 1, Mar. 25, 1994, 108 Stat. 106, provided that: ''This Act [amending sections 2012, 2014 to 2016, 2018, and 2026 of this title, enacting provisions set out as notes under section 2012 of this title, and repealing provisions set out as notes under sections 2015 and 2016 of this title] may be cited as the 'Food Stamp Program Improvements Act of 1994'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–66, title XIII, § 13901(a), Aug. 10, 1993, 107 Stat. 672, provided that: ''This chapter [chapter 3 (§§ 13901–13971) of title XIII of Pub. L. 103–66, amending sections 2012, 2014, 2015, 2017, 2020 to 2023, 2025, 2026, and 2028 of this title, and enacting provisions set out as a note under section 2025 of this title] may be cited as the 'Mickey Leland Childhood Hunger Relief Act'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XVII, § 1701, Nov. 28, 1990, 104 Stat. 3783, provided that: ''This title [enacting section 2032 of this title, amending sections 1431, 1431e, 2012, 2014 to 2018, 2020 to 2022, 2024 to 2028, 3175, and 3175e of this title, section 6109 of Title 26, Internal Revenue Code, and sections 405 and 9904 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 612c, 2012, 2014, 2020, 2025, and 2028 of this title and section 1751 of Title 42, and amending provisions set out as notes under sections 612c and 2012 of this title] may be cited as the 'Mickey Leland Memorial Domestic Hunger Relief Act'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–435, § 1(a), Sept. 19, 1988, 102 Stat. 1645, provided that: ''This Act [amending sections 2012, 2014 to 2017, 2020 to 2023, 2025, and 2026 of this title, section 713a–14 of Title 15, Commerce and Trade, and sections 1761, 1766, 1773, and 1786 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 612c and 2012 of this title and sections 1766 and 1786 of Title 42, and amending provisions set out as notes under sections 612c, 1731, and 2012 of this title] may be cited as the 'Hunger Prevention Act of 1988'.''

Pub. L. 100–232, § 1, Jan. 5, 1988, 101 Stat. 1566, provided that: ''This Act [amending section 2014 of this title and enacting provisions set out as a note under section 612c of this title] may be cited as the 'Charitable Assistance and Food Bank Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–570, title XI, § 11001, Oct. 27, 1986, 100 Stat. 3207–167, provided that: ''This title [amending sections 2012, 2018 and 2019 of this title, sections 1531 and 1603 of Title 29, Labor, sections 3003 and 3020 [now 5103 and 5120] of Title 38, Veterans' Benefits, and sections 1383 and 1396a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 2012 of this title, sections 5103 and 5120 of Title 38, and sections 602, 1383 and 1396a of Title 42] may be cited as the 'Homeless Eligibility Clarification Act'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–253, title I, § 140, Sept. 8, 1982, 96 Stat. 772, provided that: ''This subtitle [subtitle E (§§ 140–193) of title I of Pub. L. 97–253, amending sections 2012, 2014, 2015, 2016, 2017, 2018, 2020, 2021, 2022, 2023, 2025, 2026, 2027, 2028, and 2029 of this title and enacting provisions set out as notes under sections 1624, 2012, and 2028 of this title] may be cited as the 'Food Stamp Act Amendments of 1982'.''

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–98, title XIII, § 1301, Dec. 22, 1981, 95 Stat. 1282, provided that: ''This title [enacting sections 2029 and 2270 of this title, amending sections 2012, 2014 to 2016, 2018 to 2020, and 2023 to 2027 of this title, enacting a provision set out as a note under section 2012 of this title, and amending provisions set out as notes under section 612c of this title] may be cited as the 'Food Stamp and Commodity Distribution Amendments of 1981'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–249, § 1, May 26, 1980, 94 Stat. 357, provided: ''That this Act [amending sections 2012, 2014, 2015, 2019, 2020, and 2024 to 2027 of this title, sections 6103 and 7213 of Title 26, Internal Revenue Code, and sections 503 and 504 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 2014 and 2026 of this title, section 6103 of Title 26, and section 503 of Title 42] may be cited as the 'Food Stamp Act Amendments of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–339, § 1, July 5, 1976, 90 Stat. 799, provided: ''That this Act [amending sections 2012, 2015, and 2016 of this title] may be cited as the 'Emergency Food Stamp Vendor Accountability Act of 1976'.''

SHORT TITLE

Section 1 of Pub. L. 88–525, as amended by Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958, provided that: ''This Act [this chapter] may be cited as the 'Food Stamp Act of 1977'.''

STUDY OF NATIONAL DATABASE FOR FEDERAL MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS

Pub. L. 105–379, § 2, Nov. 12, 1998, 112 Stat. 3399, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs.

''(b) ADMINISTRATION.—In conducting the study, the Secretary shall—

''(1) analyze available data to determine—

''(A) whether the data have addressed the needs of the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

''(B) whether additional or unique data need to be developed to address the needs of the food stamp program; and

''(C) the feasibility and cost-benefit ratio of each available option for a national database;

''(2) survey the States to determine how the States are enforcing the prohibition on recipients receiving assistance in more than one State under Federal means-tested public assistance programs;

''(3) determine the functional requirements of each available option for a national database; and

''(4) ensure that all options provide safeguards to protect against the unauthorized use or disclosure of information in the national database.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 12, 1998], the Secretary shall submit to Congress a report on the results of the study conducted under this section.

''(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treas-

ury shall provide to the Secretary of Agriculture $500,000 to carry out this section. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.''

WELFARE SIMPLIFICATION AND COORDINATION ADVISORY COMMITTEE

Pub. L. 101–624, title XVII, § 1778, Nov. 28, 1990, 104 Stat. 3814, provided that:

''(a) APPOINTMENT AND MEMBERSHIP.—

''(1) ESTABLISMENT [sic].—There is established an Advisory Committee on Welfare Simplification and Coordination (hereafter in this section referred to as the 'Committee') consisting of not fewer than 7, nor more than 11, members appointed by the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary'), after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, and with the advice of State and local officials responsible for administering the food stamp program, cash and medical assistance programs for low-income families and individuals under the Social Security Act [42 U.S.C. 301 et seq.], and programs providing housing assistance to needy families and individuals, and representatives of recipients and recipient advocacy organizations associated with such programs.

''(2) QUALIFICATIONS.—The members of the Committee shall be individuals who are familiar with the rules, goals, and limitations of Federal food stamp, cash, medical, and housing assistance programs for low-income families and individuals, and may include individuals who have demonstrated expertise in evaluating the operations of and interaction among such programs as they affect administrators and recipients, persons who have experience in administering such programs at the Federal, State, or local level, and representatives of administrators and recipients affected by such programs.

''(b) PURPOSE.—It shall be the purpose of the Committee, in consultation, where appropriate, with program administrators and representatives of recipients—

''(1) to identify the significant policies implemented in the food stamp program, cash and medical assistance programs under the Social Security Act [42 U.S.C. 301 et seq.], and housing assistance programs (whether resulting from law, regulations, or administrative practice) that, because they differ substantially, make it difficult for those eligible to apply for and obtain benefits from more than one program and restrict the ability of administrators of such programs to provide efficient, timely, and appropriate benefits to those eligible for more than one type of assistance, drawing, where appropriate, on previous efforts to coordinate and simplify such programs and policies;

''(2) to examine the major reasons for such different programs and policies;

''(3) to evaluate how and the extent to which such different programs and policies hinder, to a significant degree, the receipt of benefits from more than one program and substantially restrict administrators' ability to provide efficient, timely, and appropriate benefits;

''(4) to recommend common or simplified programs and policies (including recommendations for changes in law, regulations, and administrative practice and for policies that do not currently exist in such programs) that would substantially reduce difficulties in applying for and obtaining benefits from more than one program and significantly increase the ability of administrators of such programs to efficiently provide timely and appropriate assistance to those eligible for more than one type of assistance; and

''(5) to describe the major effects of such common or simplified programs and policies (including how such common or simplified programs and policies would enhance or conflict with the purposes of such programs, how they would ease burdens on administrators and recipients, how they would affect program costs and participation, and the degree to which they would change the relationships between the Federal Government and the States in such programs) and the reasons for recommending such programs and policies (including reasons, if any, that might be sufficient to override special rules derived from the purposes of individual programs).

''(c) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Committee with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

''(d) REIMBURSEMENT.—Members of the Committee shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by such members in the performance of the duties of the Committee.

''(e) REPORTS.—Not later than July 1, 1993, the Committee shall prepare and submit, to the appropriate committees of Congress, the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development a final report, including recommendations for common or simplified programs and policies and the effects of and reasons for such programs and policies and may submit interim reports, including reports on common or simplified programs and policies covering less than the complete range of programs and policies under review, to the committees and such Secretaries as deemed appropriate by the Committee.''

RULES

Pub. L. 99–198, title XV, § 1583, Dec. 23, 1985, 99 Stat. 1595, provided that: ''Not later than April 1, 1987, the Secretary shall issue rules to carry out the amendments made by this title [amending sections 612c, 1431e, 2012 to 2023, and 2025 to 2029 of this title, section 49b of Title 29, Labor, and section 503 of Title 42, The Public Health and Welfare, and amending provisions set out as notes under section 612c of this title].''

IMPLEMENTATION OF 1977 AMENDMENT; SAVINGS PROVISION; AVAILABILITY OF APPROPRIATED FUNDS; REPORT

Section 1303 of Pub. L. 95–113, as amended by Pub. L. 97–375, title I, § 103(a), Dec. 21, 1982, 96 Stat. 1819, provided that:

''(a) The Secretary of Agriculture shall implement the Food Stamp Act of 1977 [this chapter as amended by Pub. L. 95–113] as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended [this chapter prior to amendment by Pub. L. 95–113], which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977. Coupons issued pursuant to the Food Stamp Act of 1964, as amended, and in general use as of the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977], shall continue to be usable to purchase food, and all other liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1964, as amended, shall continue in force until finally resolved or terminated by administrative or judicial action, or otherwise.

''(b) Pending proceedings under the Food Stamp Act of 1964, as amended, shall not be abated by reason of any provision of the Food Stamp Act of 1977, but shall be disposed of pursuant to the applicable provisions of the Food Stamp Act of 1964, as amended, in effect prior to the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977].

''(c) Appropriations made available to carry out the Food Stamp Act of 1964, as amended, shall be available to carry out the provisions of the Food Stamp Act of 1977.

''(d) [Repealed. Pub. L. 97–375, title I, § 103(a), Dec. 1, 1982, 96 Stat. 1819.]''

§ 2012. Definitions

As used in this chapter, the term:

(a) ''Allotment'' means the total value of coupons a household is authorized to receive during each month.

(b) ''Authorization card'' means the document issued by the State agency to an eligible household which shows the allotment the household is entitled to be issued.

(c) ''Certification period'' means the period for which households shall be eligible to receive authorization cards. The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.

(d) ''Coupon'' means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number, issued pursuant to the provisions of this chapter.

(e) ''Coupon issuer'' means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of coupons to households.

(f) ''Drug addiction or alcoholic treatment and rehabilitation program'' means any such program conducted by a private nonprofit organization or institution, or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to provide treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(g) ''Food'' means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics, and their children, served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence, (7) in the case of disabled or blind recipients of benefits under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], or are[1] individuals described in paragraphs (2) through (7) of subsection (r) of this section, who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)] or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section, meals prepared and served under such arrangement, (8) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served, by such shelters, and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices.

(h) ''Food stamp program'' means the program operated pursuant to the provisions of this chapter.

(i) ''Household'' means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption. Spouses who live together, parents and their children 21 years of age or younger who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so. Notwithstanding the preceding sentences, an individual who lives with others, who is sixty years of age or older,

[1] So in original. The word ''are'' probably should not appear.

and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 2014(d) of this title) of the others, excluding the spouse, does not exceed the poverty line, as described in section 2014(c)(1) of this title, by more than 65 per centum. In no event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house, or else live with others and pay compensation to the others for meals. For the purposes of this subsection, residents of federally subsidized housing for the elderly, disabled or blind recipients of benefits under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], or are[1] individuals described in paragraphs (2) through (7) of subsection (r) of this section, who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)] or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section, temporary residents of public or private nonprofit shelters for battered women and children, residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons, and narcotics addicts or alcoholics, together with their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households.

(j) ''Reservation'' means the geographically defined area or areas over which a tribal organization (as that term is defined in subsection (p) of this section) exercises governmental jurisdiction.

(k) ''Retail food store'' means—

(1) an establishment or house-to-house trade route that sells food for home preparation and consumption and—

(A) offers for sale, on a continuous basis, a variety of foods in each of the 4 categories of staple foods specified in subsection (u)(1) of this section, including perishable foods in at least 2 of the categories; or

(B) has over 50 percent of the total sales of the establishment or route in staple foods,

as determined by visual inspection, sales records, purchase records, counting of stockkeeping units, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry;

(2) an establishment, organization, program, or group living arrangement referred to in subsections (g)(3), (4), (5), (7), (8), and (9) of this section;

(3) a store purveying the hunting and fishing equipment described in subsection (g)(6) of this section; and

(4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

(*l*) ''Secretary'' means the Secretary of Agriculture.

(m) ''State'' means the fifty States, the District of Columbia, Guam, the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this chapter for participation as a State agency.

(n) ''State agency'' means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering a food distribution program under section 2013(b) of this title or a food stamp program under section 2020(d) of this title.

(*o*) ''Thrifty food plan'' means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall—

(1) make household-size adjustments (based on the unrounded cost of such diet) taking into account economies of scale;

(2) make cost adjustments in the thrifty food plan for Hawaii and the urban and rural parts of Alaska to reflect the cost of food in Hawaii and urban and rural Alaska;

(3) make cost adjustments in the separate thrifty food plans for Guam, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia; and

(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.

(p) ''Tribal organization'' means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term ''Indian tribe'' is defined in the Indian Self-Determination Act

(25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

(q) ''Allowable medical expenses'' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.

(r) ''Elderly or disabled member'' means a member of a household who—

(1) is sixty years of age or older;

(2)(A) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or Federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93–66 (42 U.S.C. 1382 note), or

(B) receives Federally or State administered supplemental assistance of the type described in section 1616(a) of the Social Security Act (42 U.S.C. 1382e(a)), interim assistance pending receipt of supplemental security income, disability-related medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or disability-based State general assistance benefits, if the Secretary determines that such benefits are conditioned on meeting disability or blindness criteria at least as stringent as those used under title XVI of the Social Security Act;

(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.] or receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i));

(4) is a veteran who—

(A) has a service-connected or non-service-connected disability which is rated as total under title 38; or

(B) is considered in need of regular aid and attendance or permanently housebound under such title;

(5) is a surviving spouse of a veteran and—

(A) is considered in need of regular aid and attendance or permanently housebound under title 38; or

(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i));

(6) is a child of a veteran and—

(A) is considered permanently incapable of self-support under section 1314 of title 38; or

(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

(7) is an individual receiving an annuity under section 2(a)(1)(iv) or 2(a)(1)(v) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)(1)(iv) or 231a(a)(1)(v)), if the individual's service as an employee under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], after December 31, 1936, had been included in the term ''employment'' as defined in the Social Security Act [42 U.S.C. 301 et seq.], and if an application for disability benefits had been filed.

(s) ''Homeless individual'' means—

(1) an individual who lacks a fixed and regular nighttime residence; or

(2) an individual who has a primary nighttime residence that is—

(A) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(B) an institution that provides a temporary residence for individuals intended to be institutionalized;

(C) a temporary accommodation for not more than 90 days in the residence of another individual; or

(D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(t) ''Access device'' means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this chapter.

(u)(1) Except as provided in paragraph (2), ''staple foods'' means foods (as defined in subsection (g) of this section) in the following categories:

(A) Meat, poultry, or fish.

(B) Bread or cereals.

(C) Vegetables or fruits.

(D) Dairy products.

(2) ''Staple foods'' do not include accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices.

(Pub. L. 88–525, § 3, Aug. 31, 1964, 78 Stat. 703; Pub. L. 91–671, § 2, Jan. 11, 1971, 84 Stat. 2048; Pub. L. 92–603, title IV, § 411(a), (b), Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93–86, § 3(a)–(c), (*l*), (*o*), (p), Aug. 10, 1973, 87 Stat. 246, 248, 249; Pub. L. 93–125, § 1(h), Oct. 18, 1973, 87 Stat. 450; Pub. L. 94–339, § 4, July 5, 1976, 90 Stat. 801; Pub. L. 95–113, title

XIII, §§1301, 1302(a)(1), Sept. 29, 1977, 91 Stat. 958, 979; Pub. L. 96–58, §§3, 7, Aug. 14, 1979, 93 Stat. 390, 392; Pub. L. 96–181, §15(b), Jan. 2, 1980, 93 Stat. 1316; Pub. L. 96–249, title I, §§101(a), 111, 135, May 26, 1980, 94 Stat. 357, 360, 369; Pub. L. 97–35, title I, §§101–103, 108(a), 116(a)(1), Aug. 13, 1981, 95 Stat. 358, 361, 364; Pub. L. 97–98, title XII, §§1302–1304, Dec. 22, 1981, 95 Stat. 1282; Pub. L. 97–253, title I, §§142, 143(a), 144, 145(a), (b), Sept. 8, 1982, 96 Stat. 772–774; Pub. L. 98–204, §3, Dec. 2, 1983, 97 Stat. 1385; Pub. L. 99–198, title XV, §§1501(a), 1502–1504, Dec. 23, 1985, 99 Stat. 1566; Pub. L. 99–570, title XI, §11002(a)–(c), Oct. 27, 1986, 100 Stat. 3207–167, 3207–168; Pub. L. 100–77, title VIII, §§801, 802(a), July 22, 1987, 101 Stat. 533, 534; Pub. L. 100–435, title I, §120, title III, §350, Sept. 19, 1988, 102 Stat. 1655, 1664; Pub. L. 101–624, title XVII, §§1712, 1713(a), 1747(b), Nov. 28, 1990, 104 Stat. 3783, 3796; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–237, title IX, §§901, 941(1), Dec. 13, 1991, 105 Stat. 1884, 1891; Pub. L. 102–351, §1, Aug. 26, 1992, 106 Stat. 937; Pub. L. 103–66, title XIII, §§13931, 13932, Aug. 10, 1993, 107 Stat. 676; Pub. L. 103–225, title I, §101(b)(1), title II, §201, Mar. 25, 1994, 108 Stat. 107, 108; Pub. L. 103–354, title III, §303(a), Oct. 13, 1994, 108 Stat. 3239; Pub. L. 104–193, title VIII, §§801–805, Aug. 22, 1996, 110 Stat. 2308, 2309.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (f), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part B of title XIX of the Act is classified generally to part B (§300x et seq.) of subchapter XVII of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Social Security Act, referred to in subsecs. (g), (i), (q), and (r), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42. Titles I, II, X, XIV, XVI, XVIII, and XIX of the Social Security Act are classified generally to subchapters I (§301 et seq.), II (§401 et seq.), X (§1201 et seq.), XIV (§1351 et seq.), XVI (§1381 et seq.), XVIII (§1395 et seq.), and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination Act (25 U.S.C. 450b(b)), referred to in subsec. (p), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. Section 450b of Title 25 was amended generally by Pub. L. 100–472, title I, §103, Oct. 5, 1988, 102 Stat. 2286, and, as so amended, subsec. (b) of such section no longer defines the term ''Indian tribe''. However, such term is defined elsewhere in that section. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (r)(7), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–193, §801, substituted second and third sentences containing provisions relating to limits on certification period and requirement of yearly contact with household for provisions setting limits to certification period for households required to submit periodic reports, households whose members all receive federal assistance grant, households of unemployable, elderly or primarily self-employed individuals, and all other households, and allowing waivers.

Subsec. (d). Pub. L. 104–193, §802, substituted ''type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number,'' for ''or type of certificate''.

Subsec. (i). Pub. L. 104–193, §803, in second sentence, struck out ''(who are not themselves parents living with their children or married and living with their spouses)'' after ''age or younger''.

Subsec. (*o*). Pub. L. 104–193, §804, in second sentence, substituted ''the Secretary shall—'' for ''the Secretary shall'', realigned margins of pars. (1) to (3), substituted semicolon for comma at end of pars. (1) and (2) and ''; and'' for comma at end of par. (3), added par. (4), and struck out former pars. (4) to (11) which authorized adjustment of cost of thrifty food plan diet to reflect changes in cost of food constituting diet for period from Jan. 1, 1980, to Oct. 1, 1990, and each Oct. 1 thereafter, and prohibited Secretary from reducing cost of such diet on Oct. 1, 1992, and, in case of households residing in Alaska, on Oct. 1, 1994.

Subsec. (s)(2)(C). Pub. L. 104–193, §805, inserted ''for not more than 90 days'' after ''temporary accommodation''.

1994—Subsec. (c). Pub. L. 103–225, §101(b)(1), substituted ''Except as provided in section 2015(c)(1)(C) of this title, for'' for ''For''.

Subsec. (k). Pub. L. 103–225, §201(1), realigned margins of pars. (1) to (4), substituted semicolon for comma at end of pars. (2) and (3), and substituted ''means—'' for ''means'' and par. (1) for former par. (1) which read as follows: ''an establishment or recognized department thereof or house-to-house trade route, over 50 per centum of whose food sales volume, as determined by visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry, consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices,''.

Subsec. (*o*)(11). Pub. L. 103–354 inserted ''and (in the case of households residing in Alaska) on October 1, 1994,'' after ''1992,''.

Subsec. (u). Pub. L. 103–225, §201(2), added subsec. (u).

1993—Subsec. (g)(5). Pub. L. 103–66, §13932(2), inserted '', and their children,'' after ''or alcoholics''.

Subsec. (i). Pub. L. 103–66, §13932(1), in last sentence inserted '', together with their children,'' after ''narcotics addicts or alcoholics''.

Pub. L. 103–66, §13931, in first sentence, substituted ''or (2) a group of individuals'' for ''(2) a group of individuals'' and substituted a period for '', '' after end of cl. (2), inserted ''Spouses who live together, parents and their children 21 years of age or younger (who are not themselves parents living with their children or married and living with their spouses) who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control'' before ''shall be treated as a group of individuals'' to create new second sentence and struck out '', unless one of the parents, or siblings, is an elderly or disabled member'' after ''if they do not do so'', and in next sentence substituted ''Notwithstanding the preceding sentences'' for ''Notwithstanding clause (1) of the preceding sentence''.

1992—Subsec. (*o*)(11). Pub. L. 102–351 inserted before period at end '', except that on October 1, 1992, the Secretary may not reduce the cost of such diet''.

1991—Subsecs. (g)(7), (i). Pub. L. 102–237, §901, inserted '', or are individuals described in paragraphs (2)

through (7) of subsection (r) of this section,'' after ''title I, II, X, XIV, or XVI of the Social Security Act''.

Subsec. (j). Pub. L. 102–237, §941(1)(A), made technical amendment to reference to subsection (p) of this section involving corresponding provision of original act.

Subsec. (*o*)(6). Pub. L. 102–237, §941(1)(B), substituted ''percent'' for ''per centun'' [sic].

Subsec. (r)(6)(A). Pub. L. 102–83 substituted ''section 1314 of title 38'' for ''section 414 of title 38''.

Subsecs. (t), (u). Pub. L. 102–237, §941(1)(C), redesignated subsec. (u) as (t).

1990—Subsec. (g)(3). Pub. L. 101–624, §1712(a)(1), substituted ''or disability or blindness payments under title I, II, X, XIV, or XVI'' for ''under title XVI''.

Subsec. (g)(7). Pub. L. 101–624, §1712(a)(2), substituted ''title I, II, X, XIV, or XVI'' for ''title II or title XVI'', and inserted ''or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section''.

Subsec. (g)(9). Pub. L. 101–624, §1713(a), substituted ''individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices'' for ''individuals and by a public or private nonprofit shelter (approved by an appropriate State or local agency) in which such households temporarily reside (except that such establishments and shelters may only request voluntary use of food stamps by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter).''

Subsec. (i). Pub. L. 101–624, §1712(b), substituted ''title I, II, X, XIV, or XVI'' for ''title II or title XVI'', and inserted ''or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section''.

Subsec. (u). Pub. L. 101–624, §1747(b), added subsec. (u).

1988—Subsec. (*o*). Pub. L. 100–435, §120, inserted ''through October 1, 1987'' in cl. (8) and substituted cls. (9) to (11) for proviso that periods upon which adjustments are based would be subject to revision by Act of Congress.

Subsec. (r)(2). Pub. L. 100–435, §350, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), federally or State administered supplemental benefits of the type described in section 1616(a) of the Social Security Act if the Secretary determines that such benefits are conditioned on meeting the disability or blindness criteria used under title XVI of the Social Security Act, or federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93–66 (42 U.S.C. 1382 note);''.

1987—Subsec. (i). Pub. L. 100–77, §802(a), substituted ''(2)'' for ''or (2)'', inserted cl. (3), and inserted ''(other than as provided in clause (3))'' after ''except that''.

Subsec. (s). Pub. L. 100–77, §801, added subsec. (s).

1986—Subsec. (g). Pub. L. 99–570, §11002(a), substituted ''(8), and (9)'' for ''and (8)'' in cl. (1) and added cl. (9).

Subsec. (i). Pub. L. 99–570, §11002(b), inserted ''residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons,''.

Subsec. (k). Pub. L. 99–570, §11002(c), substituted ''(8), and (9)'' for ''and (8)''.

1985—Subsec. (f). Pub. L. 99–198, §1501(a)(1), substituted '', or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to provide'' for ''which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91–616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970) and Public Law 92–255 (Drug Abuse Prevention, Treatment, and Rehabilitation Act) as providing''.

Subsec. (i). Pub. L. 99–198, §1501(a)(2), inserted '', or a publicly operated community mental health center,'' after ''private nonprofit institution'' in last sentence.

Subsec. (k). Pub. L. 99–198, §1502, inserted '', as determined by visual inspection, sales records, purchase records, or other inventory or accounting record-keeping methods that are customary or reasonable in the retail food industry,'' in cl. (1).

Subsec. (*o*). Pub. L. 99–198, §1503, substituted ''fifty'' for ''fifty-four''.

Subsec. (r)(2). Pub. L. 99–198, §1504(1), inserted '', federally or State administered supplemental benefits of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] if the Secretary determines that such benefits are conditioned on meeting the disability or blindness criteria used under title XVI of the Social Security Act, or federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93–66 (42 U.S.C. 1382 note)''.

Subsec. (r)(3). Pub. L. 99–198, §1504(2), inserted ''or receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i))''.

Subsec. (r)(4)(A). Pub. L. 99–198, §1504(3), inserted ''or non-service-connected'' after ''service-connected''.

Subsec. (r)(7). Pub. L. 99–198, §1504(4)–(6), added par. (7).

1983—Subsec. (c). Pub. L. 98–204, §3(1), substituted ''the foregoing limits on the certification period may, with the approval of the Secretary, be waived by a State agency for certain categories of households where such waiver will improve the administration of the program'' for ''the limit of twelve months may be waived by the Secretary to improve the administration of the program'' in provisions preceding par. (1).

Subsec. (c)(2). Pub. L. 98–204, §3(2), inserted provision that ''The maximum limit of twelve months for such period under the foregoing proviso may be waived by the Secretary where such waiver will improve the administration of the program.''

1982—Subsec. (i). Pub. L. 97–253, §§142, 145(b), substituted ''except that parents and children, or siblings, who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents, or siblings, is an elderly or disabled member'' for ''except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is sixty years of age or older, or receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act'', and inserted provision that notwithstanding cl. (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 2014(d) of this title) of the others, excluding the spouse, does not exceed the poverty line, as described in section 2014(c)(1) of this title, by more than 65 per centum.

Subsec. (*o*)(1). Pub. L. 97–253, §143(a)(1), substituted ''adjustments (based on the unrounded cost of such diet)'' for ''adjustments''.

Subsec. (*o*)(6). Pub. L. 97–253, §§143(a)(2), 144, substituted provisions requiring the Secretary, on Oct. 1, 1982, to adjust the cost of the diet to reflect changes in the cost of the thrifty food plan for the twenty-one

months ending June 30, 1982, reduce the cost of such diet by one per centum, and round the result to the nearest lower dollar increment for each household size for former provision requiring the Secretary, on Oct. 1, 1982, to adjust the cost of such diet to the nearest dollar increment to reflect the changes in the cost of the thrifty food plan for the twenty-one months ending on June 30, 1982.

Subsec. (*o*)(7). Pub. L. 97–253, §§143(a)(2), 144, substituted provisions requiring the Secretary, on Oct. 1, 1983, and Oct. 1, 1984, to adjust the cost of the diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by one per centum, and round the result to the nearest lower dollar increment for each household size for former provision requiring the Secretary, on Oct. 1, 1983, and each Oct. 1 thereafter, to adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30.

Subsec. (*o*)(8). Pub. L. 97–253, §§143(a)(2), 144, added and amended par. (8).

Subsec. (r). Pub. L. 97–253, §145(a), added subsec. (r).

1981—Subsec. (c). Pub. L. 97–35, §108(a), inserted provisions respecting waiver of twelve-month period for improvement of program.

Subsec. (i). Pub. L. 97–98, §1302, inserted provision relating to supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act.

Pub. L. 97–35, §§101, 102, inserted provisions relating to treatment as a group of parents and children who live together, and restructured provisions respecting living with others and paying compensation for meals.

Subsec. (m). Pub. L. 97–35, §116(a)(1), struck out reference to Puerto Rico.

Subsec. (*o*). Pub. L. 97–98, §§1303, 1304, substituted in cl. (2) ''Hawaii and the urban and rural parts of Alaska to reflect the cost of food in Hawaii and urban and rural Alaska'' for ''Alaska and Hawaii to reflect the cost of food in those States'', in cl. (6) provision that on Oct. 1, 1982, the Secretary adjust the cost of such diet to reflect changes for the twenty-one months ending the preceding June 30, 1982, for provision that on Apr. 1, 1982, the Secretary adjust the cost of such diet to reflect changes for the fifteen months ending the preceding Dec. 31, in cl. (7) provision that on Oct. 1, 1983, and each Oct. 1 thereafter, the Secretary adjust the cost of such diet to reflect changes for the twelve months ending the preceding June 30, for provision that on July 1, 1983, the Secretary adjust the cost of such diet to reflect changes for the fifteen months ending the preceding Mar. 31, struck out cl. (8) which provided that on Oct. 1, 1984, the Secretary adjust the cost of such diet to reflect changes for the fifteen months ending the preceding June 30, and struck out cl. (9) which provided that on Oct. 1, 1985, and each Oct. 1 thereafter, the Secretary adjust the cost of such diet to reflect changes for the twelve months ending the preceding June 30, and, as of every Jan. 1 thereafter, for the nine months ending the preceding Sept. 30 and the subsequent three months ending Dec. 31 as projected by the Secretary in light of the best available data, and inserted provision that the periods upon which adjustments are based be subject to revision by Act of Congress.

Pub. L. 97–35, §§103, 116(a)(1) struck out applicability to Puerto Rico in clause (3), substituted provisions respecting adjustments on Apr. 1, 1982, for provisions respecting adjustments on Jan. 1, 1982, in cl. (6), and added cls. (7) to (9).

1980—Subsec. (c). Pub. L. 96–249, §111, inserted provisions requiring that for those households that are required to submit periodic reports under section 2015(c)(1) of this title, the certification period be at least six months but no longer than twelve months.

Subsec. (f). Pub. L. 96–181 substituted ''Drug Abuse Prevention, Treatment, and Rehabilitation Act'' for ''Drug Abuse Office and Treatment Act of 1972''.

Subsec. (g). Pub. L. 96–249, §101(a)(1)–(3), substituted ''(7), and (8)'' for ''and (7)'' in cl. (1) and added cl. (8).

Subsec. (i). Pub. L. 96–249, §101(a)(4), inserted ''temporary residents of public or private nonprofit shelters for battered women and children,'' after ''section 1616(e) of the Social Security Act,''.

Subsec. (k)(2). Pub. L. 96–249, §101(a)(5), substituted ''(7), and (8)'' for ''and (7)''.

Subsec. (*o*). Pub. L. 96–249, §135, inserted ''through January 1, 1980,'' before ''adjust the cost'' in cl. (4) and added cls. (5) and (6).

1979—Subsec. (g). Pub. L. 96–58, §7(1)–(3), substituted ''clauses (3), (4), (5), and (7)'' for ''clauses (3), (4), and (5)'' and added cl. (7) relating to disabled or blind recipients of benefits who are residents in certain public or private nonprofit group living arrangements.

Subsec. (i). Pub. L. 96–58, §7(4), (5), inserted provisions relating to disabled or blind recipients of benefits who are residents in certain public or private nonprofit group living arrangements and inserted provisions that all residents of federally subsidized housing for the elderly, disabled or blind recipients of benefits, and narcotic addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program be considered individual households.

Subsec. (k). Pub. L. 96–58, §7(6), inserted reference to group living arrangements referred to in subsec. (g)(7) of this section in cl. (2).

Subsec. (q). Pub. L. 96–58, §3, added subsec. (q).

1977—Pub. L. 95–113 redefined terms ''Secretary'', ''food'', ''coupon'', ''household'', ''retail food store'', ''State agency'', ''State'', ''food stamp program'', and ''drug addiction or alcoholic treatment and rehabilitation program'' and changed designations of those terms, as thus redefined, from subsecs. (a), (b), (c), (e), (f), (h), (j), (k), and (n), respectively, to (*l*), (g), (d), (i), (k), (n), (m), (h), and (f), substituted definitions of ''allotment'', ''authorization card'', and ''coupon issuer'' for ''coupon allotment'', ''authorization to purchase card'', and ''coupon vendor'', respectively, and changed designations of those terms as thus substituted from subsecs. (d), (m), and (*o*), respectively, to (a), (b), and (e), struck out definitions of ''wholesale food concern'', ''bank'', and ''elderly person'' which had been set out, respectively, in subsecs. (g), (i), and (*l*), and inserted definitions of ''certification period'', ''reservation'', ''thrifty food plan'', and ''tribal organization'' in subsecs. (c), (j), (*o*), and (p), respectively.

1976—Subsec. (*o*). Pub. L. 94–339 added subsec. (*o*).

1973—Subsec. (b). Pub. L. 93–86, §3(*l*), substituted ''home'' for ''human'' and substituted provisions including in definition of ''food'' seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, for provisions excluding from such definition foods identified on the package as imported and imported meat and meat products.

Subsec. (e). Pub. L. 93–125 substituted ''foregoing'' for ''foreoging''.

Pub. L. 93–86, §3(a), (b), (p), inserted provision of cl. (3) relating to inclusion of narcotic addict or alcoholic within definition of ''household'' and provision relating to residents of federally subsidized housing for the elderly, and substituted provisions relating to the treatment of individuals receiving supplemental security income benefits under subchapter XVI of chapter 7 of title 42, for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under subchapter XVI of chapter 7 of title 42.

Subsec. (f). Pub. L. 93–86, §3(*o*), inserted references to nonprofit institution and section 2019(i) of this title.

Subsec. (n). Pub. L. 93–86, §3(c), added subsec. (n).

1972—Subsec. (e). Pub. L. 92–603, §411(a), inserted provision that persons eligible or would be eligible to receive supplemental security income benefits under sections 1381 to 1383c of Title 42, may not be considered as members of a household or elderly persons under this chapter.

Subsec. (h). Pub. L. 92–603, §411(b), substituted provisions defining State agency as the agency designated

by the Secretary for carrying out this chapter in such state, for provisions defining it as the agency having the responsibility for the administration of the federally aided public assistance program.

1971—Subsec. (e). Pub. L. 91–671, § 2(a), substituted in definition of ''household'', ''related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents'' for ''related or non-related individuals, who are not residents'', designated existing provisions as cl. (1), and added cl. (2).

Subsec. (f). Pub. L. 91–671, § 2(b), included in definition of ''retail food store'' a political subdivision or a private nonprofit organization that meets requirements of section 2019(h) of this title.

Subsec. (j). Pub. L. 91–671, § 2(c), included in definition of ''State'' Guam, Puerto Rico, and the Virgin Islands.

Subsec. (*l*). Pub. L. 91–671, § 2(d), added subsec. (*l*).

Subsec. (m). Pub. L. 91–671, § 2(e), added subsec. (m).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 303(b) of Pub. L. 103–354 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective beginning on September 30, 1994.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Sept. 1, 1994, see section 13971(b)(4) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1781 of title XVII of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Except as otherwise provided in subsection (b) and other provisions of this title, this title [see Short Title of 1990 Amendment note set out under section 2011 of this title] and the amendments made by this title shall become effective and implemented the 1st day of the month beginning 120 days after the publication of implementing regulations. Such regulations shall be promulgated not later than October 1, 1991.

''(b) SPECIAL EFFECTIVE DATES.—

''(1) OCTOBER 1, 1990.—The amendments made by sections 1721, 1730, 1750, 1754, 1760(1)(A), 1761, 1762, 1771(a), 1771(d), 1772(c), 1772(f), 1772(g), and 1776 [amending sections 2014, 2017, 2025 to 2028, 3175, and 3175e of this title and provisions set out as notes under section 612c of this title] shall be effective on October 1, 1990.

''(2) DATE OF ENACTMENT.—The amendments made by sections 1718, 1729, 1731, 1739, 1742, 1746, 1747, 1748, 1749, 1751, 1753, 1755, 1756, 1757, 1758, 1759, 1760(1)(B) and (2), 1763, 1771(b), 1771(c), 1772(a), 1772(b), 1772(d), 1772(h), 1773, 1774(a)(1), 1774(b), 1774(c), 1775(a), 1775(b), 1777, 1778, and 1779 [enacting section 2032 of this title, amending this section, sections 1431, 1431e, 2014, 2016, 2020, 2022, and 2024 to 2027 of this title and section 9904 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 2011, 2020, and 2025 of this title and section 1751 of Title 42, and amending provisions set out as notes under section 612c of this title] shall become effective on the date of enactment of this Act [Nov. 28, 1990].

''(3) APRIL 1, 1991.—The amendments made by sections 1716, 1722, and 1736(2) [amending sections 2014 and 2020 of this title] shall become effective and implemented the 1st day of the month beginning 120 days after the promulgation of implementing regulations. Such regulations shall be promulgated not later than April 1, 1991.

''(4) CATEGORICAL ELIGIBILITY.—The amendment made by section 1714(2) [amending section 2014 of this title] shall become effective and implemented the 1st day of the month beginning 120 days after the promulgation of implementing regulations. Such regulations shall be promulgated—

''(A) in the case of a State general assistance program, not later than October 1, 1991; and

''(B) in the case of a local general assistance program, not later than April 1, 1992.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 701 of Pub. L. 100–435, as amended by Pub. L. 100–619, § 1, Nov. 5, 1988, 102 Stat. 3198, provided that:

''(a) IN GENERAL.—Except as otherwise provided for in section 503 [set out as a note under section 1766 of Title 42, The Public Health and Welfare] and in subsection (b) of this section, this Act and the amendments made by this Act [amending sections 2012, 2014 to 2017, 2020 to 2023, 2025, and 2026 of this title, section 713a–14 of Title 15, Commerce and Trade, and sections 1761, 1766, 1773, and 1786 of Title 42, enacting provisions set out as notes under sections 612c and 2011 of this title and sections 1766 and 1786 of Title 42, and amending provisions set out as notes under sections 612c, 1731, and 2012 of this title] shall become effective and be implemented on October 1, 1988.

''(b) SPECIAL RULES.—

''(1) The amendments made by sections 101, 103, 301, 321(c), 343, and 401 [amending sections 2014 and 2025 of this title and amending provisions set out as a note under section 612c of this title] shall become effective and be implemented on the date of enactment of this Act [Sept. 19, 1988].

''(2) The amendments made by section 402 [amending section 2014 of this title] shall become effective and be implemented on January 1, 1989.

''(3)(A) The amendments made by section 203(a) [amending section 2017 of this title] shall become effective on January 1, 1989, and the States shall implement such section by January 1, 1990.

''(B) The amendments made by section 203(b) [amending section 2016 of this title] shall become effective on January 1, 1989, except with regards to those States not implementing section 203(a).

''(4) The amendments made by sections 204, 210, 211, subsections (a)(1), (c), and (e) of section 404, sections 310 through 343, and sections 345 through 352 [amending sections 2012, 2014, 2015, 2020, and 2025 of this title and sections 1766 and 1773 of Title 42] shall become effective and implemented on July 1, 1989.

''(5) The amendments made by title VI [amending sections 2022, 2023, and 2025 of this title] shall be effective as follows:

''(A) Except as provided in subparagraph (D), the provisions of section 16(c) of the Food Stamp Act of 1977, as amended by section 604 [section 2025(c) of this title], shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date, except that—

''(i) the provisions of section 16(c)(1)(A), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date; and

''(ii) the provisions of section 16(c)(3), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date.

''(B) The amendments made by sections 601 and 602 [amending section 2022 of this title] shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

''(C) Except as provided in subparagraph (D), the amendments made to section 14 of the Food Stamp Act of 1977 [section 2023 of this title] by section 603 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

''(D)(i) The provisions of sections 13, 14, and 16 of the Food Stamp Act of 1977 [sections 2022, 2023, and

2025 of this title] that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 shall remain in effect for claims arising with respect to such period or periods.

''(ii) The provisions of sections 14 and 16(c) of the Food Stamp Act of 1977 that relate to enhanced administrative funding for State agencies and that were in effect for any quality control review period or periods through fiscal year 1988 shall remain in effect for such funding with respect to such period or periods.

''(c) SEQUESTRATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if a final order is issued for fiscal year 1989 under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the amount made available to carry out the food stamp program under section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) shall be reduced by an amount equal to $110,000,000 multiplied by the amount of the percentage reduction for domestic programs required under such order. The reduction required by the preceding sentence shall be achieved by reducing the amount of the adjustment to the cost of the thrifty food plan for fiscal year 1989 under section 3(*o*)(9) of the Food Stamp Act of 1977 (as added by section 120 of this Act) [section 2012(*o*)(9) of this title].

''(2) EFFECTIVE DATES IF SEQUESTRATION OCCURS.—Notwithstanding subsections (a) and (b), if a final order is issued under section 252(b) of the Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)) for fiscal year 1989 to make reductions and sequestrations specified in the report required under section 251(a)(3)(A) of such Act [2 U.S.C. 901(a)(3)(A)], sections 111, 201, 204, 310, 311, 321, 322, 323, 341, 342, 350, 351, 352, 402, 403, 404, 502, 504, and 505 [amending sections 2012, 2014, 2015, 2020, 2025, and 2026 of this title and enacting provisions set out as notes under section 612c of this title] shall become effective and be implemented on October 1, 1989.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 802(b) of Pub. L. 100–77 provided that: ''The amendments made by this section [amending this section] shall become effective on October 1, 1987.''

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 11002(f) of Pub. L. 99–570, as amended by Pub. L. 100–435, title II, §205, Sept. 19, 1988, 102 Stat. 1657; Pub. L. 101–624, title XVII, §1713(b), Nov. 28, 1990, 104 Stat. 3783; Pub. L. 102–237, title IX, §913, Dec. 13, 1991, 105 Stat. 1887, provided that:

''(1) The amendments made by this section [amending this section and sections 2018 and 2019 of this title] shall become effective, and be implemented by issuance of final regulations, not later than April 1, 1987.

''(2) Not later than September 30, 1988, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the program established by the amendments made by this section, including any proposed legislative recommendations.

''(3) The amendments made by this section, except those amendments made by subsections (a), (b), and (c) [amending this section], shall cease to be effective after September 30, 1990.''

[Amendment by Pub. L. 102–237 to section 11002(f) of Pub. L. 99–570, set out above, effective Oct. 1, 1990, and not applicable with respect to any period occurring before such date, see section 1101(d)(5) of Pub. L. 102–237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

[Section 1713(b) of Pub. L. 101–624 provided that the amendment made by that section is effective Sept. 29, 1990.]

EFFECTIVE DATE OF 1982 AMENDMENT

Section 193 of subtitle E (§§140–193) of title I of Pub. L. 97–253 provided that:

''(a) Except as provided in subsection (b), this subtitle [amending this section and sections 2014, 2015, 2016, 2017, 2018, 2020, 2021, 2022, 2023, 2025, 2026, 2027, 2028, and 2029 of this title and enacting provisions set out as notes under this section and sections 1624, 2011, and 2028 of this title] and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle [Sept. 8, 1982].

''(b) Sections 180 and 188 [amending sections 2020, 2025, 2027, and 2029 of this title] shall take effect on October 1, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENTS

Section 192 of Pub. L. 97–253 provided that:

''(a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note) [section 117 of Pub. L. 97–35, set out below], the amendments made by sections 101 through 114 of such Act [amending this section and sections 2014, 2015, 2017, 2020, 2022, and 2025 of this title], other than sections 107(b) and 108(c) of such Act [amending sections 2014 and 2015 of this title], shall take effect on the earlier of the date of the enactment of this subtitle [Sept. 8, 1982] or the date on which such amendments became effective pursuant to section 117 of such Act.

''(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note) [section 1338 of Pub. L. 97–98, set out below], the amendments made by sections 1302 through 1333 of such Act [enacting section 2029 of this title and amending this section and sections 2014 to 2016, 2018 to 2020, and 2023 to 2027 of this title] shall take effect on the earlier of the date of the enactment of this subtitle [Sept. 8, 1982] or the date on which such amendments became effective pursuant to section 1338 of such Act.''

Section 1338 of title XIII of Pub. L. 97–98 provided that: ''Except as otherwise specifically provided, the amendments made by this title [enacting sections 2029 and 2270 of this title, amending this section and sections 2014 to 2016, 2018 to 2020, and 2023 to 2027 of this title, and enacting provisions set out as a note under section 2011 of this title] shall be effective upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.''

Section 116(a) of Pub. L. 97–35 provided that the amendment made by that section is effective July 1, 1982.

Section 117 of Pub. L. 97–35 provided that: ''Except as otherwise specifically provided, the amendments made by sections 101 through 116 of this Act [amending this section and sections 2014, 2015, 2017, 2020, 2022, and 2025 of this title] shall be effective and implemented upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 10 of Pub. L. 96–58 provided that:

''(a) The provisions of sections 2 and 3 of this Act [amending this section and sections 2014 of this section] shall be implemented in all States by January 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participant households, under the Food Stamp Act of 1977 [this chapter] in effect on July 1, 1979, until implemented.

''(b) Notwithstanding any other provision of law, the Secretary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 6 of this Act [amending sections 2015 and 2025 of this title] within one hundred and fifty days after the date of enactment of this Act [Aug. 14, 1979].

''(c) The provisions of sections 7 and 8 of this Act [amending this section and section 2019 of this title] shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Sec-

retary, States, and applicant or participating households, under the Food Stamp Act of 1977 [this chapter] in effect on July 1, 1979, until implemented.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

Section 1302(b) of Pub. L. 95–113 provided that: ''The amendments made by this section [repealing section 3(b) of Pub. L. 93–86 as described in the Repeals note below and amending section 1431 of this title and provisions set out as notes under sections 612c of this title and 1382e of Title 42, The Public Health and Welfare] shall be effective October 1, 1977.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of section 8(a) of Pub. L. 93–233 by section 1(a), (b) of Pub. L. 93–335, effective July 1, 1974, see section 1(c) of Pub. L. 93–335, set out as a note under section 1382 of Title 42, The Public Health and Welfare. See Repeals note below.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(a) of Pub. L. 92–603 provided that the amendment made by that section is effective January 1, 1974.

Section 411(h) of Pub. L. 92–603 provided that: ''Except as otherwise provided in this section, the amendments made by this section [amending this section and sections 2019 and 2023 of this title] shall take effect on January 1, 1973''.

REPEALS

Section 3(b) of Pub. L. 93–86, cited as a credit to this section, was repealed, effective Oct. 1, 1977, by section 1302(a)(1) of Pub. L. 95–113. Section 3(b) of Pub. L. 93–86 had amended the definition of ''household'' in 1973 to exclude individuals receiving supplementary security income benefits under title XVI of the Social Security Act in certain months. For the period beginning Jan. 1, 1974, and ending September 30, 1978, Pub. L. 93–233, § 8(a), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93–335, § 1(a), (b), July 8, 1974, 88 Stat. 291; Pub. L. 94–44, § 3, June 28, 1975, 89 Stat. 235; Pub. L. 94–365, § 2, July 14, 1976, 90 Stat. 990; Pub. L. 95–59, § 3, June 30, 1977, 91 Stat. 255, provided that the amendment by section 3(b) of Pub. 93–86 should not be effective and that the definition of ''household'' should read as it did before such amendment but with the addition of a new sentence to exclude individuals receiving certain Federal or State supplementary payments under certain circumstances.

CONTINUED ELIGIBILITY

Section 205 of Pub. L. 103–225 provided that: ''An establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the day before the date of enactment of this Act [Mar. 25, 1994] shall be considered to meet the definition of 'retail food store' in section 3(k) of such Act (7 U.S.C. 2012(k)) (as amended by section 201) until the earlier of—

''(1) the periodic reauthorization of the establishment or route; or

''(2) such time as the eligibility of the establishment or route for continued participation in the food stamp program is evaluated for any reason.''

REPORT ON IMPACT ON RETAIL FOOD STORES

Section 206 of Pub. L. 103–225 provided that: ''Not later than 18 months after the date of enactment of this Act [Mar. 25, 1994], the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the impact of the amendments made by sections 201 and 202 [amending this section and section 2018 of this title] on the involvement of retail food stores in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including a description of—

''(1) the numbers and types of stores that were newly authorized to participate in the food stamp program after implementation of the amendments;

''(2) the numbers and types of stores that were withdrawn from the food stamp program after implementation of the amendments;

''(3) the procedures used by the Secretary, and the adequacy of the procedures used, to determine the eligibility of stores to participate in the food stamp program and to authorize and reauthorize the stores to participate in the food stamp program;

''(4) the adequacy of the guidance provided by the Secretary to retail food stores concerning—

''(A) the definitions of 'retail food store', 'staple foods', 'eligible foods', and 'perishable foods' for purposes of the food stamp program; and

''(B) eligibility criteria for stores to participate in the food stamp program; and

''(5) an assessment of whether the amendment to the definition of 'retail food store' under section 3(k) of such Act [subsec. (k) of this section] (as amended by section 201(1)) has had an adverse effect on the integrity of the food stamp program.''

CONTINUING ELIGIBILITY OF CERTAIN RETAIL FOOD STORES

Pub. L. 103–205, § 2, Dec. 17, 1993, 107 Stat. 2418, provided that: ''Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act [Dec. 17, 1993] and ending on March 15, 1994, an establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the date of enactment of this Act may not be disqualified from participation in the food stamp program solely because the establishment or trade route does not meet the definition of 'retail food store' under section 3(k)(1) of such Act (7 U.S.C. 2012(k)(1)).''

PUBLICLY OPERATED COMMUNITY HEALTH CENTERS

Pub. L. 98–107, § 101(b), Oct. 1, 1983, 97 Stat. 734, provided in part: ''That notwithstanding any other provision of law or this joint resolution, the provisions of subsections (f) and (i) of section 3 and section 10 of the Food Stamp Act of 1977, as amended [7 U.S.C. 2012(f), (i) and 2019], concerning private, nonprofit drug addiction or alcoholic treatment and rehabilitation programs, shall also be applicable to publicly operated community health centers''.

[Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of Title 42, The Public Health and Welfare.]

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING PRESCRIBED PERIOD BEGINNING JANUARY 1, 1974

Provisions respecting eligibility of supplemental security income recipients for food stamps during prescribed period beginning Jan. 1, 1974, see section 8(c) of Pub. L. 93–233, Dec. 31, 1974, 87 Stat. 957, set out as a note under section 1832e of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012a, 2014, 2017, 2019, 2020, 2026 of this title; title 8 section 1612; title 21 section 862a; title 31 section 3803; title 42 sections 503, 604, 654, 8011.

§ 2012a. Publicly operated community health centers

Notwithstanding any other provision of law, the provisions of subsections (f) and (i) of sec-

tion 2012 of this title and section 2019 of this title, concerning private, nonprofit drug addiction or alcohol treatment and rehabilitation programs, shall henceforth also be applicable to publicly operated community health centers.

(Pub. L. 99–88, title I, § 100, Aug. 15, 1985, 99 Stat. 297.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1985, and not as part of the Food Stamp Act of 1977 which comprises this chapter.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of Title 42, The Public Health and Welfare.

§ 2013. Establishment of program

(a) Use of coupons; redeemability

Subject to the availability of funds appropriated under section 2027 of this title, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment, except that a State may not participate in the food stamp program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with coupons issued under this chapter. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this chapter shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) Distribution of federally donated foods

Distribution of commodities, with or without the food stamp program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization. In the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for such distribution, except that, if the Secretary determines that the tribal organization is capable of effectively and efficiently administering such distribution, then such tribal organizations shall administer such distribution: *Provided*, That the Secretary shall not approve any plan for such distribution which permits any household on any Indian reservation to participate simultaneously in the food stamp program and the distribution of federally donated foods. The Secretary is authorized to pay such amounts for administrative costs of such distribution on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

(c) Regulations; transmittal of copy of regulations to Congressional committees prior to issuance

The Secretary shall issue such regulations consistent with this chapter as the Secretary deems necessary or appropriate for the effective and efficient administration of the food stamp program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it.

(Pub. L. 88–525, § 4, Aug. 31, 1964, 78 Stat. 704; Pub. L. 91–671, § 3, Jan. 11, 1971, 84 Stat. 2049; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 961; Pub. L. 99–198, title XV, §§ 1505(a), 1506, Dec. 23, 1985, 99 Stat. 1567.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198, § 1505(a), inserted '', except that a State may not participate in the food stamp program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with coupons issued under this chapter'' at end of first sentence.

Subsec. (b). Pub. L. 99–198, § 1506, struck out first sentence which directed that in jurisdictions where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any law, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the commodity supplemental food program, and struck out ''also'' after ''shall'' in second sentence.

1977—Subsec. (a). Pub. L. 95–113 made establishment of food stamp program subject to availability of funds appropriated under section 2027 of this title.

Subsec. (b). Pub. L. 95–113 inserted provisions relating to requests by tribal organizations.

Subsec. (c). Pub. L. 95–113 inserted provisions relating to transmittal of regulations and accompanying statement of justification to Congressional committees.

1971—Subsec. (a). Pub. L. 91–671 substituted ''the State agency'' and ''the charge to be paid for such allotment by eligible households'' for ''an appropriate State agency'' and ''their normal expenditures for food'', respectively, and struck out ''more nearly'' before ''to obtain''.

Subsec. (b). Pub. L. 91–671 substituted ''operation'' for ''effect'', ''federally donated foods'' for ''federally owned foods'' where first appearing, and exception provision for distributions to households: during temporary emergency situations, for period of time necessary to effect transition to a food stamp program as a replacement of distribution of federally donated foods, or on request of the State agency without simultaneous participation in both the food stamp program and distribution of federally donated foods for prior exception during emergency situations caused by a national or other disaster.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1505(b) of Pub. L. 99–198 provided that:

''(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect with respect to a State beginning on the first day of the fiscal year that commences in the calendar year during which the first regular session of the legislature of such State is convened following the date of enactment of this Act [Dec. 23, 1985].

''(2) Upon a showing by a State, to the satisfaction of the Secretary, that the application of paragraph (1),

without regard to this paragraph, would have an adverse and disruptive effect on the administration of the food stamp program in such State or would provide inadequate time for retail stores to implement changes in sales tax policy required as a result of the amendment made by subsection (a) [amending this section], the Secretary may delay the effective date of subsection (a) with respect to such State to a date not later than October 1, 1987.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2014, 4004a, 7509 of this title; title 8 section 1615.

§ 2014. Eligible households

(a) Income and other financial resources as substantial limiting factors in obtaining more nutritious diet; recipients under Social Security Act

Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Notwithstanding any other provisions of this chapter except sections 2015(b), 2015(d)(2), and 2015(g) of this title and the third sentence of section 2012(i) of this title, households in which each member receives benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], or aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., or 1381 et seq.], shall be eligible to participate in the food stamp program. Except for sections 2015, 2025(e)(1), and the third sentence of section 2012(i) of this title, households in which each member receives benefits under a State or local general assistance program that complies with standards established by the Secretary for ensuring that the program is based on income criteria comparable to or more restrictive than those under subsection (c)(2) of this section, and not limited to one-time emergency payments that cannot be provided for more than one consecutive month, shall be eligible to participate in the food stamp program. Assistance under this program shall be furnished to all eligible households who make application for such participation.

(b) Eligibility standards

Except as otherwise provided in this chapter, the Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

(c) Gross income standard

The income standards of eligibility shall be adjusted each October 1 and shall provide that a household shall be ineligible to participate in the food stamp program if—

(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e) of this section) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

(2) in the case of a household that does not include an elderly or disabled member, the household's income (after the exclusions provided for in subsection (d) of this section but before the deductions provided for in subsection (e) of this section) exceeds such poverty line by more than 30 per centum.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.

(d) Income excluded in computing household income

Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household (notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law), (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter, subject to modification by the Secretary in light of subsection (f) of this section, (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (A) awarded to a household member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount used for or made available as an allowance determined by such school, institution, program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C) to the extent loans include any origination fees and insurance premiums, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and

which do not represent a gain or benefit to the household and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided): *Provided*, That no portion of benefits provided under title IV–A of the Social Security Act [42 U.S.C. 601 et seq.], to the extent it is attributable to an adjustment for work-related or child care expenses (except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after September 19, 1988), and no portion of any educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, shall be considered such reimbursement, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is an elementary or secondary school student, and who is 17 years of age or younger, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, (10) any income that any other Federal law specifically excludes from consideration as income for purposes of determining eligibility for the food stamp program except as otherwise provided in subsection (k) of this section, (11)(A) any payments or allowances made for the purpose of providing energy assistance under any Federal law (other than part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), or (B) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device, (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 5312 of title 38, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective, (13) any payment made to the household under section 3507 of title 26 (relating to advance payment of earned income credit), (14) any payment made to the household under section 2015(d)(4)(I) of this title for work related expenses or for dependent care, and (15) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4)).

(e) Deductions from income

(1) Standard deduction

The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

(2) Earned income deduction

(A) "Earned income" defined

In this paragraph, the term ''earned income'' does not include—

(i) income excluded by subsection (d) of this section; or

(ii) any portion of income earned under a work supplementation or support program, as defined under section 2025(b) of this title, that is attributable to public assistance.

(B) Deduction

Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

(C) Exception

The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

(3) Dependent care deduction

(A) In general

A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

(B) Excluded expenses

The excluded expenses referred to in subparagraph (A) are—

(i) expenses paid on behalf of the household by a third party;

(ii) amounts made available and excluded, for the expenses referred to in subparagraph (A), under subsection (d)(3) of this section; and

(iii) expenses that are paid under section 2015(d)(4) of this title.

(4) Deduction for child support payments

(A) In general

A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

(B) Methods for determining amount

The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

(5) Homeless shelter allowance

Under rules prescribed by the Secretary, a State agency may develop a standard homeless shelter allowance, which shall not exceed $143 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households. The State agency may make a household with extremely low shelter costs ineligible for the allowance.

(6) Excess medical expense deduction

(A) In general

A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

(B) Method of claiming deduction

(i) In general

A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information on, or verification of, actual expenses on a monthly basis.

(ii) Method

The method described in clause (i) shall—

(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

(7) Excess shelter expense deduction

(A) In general

A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

(B) Maximum amount of deduction

In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, the excess shelter expense deduction shall not exceed—

(i) for the period beginning on August 22, 1996, and ending on December 31, 1996, $247, $429, $353, $300, and $182 per month, respectively;

(ii) for the period beginning on January 1, 1997, and ending on September 30, 1998, $250, $434, $357, $304, and $184 per month, respectively;

(iii) for fiscal years 1999 and 2000, $275, $478, $393, $334, and $203 per month, respectively; and

(iv) for fiscal year 2001 and each subsequent fiscal year, $300, $521, $429, $364, and $221 per month, respectively.

(C) Standard utility allowance

(i) In general

In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

(ii) Restrictions on heating and cooling expenses

An allowance for a heating or cooling expense may not be used in the case of a household that—

(I) does not incur a heating or cooling expense, as the case may be;

(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the house-

hold and the other individual, household, or both.

(iii) Mandatory allowance

(I) In general

A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

(II) Household election

A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

(iv) Availability of allowance to recipients of energy assistance

(I) In general

Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

(II) Separate allowance

A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

(III) States not electing to use separate allowance

A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of clause (ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(IV) Proration of assistance

For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.

(f) Calculation of household income; prospective or retrospective accounting basis; consistency

(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year shall be calculated by averaging such income over a twelve-month period. Notwithstanding the preceding sentence, household income resulting from the self-employment of a member in a farming operation, who derives income from such farming operation and who has irregular expenses to produce such income, may, at the option of the household, be calculated by averaging such income and expenses over a 12-month period. Notwithstanding the first sentence, if the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business earnings, the State agency shall calculate the self-employment income based on anticipated earnings.

(B) Household income for those households that receive nonexcluded income of the type described in subsection (d)(3) of this section shall be calculated by averaging such income over the period for which it is received.

(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

(B) In the case of the first month, or at the option of the State, the first and second months, during a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.

(C) Households specified in clauses (i), (ii), and (iii) of section 2015(c)(1)(A) of this title shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 2015(c)(1) of this title shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B).

(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

(B) Calculation of household income on a retrospective basis is the calculation of income for

the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this chapter and the Social Security Act [42 U.S.C. 301 et seq.], the income of households receiving benefits under this chapter and title IV–A of the Social Security Act [42 U.S.C. 601 et seq.] is calculated on a comparable basis under this chapter and the Social Security Act. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection (except the provisions of paragraph (2)(A)) to the extent necessary to permit the State agency to calculate income for purposes of this chapter on the same basis that income is calculated under title IV–A of the Social Security Act in that State.

(g) Allowable financial resources which eligible household may own

(1) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed $2,000, or, in the case of a household which consists of or includes a member who is 60 years of age or older, if its resources exceed $3,000.

(2) INCLUDED ASSETS.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

(i) any boat, snowmobile, or airplane used for recreational purposes;

(ii) any vacation home;

(iii) any mobile home used primarily for vacation purposes;

(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600 through September 30, 1996, and $4,650 beginning October 1, 1996; and

(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

(i) used to produce earned income;

(ii) necessary for the transportation of a physically disabled household member; or

(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.

(3) The Secretary shall exclude from financial resources the value of a burial plot for each member of a household and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 2015(d) of this title. The Secretary shall also exclude from financial resources any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in such program continuously during the 12-month period.

(4) In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the Secretary shall exclude from financial resources the value of such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.

(5) The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great. Resources so identified shall be excluded as inaccessible resources. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.

(h) Temporary emergency standards of eligibility; Food Stamp Disaster Task Force; direct assistance to State and local officials

(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by sections 5170a and 5192 of title 42, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be pro-

mulgated without regard to section 2013(c) of this title or the procedures set forth in section 553 of title 5.

(2) The Secretary shall—

(A) establish a Food Stamp Disaster Task Force to assist States in implementing and operating the disaster program and the regular food stamp program in the disaster area; and

(B) if the Secretary, in the Secretary's discretion, determines that it is cost-effective to send members of the Task Force to the disaster area, the Secretary shall send them to such area as soon as possible after the disaster occurs to provide direct assistance to State and local officials.

(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster. The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary not greater than the applicable maximum monthly allotment for the household size.

(B) The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.

(i) Attribution of income and resources to sponsored aliens; coverage, computations, etc.

(1) For purposes of determining eligibility for and the amount of benefits under this chapter for an individual who is an alien as described in section 2015(f)(2)(B) of this title, the income and resources of any person who as a sponsor of such individual's entry into the United States executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse if such spouse is living with the sponsor, shall be deemed to be the income and resources of such individual for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(2)(A) The amount of income of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

(i) the total yearly rate of earned and unearned income of such sponsor, and such sponsor's spouse if such spouse is living with the sponsor, shall be determined for such year under rules prescribed by the Secretary;

(ii) the amount determined under clause (i) of this subparagraph shall be reduced by an amount equal to the income eligibility standard as determined under subsection (c) of this section for a household equal in size to the sponsor, the sponsor's spouse if living with the sponsor, and any persons dependent upon or receiving support from the sponsor or the sponsor's spouse if the spouse is living with the sponsor; and

(iii) the monthly income attributed to such alien shall be one-twelfth of the amount calculated under clause (ii) of this subparagraph.

(B) The amount of resources of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the resources of an alien for any year shall be determined as follows:

(i) the total amount of the resources of such sponsor and such sponsor's spouse if such spouse is living with the sponsor shall be determined under rules prescribed by the Secretary;

(ii) the amount determined under clause (i) of this subparagraph shall be reduced by $1,500; and

(iii) the resources determined under clause (ii) of this subparagraph shall be deemed to be resources of such alien in addition to any resources of such alien.

(C)(i) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this chapter, be required to provide to the State agency such information and documentation with respect to the alien's sponsor and sponsor's spouse as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide such information and documentation which such alien or the sponsor provided in support of such alien's immigration application as the State agency may request.

(ii) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

(D) Any sponsor of an alien, and such alien, shall be jointly and severably liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid shall be recovered in accordance with the provisions of section 2022(b)(2)[1] of this title.

(E) The provisions of this subsection shall not apply with respect to any alien who is a member of the sponsor's household, as defined in section 2012(i) of this title.

(j) Resource exemption for otherwise exempt households

Notwithstanding subsections (a) through (i) of this section, a State agency shall consider a household member who receives supplemental

[1] See References in Text note below.

security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act [42 U.S.C. 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], or who receives benefits under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g) of this section.

(k) Assistance to third parties included; educational benefits; exceptions

(1) For purposes of subsection (d)(1) of this section, except as provided in paragraph (2), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if the assistance is provided in lieu of—

(A) a regular benefit payable to the household for living expenses under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(B) a benefit payable to the household for housing expenses under—

(i) a State or local general assistance program; or

(ii) another basic assistance program comparable to general assistance (as determined by the Secretary).

(2) Paragraph (1) shall not apply to—

(A) medical assistance;

(B) child care assistance;

(C) a payment or allowance described in subsection (d)(11) of this section;

(D) assistance provided by a State or local housing authority;

(E) emergency assistance for migrant or seasonal farmworker households during the period such households are in the job stream;

(F) emergency and special assistance, to the extent excluded in regulations prescribed by the Secretary; or

(G) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), if, under State law, no assistance under the program may be provided directly to the household in the form of a cash payment.

(3) For purposes of subsection (d)(1) of this section, educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of a household for living expenses shall be treated as money payable directly to the household.

(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1) of this section, a payment made under a State law (other than a law referred to in paragraph (2)(H))[1] to provide energy assistance to a household shall be considered money payable directly to the household.

(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7) of this section, an expense paid on behalf of a household under a State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.

***(l)* Earnings to participants of on-the-job training programs; exception**

Notwithstanding section 1552(b) of title 29 or section 181(a)(2) of the Workforce Investment Act of 1998 [29 U.S.C. 2931(a)(2)], earnings to individuals participating in on-the-job training programs under section 1604(b)(1)(C) or 1644(c)(1)(A) of title 29 or in on-the-job training under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] shall be considered earned income for purposes of the food stamp program, except for dependents less than 19 years of age.

(m) Simplified calculation of income for self-employed

(1) In general

Not later than 1 year after August 22, 1996, the Secretary shall establish a procedure by which a State may submit a method, designed to not increase Federal costs, for the approval of the Secretary, that the Secretary determines will produce a reasonable estimate of income excluded under subsection (d)(9) of this section in lieu of calculating the actual cost of producing self-employment income.

(2) Inclusive of all types of income or limited types of income

The method submitted by a State under paragraph (1) may allow a State to estimate income for all types of self-employment income or may be limited to 1 or more types of self-employment income.

(3) Differences for different types of income

The method submitted by a State under paragraph (1) may differ for different types of self-employment income.

(Pub. L. 88–525, § 5, Aug. 31, 1964, 78 Stat. 704; Pub. L. 91–671, § 4, Jan. 11, 1971, 84 Stat. 2049; Pub. L. 93–86, § 3(d), (e), (g), (h), Aug. 10, 1973, 87 Stat. 246, 247; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 962; Pub. L. 96–58, § 2, Aug. 14, 1979, 93 Stat. 390; Pub. L. 96–223, title III, § 313(c)(2), Apr. 2, 1980, 94 Stat. 299; Pub. L. 96–249, title I, §§ 102–108, 112, 136–138, May 26, 1980, 94 Stat. 357–359, 361, 369, 370; Pub. L. 97–35, title I, §§ 104(a), 105–107, 115, 116(a)(1), title XXVI, § 2611, Aug. 13, 1981, 95 Stat. 358–361, 364, 902; Pub. L. 97–98, title XIII, §§ 1305–1309, Dec. 22, 1981, 95 Stat. 1283, 1284; Pub. L. 97–253, title I, §§ 143(b), 145(c), (d), 146–152(a), 153, 189(a), Sept. 8, 1982, 96 Stat. 773–776, 787; Pub. L. 98–204, § 4, Dec. 2, 1983, 97 Stat. 1385; Pub. L. 99–198, title XV, §§ 1507(a)(1), 1508–1513(a), 1514, 1515, Dec. 23, 1985, 99 Stat. 1567–1572; Pub. L. 99–500, § 101(a) [title VI, § 638(a)], Oct. 18, 1986, 100 Stat. 1783, 1783–34, and Pub. L. 99–591, § 101(a) [title VI, § 638(a)], Oct. 30, 1986, 100 Stat. 3341, 3341–34; Pub. L. 100–77, title VIII, §§ 803(a), 804(a), 805(a), 806(a), 807(a), July 22, 1987, 101 Stat. 534, 535; Pub. L. 100–232, § 2(a), Jan. 5, 1988, 101 Stat. 1566; Pub. L. 100–387, title V, § 501(a), Aug. 11, 1988, 102 Stat. 960; Pub. L. 100–435, title II, §§ 201, 202(a), title III, §§ 340–343, 351, title IV, §§ 402, 403, 404(f), Sept. 19, 1988, 102 Stat. 1655, 1656, 1663–1665, 1668; Pub. L. 100–707, title I, § 109(d), Nov. 23, 1988, 102 Stat. 4708; Pub.

L. 101–624, title XVII, §§1714–1718(a), 1719–1722, 1726(b)(2), Nov. 28, 1990, 104 Stat. 3783–3787; Pub. L. 102–40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–237, title IX, §§902–906, 941(2), Dec. 13, 1991, 105 Stat. 1884, 1885, 1892; Pub. L. 102–265, §1(a), Mar. 26, 1992, 106 Stat. 90; Pub. L. 102–367, title VII, §702(b), Sept. 7, 1992, 106 Stat. 1113; Pub. L. 103–66, title XIII, §§13911–13915, 13921, 13922(a), 13923, 13924, Aug. 10, 1993, 107 Stat. 673–675; Pub. L. 103–225, title I, §101(b)(2), Mar. 25, 1994, 108 Stat. 107; Pub. L. 104–193, title I, §109(a), title VIII, §§806–809(a), 810–812, Aug. 22, 1996, 110 Stat. 2169, 2309, 2313, 2314; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(2)(A), (f)(2)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–418, 2681–429.)

AMENDMENT OF SUBSECTION (*l*)

Pub. L. 105–277, div. A, §101(f) [title VIII, §405(f)(2)(A), (g)(2)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–429, 2681–435, provided that, effective July 1, 2000, subsection (l) of this section is amended by striking ''Notwithstanding section 1552(b) of title 29 or section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training programs under section 1604(b)(1)(C) or 1644(c)(1)(A) of title 29 or in on-the-job training under title I of the Workforce Investment Act of 1998'' and inserting ''Notwithstanding section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training under title I of the Workforce Investment Act of 1998''.

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a), (d)(5), (11), (12), (f)(4), (j), and (k)(1)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles I, II, X, XIV, and XVI of the Social Security Act are classified generally to subchapters I (§301 et seq.), II (§401 et seq.), X (§1201 et seq.), XIV (§1351 et seq.), and XVI (§1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Title IV–A (part A of title IV) of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (e)(7)(C)(iv), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, as amended, which is classified generally to subchapter II (§8621 et seq.) of chapter 94 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

Section 2022(b) of this title, referred to in subsec. (i)(2)(D), was amended generally by Pub. L. 104–193, title VIII, §844(a)(1), Aug. 22, 1996, 110 Stat. 2332, and, as so amended, provisions formerly appearing in section 2022(b)(2) of this title now appear in section 2022(b)(1) of this title.

Paragraph (2)(H), referred to in subsec. (k)(4)(A), meaning par. (2)(H) of subsec. (k), was redesignated par. (2)(G) by Pub. L. 104–193, title VIII, §811(2), Aug. 22, 1996, 110 Stat. 2314.

The Workforce Investment Act of 1998, referred to in subsec. (*l*), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1998—Subsec. (*l*). Pub. L. 105–277, §101(f) [title VIII, §405(d)(2)(A)], substituted ''Notwithstanding section 1552(b) of title 29 or section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training programs under section 1604(b)(1)(C) or 1644(c)(1)(A) of title 29 or in on-the-job training under title I of the Workforce Investment Act of 1998'' for ''Notwithstanding section 1552(b) of title 29, earnings to individuals participating in on-the-job training programs under section 1604(b)(1)(C) or section 1644(c)(1)(A) of title 29''.

1996—Subsec. (a). Pub. L. 104–193, §109(a)(1), substituted ''program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)'' for ''plan approved under part A of title IV of the Social Security Act''.

Subsec. (b). Pub. L. 104–193, §806, inserted heading and substituted ''Except as otherwise provided in this chapter, the Secretary'' for ''The Secretary''.

Subsec. (d)(5). Pub. L. 104–193, §109(a)(2)(A), substituted ''assistance under a State program funded'' for ''assistance to families with dependent children''.

Subsec. (d)(7). Pub. L. 104–193, §807, substituted ''17'' for ''21''.

Subsec. (d)(11). Pub. L. 104–193, §808(a), added par. (11) and struck out former par. (11) which read as follows: ''any payments or allowances made for the purpose of providing energy assistance (A) under any Federal law, or (B) under any State or local laws, designated by the State or local legislative body authorizing such payments or allowances as energy assistance, and determined by the Secretary to be calculated as if provided by the State or local government involved on a seasonal basis for an aggregate period not to exceed six months in any year even if such payments or allowances (including tax credits) are not provided on a seasonal basis because it would be administratively infeasible or impracticable to do so,''.

Subsec. (d)(13) to (16). Pub. L. 104–193, §109(a)(2)(B), redesignated pars. (14) to (16) as (13) to (15), respectively, and struck out former par. (13) which read as follows: ''at the option of a State agency and subject to subsection (m) of this section, child support payments that are excluded under section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi)),''.

Subsec. (e). Pub. L. 104–193, §809(a), added subsec. (e) and struck out former subsec. (e) which provided for deductions in computing household income for purposes of determining eligibility and benefit levels for households containing an elderly or disabled member and determining benefit levels only for all other households.

Subsec. (g)(2). Pub. L. 104–193, §810, added par. (2) and struck out former par. (2) which read as follows: ''The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources), and shall, in addition, include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, any licensed vehicle (other than one used to produce earned income or that is necessary for transportation of a physically disabled household member and any other property, real or personal, to the extent that it is directly related to the maintenance or use of such vehicle) used for household transportation or used to obtain or continue employment to the extent that the fair market value of any such vehicle exceeds a level set by the Secretary, which shall be $4,500 through August 31, 1994, $4,550 beginning September 1, 1994, through September 30, 1995, $4,600 beginning October 1, 1995, through September 30, 1996, and $5,000 beginning October 1, 1996, as adjusted on such date and on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment

and rounded to the nearest $50, and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts). The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.''

Subsec. (j). Pub. L. 104–193, §109(a)(3), substituted ''program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)'' for ''plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)''.

Subsec. (k)(1). Pub. L. 104–193, §808(b)(1), in subpar. (A), substituted ''State program funded'' for ''State plan for aid to families with dependent children approved'' and in subpar. (B), struck out '', not including energy or utility-cost assistance,'' before ''under'' in introductory provisions.

Subsec. (k)(2)(C). Pub. L. 104–193, §808(b)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''energy assistance;''.

Subsec. (k)(2)(F) to (H). Pub. L. 104–193, §811, redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: ''housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;''.

Subsec. (k)(4). Pub. L. 104–193, §808(b)(3), added par. (4).

Subsec. (m). Pub. L. 104–193, §812, added subsec. (m).

Pub. L. 104–193, §109(a)(4), struck out subsec. (m) which read as follows: ''If a State agency excludes payments from income for purposes of the food stamp program under subsection (d)(13) of this section, such State agency shall pay to the Federal Government, in a manner prescribed by the Secretary, the cost of any additional benefits provided to households in such State that arise under such program as the result of such exclusion.''

1994—Subsec. (f)(2)(C). Pub. L. 103–225 substituted ''clauses (i), (ii), and (iii)'' for ''clauses (i), (ii), (iii), and (iv)''.

1993—Subsec. (d)(7). Pub. L. 103–66, §13911, substituted ''who is an elementary or secondary school student, and who is 21 years of age or younger'' for ''who is a student, and who has not attained his eighteenth birthday''.

Subsec. (e). Pub. L. 103–66, §13922(a), in cl. (1) of fourth sentence, substituted ''$200 a month for each dependent child under 2 years of age and $175 a month for each other dependent'' for ''$160 a month for each dependent'', and struck out '', regardless of the dependent's age,'' before ''when such care enables a household member to accept''.

Pub. L. 103–66, §13912(a)(1), in fourth sentence struck out '': *Provided*, That the amount of such excess shelter expense deduction shall not exceed $164 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States $285, $234, $199, and $121 a month, respectively, adjusted on October 1, 1988, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the twelve months ending the preceding June 30'' after ''deductions have been allowed''.

Pub. L. 103–66, §13912(b)(2), which directed amendment of subsec. (e), as amended by section 13912(b)(1) of Pub. L. 103–66, by striking out the fifth and sixth sentences, could not be executed in view of amendment by Pub. L. 104–193. See 1996 Amendment note above and Effective Date of 1993 Amendment note below.

Pub. L. 103–66, §13912(b)(1), inserted new fifth and sixth sentences: ''In the 15-month period ending September 30, 1995, such excess shelter expense deduction shall not exceed $231 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $402, $330, $280, and $171 a month, respectively. In the 15-month period ending December 31, 1996, such excess shelter expense deduction shall not exceed $247 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 a month, respectively.''

Pub. L. 103–66, §13912(a)(2), in seventh sentence struck out ''under clause (2) of the preceding sentence'' after ''shelter expense deduction''.

Pub. L. 103–66, §13921, inserted at end: ''Before determining the excess shelter expense deduction, all households shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if such household member was legally obligated to make such payments, except that the Secretary is authorized to prescribe by regulation the methods, including calculation on a retrospective basis, that State agencies shall use to determine the amount of the deduction for child support payments.''

Subsec. (g)(2). Pub. L. 103–66, §13924, inserted at end: ''The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.''

Pub. L. 103–66, §13923, substituted ''a level set by the Secretary, which shall be $4,500 through August 31, 1994, $4,550 beginning September 1, 1994, through September 30, 1995, $4,600 beginning October 1, 1995, through September 30, 1996, and $5,000 beginning October 1, 1996, as adjusted on such date and on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest $50'' for ''$4,500''.

Subsec. (g)(3). Pub. L. 103–66, §13913, inserted at end: ''The Secretary shall also exclude from financial resources any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in such program continuously during the 12-month period.''

Subsec. (k)(1)(B). Pub. L. 103–66, §13915, substituted ''housing expenses, not including energy or utility-cost assistance,'' for ''living expenses''.

Subsec. (k)(2)(F). Pub. L. 103–66, §13914, amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless in an amount equal to 50 percent of the maximum shelter allowance provided to families not residing in such transitional housing under the States' plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases;''.

1992—Subsec. (d)(16). Pub. L. 102–265 substituted ''subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4))'' for ''section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))''.

Subsec. (*l*). Pub. L. 102–367 substituted ''section 1604(b)(1)(C) or section 1644(c)(1)(A) of title 29'' for ''section 1604(5) of title 29''.

1991—Subsec. (a). Pub. L. 102–237, §902, substituted ''based on income criteria comparable to or more restrictive than those under subsection (c)(2) of this section, and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,'' for ''appropriate for categorical treatment''.

Subsec. (d)(2). Pub. L. 102–237, §941(2)(A), made technical amendment to reference to subsection (f) of this

section involving corresponding provision of original act.

Subsec. (d)(3)(A). Pub. L. 102–237, § 903(1)(A), substituted ''awarded to a household member enrolled'' for ''to the extent that they are used for tuition and mandatory school fees (including the rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved)''.

Subsec. (d)(3)(B). Pub. L. 102–237, § 903(1)(B), inserted ''used for or'' after ''amount'' and substituted ''program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),'' for ''or program for''.

Subsec. (d)(12). Pub. L. 102–40 substituted ''section 5312 of title 38'' for ''section 3112 of title 38''.

Subsec. (d)(16). Pub. L. 102–237, § 903(2), (3), added par. (16).

Subsec. (g)(5). Pub. L. 102–237, § 904, inserted at end ''A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.''

Subsec. (h)(1). Pub. L. 102–237, § 941(2)(B), made technical amendment to references to sections 5170a and 5192 of title 42 to reflect change in reference to corresponding provision of original act.

Subsec. (j). Pub. L. 102–237, § 905, amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''Notwithstanding subsections (a) through (i) of this section, a State agency may consider the resources of a household member who receives supplemental security income benefits under title XVI of the Social Security Act, aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act or who receives benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c)(2) of this section to be exempt for purposes of satisfying the resource limitations prescribed under subsection (g) of this section if the resources are considered exempt for purposes of such title.''

Subsec. (k)(2)(E). Pub. L. 102–237, § 941(2)(C), realigned the margin.

Subsec. (k)(2)(F). Pub. L. 102–237, § 906, inserted before semicolon at end '', if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases''.

1990—Subsec. (a). Pub. L. 101–624, § 1714(2), inserted after second sentence ''Except for sections 2015, 2025(e)(1), and the third sentence of section 2012(i) of this title, households in which each member receives benefits under a State or local general assistance program that complies with standards established by the Secretary for ensuring that the program is appropriate for categorical treatment shall be eligible to participate in the food stamp program.''

Pub. L. 101–624, § 1714(1), struck out ''and beginning on December 23, 1985,'' before ''households in which each member receives''.

Subsec. (d)(3). Pub. L. 101–624, § 1715(a)(1), inserted ''(A)'' after ''the like'' and substituted ''(including the rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved) at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount made available as an allowance determined by such school, institution, or program for books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C)'' for ''at an institution of post-secondary education or school for the handicapped, and''.

Subsec. (d)(5). Pub. L. 101–624, § 1716, inserted ''and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly assistance to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided)'' after ''household''.

Pub. L. 101–624, § 1715(a)(2), inserted ''and'' after ''1988),'', struck out ''non-Federal'' after ''no portion of any'', and struck out ''and no portion of any Federal educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like to the extent it provides income assistance beyond that used for tuition and mandatory school fees,'' before ''shall be considered such reimbursement''.

Subsec. (e). Pub. L. 101–624, § 1717, inserted before period at end of last sentence '', shall rely on reasonable estimates of the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period''.

Pub. L. 101–624, § 1715(b), inserted '', amounts made available and excluded for the expenses under subsection (d)(3) of this section,'' after ''third party'' in fourth sentence.

Subsec. (f)(2). Pub. L. 101–624, § 1718(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) Households not required to submit monthly reports of their income and household circumstances under section 2015(c)(1) of this title shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

''(B) Households required to submit monthly reports of their income and household circumstances under section 2015(c)(1) of this title shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, or at the option of the State the first and second months, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.''

Subsec. (g). Pub. L. 101–624, § 1726(b)(2), inserted before period at end of par. (3) ''and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 2015(d) of this title''.

Pub. L. 101–624, § 1719(1), designated first through fourth sentences as pars. (1) to (4), respectively, and added par. (5).

Subsec. (h)(3). Pub. L. 101–624, § 1720, added par. (3).

Subsec. (j). Pub. L. 101–624, § 1719(2), substituted ''the resources of a household member who receives supplemental security income benefits under title XVI of the Social Security Act, aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act or who receives'' for ''a household in which all members of the household receive'' and ''be exempt for purposes of satisfying the resource limitations prescribed under subsection (g) of this section if the resources are considered exempt for purposes of such title'' for ''have satisfied the resource limitations prescribed under subsection (g) of this section''.

Subsec. (k)(2)(F). Pub. L. 101–624, § 1721, added subpar. (F) and struck out former subpar. (F) which read as fol-

lows: ''housing assistance payments made to a third party on behalf of a household residing in temporary housing if the temporary housing unit provided for the household as a result of such assistance payments lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption; or''.

Subsec. (k)(2)(H). Pub. L. 101–624, § 1722, added subpar. (H).

1988—Subsec. (a). Pub. L. 100–435, § 201, struck out ''during the period'' before ''beginning on December 23, 1985'' and ''and ending on September 30, 1989'' after ''beginning on December 23, 1985,''.

Subsec. (d)(1). Pub. L. 100–435, § 340(2), inserted ''(notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law)'' after ''to a household''.

Pub. L. 100–435, § 340(1), which directed that ''and except as provided in subsection (k),'' be struck out was executed by striking out ''except as provided in subsection (k),'' as the probable intent of Congress.

Subsec. (d)(5). Pub. L. 100–435, § 404(f), inserted ''(except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after September 19, 1988)'' after ''child care expenses''.

Subsec. (d)(8). Pub. L. 100–232 inserted ''cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter,'' after ''or credits,''.

Subsec. (d)(11). Pub. L. 100–435, § 343, substituted ''allowances made for the purpose of providing energy assistance (A) under any Federal law, or (B) under any State or local laws, designated'' for ''allowances made under (A) any Federal law for the purpose of providing energy assistance, or (B) any State or local laws for the purpose of providing energy assistance, designated''.

Subsec. (d)(14). Pub. L. 100–435, § 402, added cl. (14).

Subsec. (d)(15). Pub. L. 100–435, § 403(a), added cl. (15).

Subsec. (e). Pub. L. 100–435, § 403(b), in fourth sentence inserted ''and expenses that are paid under section 2015(d)(4)(I) of this title for dependent care'' after ''third party'' and substituted ''$160 a month for each dependent'' for ''$160 a month''.

Pub. L. 100–435, § 351, inserted provisions at end respecting method of claiming recurring medical expense deduction.

Subsec. (f)(1)(A). Pub. L. 100–435, § 341, inserted provisions relating to permitted averaging of income and expenses in calculation of household income from member self-employed in farming operation and substituted ''first'' for ''preceding''.

Subsec. (f)(2). Pub. L. 100–435, § 202(a), added par. (2) and struck out former par. (2) which read as follows:

''(A) Household income for—

''(i) migrant farmworker households, and

''(ii) households—

''(I) that have no earned income, and

''(II) in which all adult members are elderly or disabled members,

shall be calculated on a prospective basis, as provided in paragraph (3)(A).

''(B) Household income for households that are permitted to report household circumstances at specified intervals less frequent than monthly under the first sentence of section 2015(c)(1) of this title, may, with the approval of the Secretary, be calculated by a State agency on a prospective basis, as provided in paragraph (3)(A) of this subsection.

''(C) Except as provided in subparagraphs (A) and (B), household income for households that have earned income and for households that include any member who has recent work history shall be calculated on a retrospective basis as provided in paragraph (3)(B).

''(D) Household income for all other households may be calculated, at the option of the State agency, on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B).''

Subsec. (g). Pub. L. 100–435, § 342, inserted provisions at end relating to exclusion of farm property from financial resources.

Subsec. (h). Pub. L. 100–707 substituted ''sections 5170a and 5192'' for ''section 5142(a)''.

Subsec. (k)(2)(E) to (G). Pub. L. 100–387 added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

1987—Subsec. (c). Pub. L. 100–77, § 803(a), inserted ''shall be adjusted each October 1 and'' after first reference to ''eligibility''.

Subsec. (e). Pub. L. 100–77, § 804(a), in second sentence substituted ''(3)'' for ''and (3)'' and ''October 1, 1986'' for ''each October 1 thereafter'', and inserted cl. (4).

Pub. L. 100–77, § 805(a), inserted at end of third sentence '', except that such additional deduction shall not be allowed with respect to earned income that a household willfully or fraudulently fails (as proven in a proceeding provided for in section 2015(b) of this title) to report in a timely manner''.

Pub. L. 100–77, § 806(a), amended proviso in fourth sentence generally. Prior to amendment, the proviso read as follows: ''That the amount of such excess shelter expense deduction shall not exceed $147 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $256, $210, $179, and $109 a month, respectively, adjusted on October 1, 1986, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the shelter (exclusive of homeowners' costs and maintenance and repair component of shelter costs), fuel, and utilities components of housing costs in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the twelve months ending the preceding June 30.''

Subsec. (k)(2). Pub. L. 100–77, § 807, temporarily added subpar. (E) and redesignated former subpar. (E) as (F). See Effective and Termination Dates of 1987 Amendment note below.

1986—Subsec. (e)(B). Pub. L. 99–500 and Pub. L. 99–591 substituted ''contained in clause (1)'' for ''for the excess shelter expense deduction contained in clause (2)''.

1985—Subsec. (a). Pub. L. 99–198, § 1507(a)(1), inserted sentence providing that, notwithstanding any other provisions of this chapter except sections 2015(b), 2015(d)(2), and 2015(g) and the third sentence of section 2012(i) of this title, and during the period beginning on December 23, 1985, and ending on September 30, 1989, households in which each member receives benefits under a State plan approved under part A of title IV of the Social Security Act, supplemental security income benefits under title XVI of the Social Security Act, or aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act, shall be eligible to participate in the food stamp program.

Subsec. (d)(1). Pub. L. 99–198, § 1508(1), inserted ''except as provided in subsection (k) of this section,'' after ''payable directly to a household,''. Such amendment was duplicated exactly by section 1509(a)(1) of Pub. L. 99–198 except that the amendment by section 1509(a)(1) inserted an ''and'' at beginning of phrase inserted.

Pub. L. 99–198, § 1509(a)(1), which directed that ''and except as provided in subsection (k) of this section,'' be inserted after ''payable directly to a household,'', was not executed to text because it exactly duplicates the amendment made by section 1508(1) of Pub. L. 99–198 except that the amendment by section 1508(1) of Pub. L. 99–198 does not contain the ''and'' at beginning of phrase inserted.

Subsec. (d)(3). Pub. L. 99–198, § 1509(a)(2), substituted ''post-secondary education'' for ''higher education'' and inserted ''and to the extent loans include any obligation fees and insurance premiums,''.

Subsec. (d)(5). Pub. L. 99–198, § 1509(a)(3), inserted ''no portion of any non-Federal educational loan on which

payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, and no portion of any Federal educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like to the extent it provides income assistance beyond that used for tuition and mandatory school fees,'' after ''child care expenses,''.

Subsec. (d)(9). Pub. L. 99–198, §1509(a)(4), inserted '', but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer''.

Subsec. (d)(10). Pub. L. 99–198, §1509(a)(5), inserted ''except as otherwise provided in subsection (k) of this section''.

Subsec. (d)(13). Pub. L. 99–198, §1510(1), added cl. (13).

Subsec. (e). Pub. L. 99–198, §1511(1), substituted ''homeowners' costs and maintenance and repair component'' for ''homeownership component'' in second sentence.

Pub. L. 99–198, §1511(2), substituted ''20 per centum'' for ''18 per centum'' in third sentence.

Pub. L. 99–198, §1511(3)(B), in cl. (1) of the fourth sentence substituted ''$160 a month'' for ''the same as that for the excess shelter expense deduction contained in clause (2) of this subsection''.

Pub. L. 99–198, §1511(3)(C), substituted ''and (2)'' for '', or (2)'' in fourth sentence.

Pub. L. 99–198, §1511(3)(A), amended proviso in cl. (2) generally. Prior to amendment, proviso read as follows: ''That the amount of such excess shelter expense deduction shall not exceed $115 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $200, $165, $140, and $85, respectively, adjusted (i) on October 1, 1983, to the nearest lower dollar increment to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (ii) on October 1, 1984, to the nearest lower dollar increment to reflect such changes for the fifteen months ending the preceding June 30, and (iii) on October 1, 1985, and each October 1 thereafter, to the nearest lower dollar increment to reflect such changes for the twelve months ending the preceding June 30,''.

Pub. L. 99–198, §1511(3)(D), in fourth sentence struck out '', or (3) a deduction combining the dependent care and excess shelter expense deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection, on January 1, 1981, adjusted to the nearest $5 increment to reflect such changes for the eighteen-month period ending the preceding September 30, and, on January 1, 1982, adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data, and, on every January 1 thereafter, adjusted annually to the nearest $5 increment to reflect such changes for the nine months ending the preceding September 30 and the subsequent three months ending December 31 projected by the Secretary in light of the best available data''.

Pub. L. 99–198, §1511(4), inserted five new sentences after the existing seventh sentence beginning, respectively, ''If a State agency'', ''A State agency may use'', ''A State agency not electing'', ''For purposes of'', and ''A State agency shall allow'', thereby repositioning existing sentence beginning ''Households containing an elderly or disabled member'' to a new position as 13th sentence of subsec. (e).

Subsec. (f)(1)(A). Pub. L. 99–198, §1512, inserted sentence at end providing that notwithstanding preceding sentence, if the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business earnings, the State agency shall calculate the self-employment income based on anticipated earnings.

Subsec. (f)(2)(A). Pub. L. 99–198, §1513(a)(1), amended subpar. (A) generally, inserting reference to households that have no earned income and in which all adult members are elderly or disabled members.

Subsec. (f)(2)(B). Pub. L. 99–198, §1513(a)(2), substituted ''households that are permitted to report household circumstances at specified intervals less frequent than monthly under the first sentence of section 2015(c)(1) of this title, may, with the approval'' for ''households that (i) are permitted to report household circumstances at specified intervals less frequent than monthly under section 2015(c)(1) of this title, (ii) have no earned income and in which all adult members are elderly or disabled members, or (iii) are any other households, other than a migrant household, not required to report monthly or at less frequent intervals under section 2015(c)(1) of this title, may, with the approval''.

Subsec. (f)(2)(C). Pub. L. 99–198, §1513(a)(3), substituted ''Except as provided in subparagraphs (A) and (B), household income for households that have earned income and for households that include any member who has recent work history shall be calculated on a retrospective basis as provided in paragraph (3)(B)'' for ''Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B)''.

Subsec. (f)(2)(D). Pub. L. 99–198, §1513(a)(3), added subpar. (D).

Subsec. (g). Pub. L. 99–198, §1514(1), substituted ''$2,000, or, in the case of a household which consists of or includes a member who is 60 years of age or older, if its resources exceed $3,000'' for ''$1,500, or, in the case of a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000''.

Pub. L. 99–198, §1514(2), (3), inserted in second sentence ''and inaccessible resources'' after ''relating to licensed vehicles'' and ''and any other property, real or personal, to the extent that it is directly related to the maintenance or use of such vehicle'' after ''physically disabled household member'', and inserted provision directing the Secretary to exclude from financial resources the value of a burial plot for each member of a household.

Subsec. (h)(2). Pub. L. 99–198, §1515, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials.''

Subsec. (k)(1), (2). Pub. L. 99–198, §1508(2), added subsec. (k) consisting of pars. (1) and (2).

Subsec. (k)(3). Pub. L. 99–198, §1509(b), added par. (3).

Subsec. (*l*). Pub. L. 99–198, §1509(c), added subsec. (*l*).

Subsec. (m). Pub. L. 99–198, §1510(2), added subsec. (m).

1983—Subsec. (f)(2). Pub. L. 98–204 added subpar. (B), and redesignated former subpar. (B) as (C).

1982—Subsec. (c). Pub. L. 97–253, §§145(c), 146(a), substituted provisions that the income standards of eligibility shall render a household ineligible for food stamps if the household's income, after certain exclusions and deductions, exceeds the poverty line, or, in the case of a household not including an elderly or disabled member (after the exclusions provided for in subsec. (d) but before the deductions provided for in subsec. (e)) exceeds such poverty line by more than 30 per centum, for former provisions that the income standards of eligibility were, for households containing a member who was sixty years of age or over or a member who received supplemental security income benefits under title XVI of the Social Security Act or dis-

ability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act, 100 per centum, and for all other households, 130 per centum, of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 2971d of title 42, for the forty-eight States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively.

Subsec. (d)(12). Pub. L. 97–253, § 147, added par. (12).

Subsec. (e). Pub. L. 97–253, §§ 143(b), 145(d), 146(b), 148, 149, in first sentence substituted reference for households containing an elderly or disabled member for reference to households described in subsec. (c)(1) of this section, substituted reference to October 1, 1983, for reference to July 1, 1983, and reference to the nearest lower dollar increment for reference to the nearest $5 increment, respectively, wherever appearing in second sentence and in the proviso of cl. (2) of fourth sentence, respectively, in fourth and seventh sentences and in par. (A) substituted reference to elderly or disabled members for references to members who were sixty years of age or over or who received supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act, in par. (B) substituted reference to the fourth sentence of this subsection for former reference to the preceding sentence of this subsection, and inserted provisions that in computing the excess shelter expense deduction under cl. (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations, and that an allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs, and that no such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

Subsec. (f)(2)(A). Pub. L. 97–253, § 189(a), corrected a typographical error by substituting ''prospective'' for ''propsective''.

Subsec. (f)(4). Pub. L. 97–253, § 150, inserted ''(except the provisions of paragraph (2)(A))'' after ''of this subsection''.

Subsec. (g). Pub. L. 97–253, §§ 151, 152(a), substituted ''June 1, 1982'' for ''June 1, 1977'', substituted ''any licensed vehicle'' for ''and any licensed vehicle'', struck out the designation ''(1)'' before ''include in financial resources'', substituted ''$4,500, and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts).'' for ''$4,500,'' and struck out provision requiring the Secretary to study and develop means of improving the effectiveness of the resource requirements adopted under this subsection in limiting participation to households in need of food assistance, and implement and report the results of such study and the Secretary's plans to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than June 1, 1978.

Subsec. (j). Pub. L. 97–253, § 153, added subsec. (j).

1981—Subsec. (b). Pub. L. 97–35, § 116(a)(1), struck out reference to Puerto Rico.

Subsec. (c). Pub. L. 97–35, §§ 104(a)(1), 116(a)(1), added cls. (1) and (2) and struck out reference to Puerto Rico.

Subsec. (d). Pub. L. 97–98, §§ 1305, 1306, inserted in cl. (5) a proviso that no portion of benefits provided under title IV–A of the Social Security Act, to the extent it is attributable to an adjustment for work-related or child care expenses, be considered such reimbursement, substituted in cl. (10) ''any other Federal law'' for ''any other law'', and inserted in cl. (11) provision requiring that State and local laws be designated as energy assistance and determined by the Secretary to be calculated as if provided on a seasonal basis for an aggregate period not to exceed six months in any year even if not so provided on such basis.

Pub. L. 97–35, §§ 107(c), 2611, struck out ''(2)'' after ''(f)'' in cl. (2), struck out cl. (10) relating to increased home energy costs during fiscal year 1981, and redesignated cl. (11), relating to income specifically excluded from consideration by any other law, as cl. (10).

Subsec. (e). Pub. L. 97–98, § 1307, inserted '', with respect to expenses other than expenses paid on behalf of the household by a third party,'' after ''entitled'' in two places.

Pub. L. 97–35, §§ 104(a)(2), 105, 106, 115, 116(a)(1), completely revised and reorganized provisions to provide for computation of standard deduction of $85 per month instead of standard deduction of $60 per month and accompanying determinations respecting adjustments, applicability, etc., for computation.

Subsec. (f). Pub. L. 97–35, § 107(a), completely revised and reorganized provisions to provide for calculation of household income through a prospective or retrospective basis instead of calculation of household income by the State agency, and accompanying determination respecting criteria, methodologies, etc., for calculation.

Subsec. (f)(2)(B). Pub. L. 97–35, § 107(b), substituted provisions requiring calculation on a retrospective basis, for provisions requiring calculation on either a retrospective or prospective basis as elected by the State agency.

Subsec. (g). Pub. L. 97–98, § 1309, inserted ''(other than those relating to licensed vehicles)'' after ''June 1, 1977''.

Subsec. (i). Pub. L. 97–98, § 1308, added subsec. (i).

1980—Subsec. (c). Pub. L. 96–249, § 137, struck out provisions requiring that the income poverty guidelines for the period commencing July 1, 1978, be made as up to date as possible by multiplying the income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index for March 1978, utilizing the most current procedures which have been used by the Office of Management and Budget, and that the income poverty guidelines for future periods be similarly adjusted.

Subsec. (d). Pub. L. 96–249, §§ 102, 112, inserted in cl. (2) ''subject to modification by the Secretary in light of subsection (f)(2) of this section,'' after ''quarter,'' and added cl. (11), relating to energy assistance payments or allowances.

Pub. L. 96–223 added cl. (10) and redesignated former cl. (10), relating to income specifically excluded from consideration by any other law, as cl. (11).

Subsec. (e). Pub. L. 96–249, §§ 103, 136, substituted provisions requiring that the standard deduction be adjusted every Jan. 1 to the nearest $5 to reflect changes in the Consumer Price Index for all urban consumers for items other than food for the last 12 months ending the preceding Sept. 30 for provisions requiring that the standard deduction be adjusted every July 1 and Jan. 1 and provisions requiring that the excess shelter expense deduction be adjusted every Jan. 1 to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers for provisions requiring that the excess shelter expense deduction be adjusted annually as of July 1.

Pub. L. 96–249, §§ 104, 105, increased monthly maximum deduction per household for dependent care expenses related to employment, or employment related training or education from $75 to $90, decreased the threshold amount of the excess medical expense for the elderly, blind, and disabled from $35 to $25, and extended availability of the excess medical expense deduction to blind and disabled persons and their spouses in Puerto Rico, Guam, and the Virgin Islands, when

they receive cash welfare payments through programs equivalent to the Social Security Income program. See Repeals note below.

Subsec. (f). Pub. L. 96–249, § 107, inserted provisions giving States the option of determining program eligibility and benefits by using income received in a previous month, following standards prescribed by the Secretary.

Subsec. (g). Pub. L. 96–249, §§ 108, 138, substituted ''$1,500'' for ''$1,750'', inserted ''or that is necessary for transportation of a physically disabled household member'' after ''used to produce earned income'', and struck out ''or to transport disabled household members'' after ''or continue employment''.

1979—Subsec. (e). Pub. L. 96–58 inserted provisions allowing for an excess medical expense deduction, a dependent care deduction, and an excess shelter expense deduction for elderly persons and persons receiving supplemental security income benefits or disability payments under the Social Security Act.

1977—Subsec. (a). Pub. L. 95–113 substituted reference to a more nutritious diet for reference to a nutritionally adequate diet, inserted provision that assistance under the program be furnished to all eligible households making application for participation, inserted reference to other financial resources held singly or in joint ownership, and struck out provisions excepting the limitation of the section in the case of disaster victims.

Subsec. (b). Pub. L. 95–113 inserted parenthetical reference to income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established pursuant to subsecs. (c) and (e) of this section, inserted provision that no State agency may impose standards for participation in the program additional to those meeting the eligibility standards established by the Secretary, and struck out provisions that had dealt with specific areas of income and financial resources for eligible households. See subsecs. (d) to (h).

Subsec. (c). Pub. L. 95–113 substituted provisions covering guidelines with regard to income standards for provisions covering employment of able-bodied adults in eligible households.

Subsec. (d). Pub. L. 95–113 substituted provisions specifying the specific items making up household income for provisions that required that the Secretary establish uniform national standards.

Subsecs. (e) to (h). Pub. L. 95–113 added subsecs. (e) to (h).

1973—Subsec. (b). Pub. L. 93–86, § 3(g), (h), inserted provisos relating to payments in kind received from an employer by members of a household as bearing upon the promulgation of uniform national standards, provision limiting the authority of the Secretary to establish temporary emergency standards of eligibility to the duration of the emergency, and the provision authorizing such standards for households that are victims of a mechanical disaster disrupting the distribution of coupons.

Subsec. (c). Pub. L. 93–86, § 3(e), inserted definition of ''able-bodied adult person''.

Subsec. (d). Pub. L. 93–86, § 3(d), added subsec. (d).

1971—Subsec. (a). Pub. L. 91–671 inserted introductory phrase ''Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section'' and provision respecting other financial resources as being a limitation factor and substituted ''in permitting them to purchase'' for ''in the attainment of''.

Subsec. (b). Pub. L. 91–671 substituted provisions for establishment of uniform national standards of eligibility for participation by households in the food stamp program and minimum criteria of eligibility, ineligibility of any household which includes a member claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household, temporary emergency standards of eligibility, and special standards of eligibility and coupon allotment schedules in Puerto Rico and the Virgin Islands, not exceeding standards of eligibility or coupon allotment schedules of the States for prior establishment of standards of eligibility by the State agency, including maximum income limitations and limitation on resources to be allowed eligible households, and approval of such standards by the Secretary.

Subsec. (c). Pub. L. 91–671 added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(2)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(2)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(a) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13923 of Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103–66, set out as a note under section 2025 of this title.

Amendment by section 13912(a), (b)(1) of Pub. L. 103–66 effective, and to be implemented beginning on, July 1, 1994, see section 13971(b)(3) of Pub. L. 103–66, set out as a note under section 2025 of this title.

Amendment by sections 13911, 13913 to 13915, 13922(a), and 13924 of Pub. L. 103–66 effective, and to be implemented beginning on, Sept. 1, 1994, see section 13971(b)(4) of Pub. L. 103–66, set out as a note under section 2025 of this title.

Amendment by section 13921 of Pub. L. 103–66 effective, and to be implemented beginning on, Sept. 1, 1994, except that State agencies to implement such amendment not later than Oct. 1, 1995, see section 13971(b)(5) of Pub. L. 103–66, set out as a note under section 2025 of this title.

Amendment by section 13912(b)(2) of Pub. L. 103–66, effective, and to be implemented beginning on, Jan. 1, 1997, see section 13971(b)(6) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–367 effective July 1, 1993, see section 701(a) of Pub. L. 102–367, formerly set out as a note under section 1501 of Title 29, Labor.

Section 1(b) of Pub. L. 102–265 provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall take effect on the earlier of—

''(A) December 13, 1991;

''(B) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(A)(iii) of the Social Security Act (42 U.S.C. 1382a(b)(4)(A)(iii)); or

''(C) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

''(2) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (7 U.S.C. 2020(b)), no State agency shall be required to

search its files for cases to which the amendment made by subsection (a) applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) was raised with the State agency prior to December 13, 1991.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 902, 903(1), (2), 904–906, and 941(2) of Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, and amendment by section 903(3) of Pub. L. 102–237 effective on the earlier of Dec. 13, 1991, Oct. 1, 1990, for certain food stamp households, or beginning on date of request for hearing where exclusion of certain amounts for food stamp purposes was denied, with limitation on application of amendment, see section 1101(d)(1), (2) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by sections 1714(1), 1715, 1717, 1719, 1720, and 1726(b)(2) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, amendment by section 1714(2) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after promulgation of implementing regulations to be promulgated not later than Oct. 1, 1991, in case of State general assistance program, and Apr. 1, 1992, in case of local general assistance program, amendment by sections 1716 and 1722 of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after promulgation of implementing regulations to be promulgated not later than Apr. 1, 1991, amendment by section 1718(a) of Pub. L. 101–624 effective Nov. 28, 1990, and amendment by section 1721 of Pub. L. 101–624 effective Oct. 1, 1990, see section 1781 of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by sections 201, 202(a), 403, and 404(f) of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, amendment by sections 340 to 342 and 351 of Pub. L. 100–435 to be effective and implemented on July 1, 1989, amendment by section 343 of Pub. L. 100–435 to be effective and implemented on Sept. 19, 1988, and amendment by section 402 of Pub. L. 100–435 to be effective and implemented on Jan. 1, 1989, except that amendment by sections 201, 341, 342, 351, 402, 403, and 404(f) of Pub. L. 100–435 to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (b)(1), (2), (4), (c)(2) of Pub. L. 100–435, set out as a note under section 2012 of this title.

Section 501(b) of Pub. L. 100–387 provided that:

''(1) The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Aug. 11, 1988].

''(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 [this chapter] to any household for any month beginning before the effective period of this section begins.''

Section 2(b) of Pub. L. 100–232 provided that:

''(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendment made by this section [amending this section] shall become effective upon the date of enactment of this Act [Jan. 5, 1988].

''(2) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 [this chapter] to any household for any month beginning before the date of enactment of this Act.''

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 803(b) of Pub. L. 100–77 provided that: ''The amendment made by this section [amending this section] shall become effective on July 1, 1988.''

Section 804(b) of Pub. L. 100–77 provided that: ''The amendments made by this section [amending this section] shall become effective on October 1, 1987.''

Section 805(b) of Pub. L. 100–77 provided that:

''(1) The amendment made by this section [amending this section] shall become effective and shall be implemented 45 days after the date of enactment of this Act [July 22, 1987].

''(2) The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 [this chapter] to any household for any month beginning before the effective date of the amendment.''

Section 806(b) of Pub. L. 100–77 provided that:

''(1) The amendment made by this section [amending this section] shall become effective on October 1, 1987.

''(2) The amendment made by this section shall not apply with respect to an allotment issued under the Food Stamp Act of 1977 [this chapter] to a household for a certification period beginning before October 1, 1987.''

Section 807(b) of Pub. L. 100–77, as amended by Pub. L. 101–220, § 10, Dec. 12, 1989, 103 Stat. 1882, provided that:

''(1) The amendments made by this section [amending this section] shall be effective and shall be implemented for the period beginning 90 days after the date of enactment of this Act [July 22, 1987] and ending September 30, 1990.

''(2) The Secretary shall adjust the level of benefits provided to households under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) during the period between September 30, 1989 and the effective date of this paragraph [Dec. 12, 1989] to ensure that the level of such benefits is no less than the level determined in accordance with the provisions of section 5(k)(2)(F) of the Food Stamp Act of 1977 [7 U.S.C. 2014(k)(2)(F)].

''(3) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 [this chapter] to any household for any month beginning before the effective period of this section begins.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 101(a) [title VI, § 638(b)] of Pub. L. 99–500 and Pub. L. 99–591 provided that:

''(1) Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) [amending this section] shall become effective 30 days after the date of enactment of this Act [Oct. 18, 1986].

''(2) Except as provided in paragraph (3), the amendment made by subsection (a) shall not apply to an allotment issued to any eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for any month beginning before the effective date of this subsection.

''(3) If a State elected before the date of enactment of this Act to compute household income in accordance with section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) (as amended by subsection (a)), the amendment made by subsection (a) shall become effective on May 1, 1986.''

EFFECTIVE DATE OF 1985 AMENDMENT

Sections 1511(2), (3) and 1514(1) of Pub. L. 99–198 provided that the amendments made by those sections are effective May 1, 1986.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–35, except section 107(b) of Pub. L. 97–35 (which amended this section), effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section

192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title. See section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

Section 116(a) of Pub. L. 97–35 provided that the amendment made by that section is effective July 1, 1982.

Amendment by sections 104(a), 105, 106, 107(a), (c), and 115 of Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

Section 107(b) of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1983.

Section 2611 of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Sections 104 to 106 of Pub. L. 96–249 provided that the amendments made by those sections are effective Oct. 1, 1981.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–58 to be implemented in all States by Jan. 1, 1980, but not to affect the rights or liabilities of Secretary, States, and applicant or participant households under provisions of this chapter as in effect on July 1, 1979, until implemented, see section 10(a) of Pub. L. 96–58, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendments made by that section are effective Oct. 1, 1977.

INAPPLICABILITY OF SUBSECTION (j) BETWEEN DECEMBER 23, 1985, AND SEPTEMBER 30, 1989

Section 1507(a)(2) of Pub. L. 99–198 provided that: ''During the period beginning on the date of the enactment of this Act [Dec. 23, 1985] and ending on September 30, 1989, section 5(j) of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) shall not apply.''

REPEALS

Sections 104 and 105 of Pub. L. 96–249, cited as a credit to this section, were repealed by Pub. L. 97–35, title I, § 115, Aug. 13, 1981, 95 Stat. 364.

Section 313(c)(2) of Pub. L. 96–223, cited as a credit to this section, was repealed by Pub. L. 97–35, title XXVI, § 2611, Aug. 13, 1981, 95 Stat. 902, effective Oct. 1, 1981.

CALCULATION OF HOUSEHOLD INCOME

Section 1718(b) of Pub. L. 101–624 provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning October 1, 1988, and ending on the first day of the first month beginning at least 120 days after the date of enactment of this Act [Nov. 28, 1990], a State agency may elect to implement the amendment to section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) made by section 202(a) of the Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1656) (with respect to the requirement that income be calculated on a prospective basis in the case of households that are not required to report monthly on their income and household circumstances).

''(2) PAYMENT ERROR RATES.—Notwithstanding section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), during the period referred to in paragraph (1), errors resulting solely from implementation by a State agency of the amendment referred to in paragraph (1) shall not be included in payment error rates determined under section 16(c) of such Act.''

STUDY AND REPORT TO CONGRESSIONAL COMMITTEES ON IMPLEMENTATION OF AMENDMENT TO SUBSECTION (a) BY PUB. L. 99–198

Section 1507(c) of Pub. L. 99–198 provided that: ''Not later than 2 years after the date of the enactment of this Act [Dec. 23, 1985], the Secretary shall—

''(1) evaluate the implementation of the second sentence of section 5(a) of the Food Stamp Act of 1977 [7 U.S.C. 2014(a)], as amended by subsection (a) of this section; and

''(2) submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report summarizing the results of such evaluation.''

STUDY AND REPORT RESPECTING RESTRICTING BENEFITS OF FOOD STAMP PROGRAM BASED ON VALUE OF ASSETS OF PARTICIPANTS

Pub. L. 96–243, May 16, 1980, 94 Stat. 345, directed the Department of Agriculture to study the effects of regulations which would limit benefits to participants in the food stamp program based upon value of the participants' assets, to recommend an appropriate level of asset value which would deny or reduce benefits to a participant and analyze the impacts of such a restriction, to consider appropriate exemptions to this restriction, to analyze the administrative burden which this will impose upon the States, and to report to Congress its findings in this matter not later than Jan. 15, 1981.

STUDY AND REPORT OF IMPACT AND ADVISABILITY OF COUNTING FOR INCOME ELIGIBILITY IN FOOD STAMP PROGRAM EDUCATIONAL LOANS, ETC. RECEIVED BY INDIVIDUAL OR HOUSEHOLD

Pub. L. 96–243, May 16, 1980, 94 Stat. 345, provided for the Secretary of Agriculture to study the impact and advisability of counting, for the purposes of income in determining eligibility: all educational loans on which payment is deferred; grants, fellowships, scholarships, and veteran's educational benefits used for the payment of tuition and mandatory fees at any educational institution of higher learning; and all housing subsidies including, but not limited to payments made by an outside party on behalf of an individual or household, and further provided for the Department of Agriculture to report to Congress its findings in this matter not later than Jan. 15, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2015, 2017, 2020, 2025, 2026, 2027, 2031, 2035; title 42 sections 1396r–5, 8624; title 43 section 1626.

§ 2015. Eligibility disqualifications

(a) Additional specific conditions rendering individuals ineligible

In addition to meeting the standards of eligibility prescribed in section 2014 of this title, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the food stamp program.

(b) Fraud and misrepresentation; disqualification penalties; ineligibility period; applicable procedures

(1) Any person who has been found by any State or Federal court or administrative agency

to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation of this chapter, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards shall, immediately upon the rendering of such determination, become ineligible for further participation in the program—

(i) for a period of 1 year upon the first occasion of any such determination;

(ii) for a period of 2 years upon—

(I) the second occasion of any such determination; or

(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 802 of title 21) for coupons; and

(iii) permanently upon—

(I) the third occasion of any such determination;

(II) the second occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 802 of title 21) for coupons;

(III) the first occasion of a finding by a Federal, State, or local court of the trading of firearms, ammunition, or explosives for coupons; or

(IV) a conviction of an offense under subsection (b) or (c) of section 2024 of this title involving an item covered by subsection (b) or (c) of section 2024 of this title having a value of $500 or more.

During the period of such ineligibility, no household shall receive increased benefits under this chapter as the result of a member of such household having been disqualified under this subsection.

(2) Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings, after notice and an opportunity for a hearing at the State level, or by referring such matters to appropriate authorities for civil or criminal action in a court of law.

(3) Such periods of ineligibility as are provided for in paragraph (1) of this subsection shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to review.

(4) The Secretary shall prescribe such regulations as the Secretary may deem appropriate to ensure that information concerning any such determination with respect to a specific individual is forwarded to the Office of the Secretary by any appropriate State or Federal entity for the use of the Secretary in administering the provisions of this section. No State shall withhold such information from the Secretary or the Secretary's designee for any reason whatsoever.

(c) Refusal to provide necessary information

No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility.

(1)(A) A State agency may require certain categories of households to file periodic reports of income and household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting by—

(i) migrant or seasonal farmworker households;

(ii) households in which all members are homeless individuals; or

(iii) households that have no earned income and in which all adult members are elderly or disabled.

(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations.

(C) A State agency may require periodic reporting on a monthly basis by households residing on a reservation only if—

(i) the State agency reinstates benefits, without requiring a new application, for any household residing on a reservation that submits a report not later than 1 month after the end of the month in which benefits would otherwise be provided;

(ii) the State agency does not delay, reduce, suspend, or terminate the allotment of a household that submits a report not later than 1 month after the end of the month in which the report is due;

(iii) on March 25, 1994, the State agency requires households residing on a reservation to file periodic reports on a monthly basis; and

(iv) the certification period for households residing on a reservation that are required to file periodic reports on a monthly basis is 2 years, unless the State demonstrates just cause to the Secretary for a shorter certification period.

(2) Any household required to file a periodic report under paragraph (1) of this subsection shall, (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given month, within thirty days of the end of that month unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information in the event all adult members of the household are mentally or physically handicapped or lacking in reading or writing skills to such a degree as to be unable to fill out the required forms, (C) have a reasonable period of time after the close of the month in which to file their reports on State agency designed forms, (D) be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its

rights under section 2020(e)(10) of this title, and (E) be provided each month (or other applicable period) with an appropriate, simple form for making the required reports of the household together with clear instructions explaining how to complete the form and the rights and responsibilities of the household under any periodic reporting system.

(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if they contain the information relevant to eligibility and benefit determinations that is specified by the State agency. All report forms, including those related to periodic reports of circumstances, shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this chapter including the prescribed penalties. Reports required to be filed monthly under paragraph (1) shall be the sole reporting requirement for subject matter included in such reports. In promulgating regulations implementing these reporting requirements, the Secretary shall consult with the Commissioner of Social Security and the Secretary of Health and Human Services, and, wherever feasible, households that receive assistance under title IV–A of the Social Security Act [42 U.S.C. 601 et seq.] and that are required to file comparable reports under that Act [42 U.S.C. 301 et seq.] shall be provided the opportunity to file reports at the same time for purposes of this chapter and the Social Security Act.

(4) Except as provided in paragraph (1)(C), any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.

(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this chapter which are similar to the periodic reporting requirements established under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.

(d) Conditions of participation

(1) WORK REQUIREMENTS.—

(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

(ii) refuses without good cause to participate in an employment and training program established under paragraph (4), to the extent required by the State agency;

(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

(I) the applicable Federal or State minimum wage; or

(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

(v) voluntarily and without good cause—

(I) quits a job; or

(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

(vi) fails to comply with section 2029 of this title.

(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

(ii) 180 days.

(C) DURATION OF INELIGIBILITY.—

(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 1 month after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 3 months after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 6 months after the date the individual became ineligible;

(III) a date determined by the State agency; or

(IV) at the option of the State agency, permanently.

(D) ADMINISTRATION.—

(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

(iii) DETERMINATION BY STATE AGENCY.—

(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

(aa) the meaning of any term used in subparagraph (A);

(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

(cc) whether an individual is in compliance with a requirement under subparagraph (A).

(II) NOT LESS RESTRICTIVE.—A State agency may not use a meaning, procedure, or determination under subclause (I) that is less restrictive on individuals receiving benefits under this chapter than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

(v) SELECTING A HEAD OF HOUSEHOLD.—

(I) IN GENERAL.—For purposes of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system, in which case, failure by such person to comply with any work requirement to which such person is subject shall be the same as failure to comply with that requirement of paragraph (1); (B) a parent or other member of a household with responsibility for the care of a dependent child under age six or of an incapacitated person; (C) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section); (D) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; (E) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or (F) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis. A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age.

(3) Notwithstanding any other provision of law, a household shall not participate in the food stamp program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 142(2) of title 29, because of a labor dispute (other than a lockout) as defined in section 152(9) of title 29: *Provided*, That a household shall not lose its eligibility to participate in the food stamp program as a result of one of its members going on strike if the household was eligible for food stamps immediately prior to such strike, however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household: *Provided further*, That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout.

(4) EMPLOYMENT AND TRAINING.—

(A) IN GENERAL.—

(i) IMPLEMENTATION.—Each State agency shall implement an employment and training program designed by the State agency and approved by the Secretary for the purpose of assisting members of households participating in the food stamp program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment.

(ii) STATEWIDE WORKFORCE DEVELOPMENT SYSTEM.—Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through such a system.

(B) For purposes of this chapter, an ''employment and training program'' means a program that contains one or more of the following components, except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:

(i) Job search programs.

(ii) Job search training programs that include, to the extent determined appropriate by the State agency, reasonable job search training and support activities that may consist of jobs skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs, determined by the State agency to expand the job search abilities or employability of those subject to the program.

(iii) Workfare programs operated under section 2029 of this title.

(iv) Programs designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. An employment or training experience program established under this clause shall—

(I) not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

(II) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

(v) Educational programs or activities to improve basic skills and literacy, or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.

(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.

(vii) As approved by the Secretary or the State under regulations issued by the Secretary, other employment, educational and training programs, projects, and experiments, such as a supported work program, aimed at accomplishing the purpose of the employment and training program.

(C) The State agency may provide that participation in an employment and training program may supplement or supplant other employment-related requirements imposed on those subject to the program.

(D)(i) Each State agency may exempt from any requirement for participation in any program under this paragraph categories of household members.

(ii) Each State agency may exempt from any requirement for participation individual household members not included in any category designated as exempt under clause (i).

(iii) Any exemption of a category or individual under this subparagraph shall be periodically evaluated to determine whether the exemption continues to be valid.

(E) Each State agency shall establish requirements for participation by individuals not exempt under subparagraph (D) in one or more employment and training programs under this paragraph, including the extent to which any individual is required to participate. Such requirements may vary among participants.

(F)(i) The total hours of work in an employment and training program carried out under this paragraph required of members of a household, together with the hours of work of such members in any program carried out under section 2029 of this title, in any month collectively may not exceed a number of hours equal to the household's allotment for such month divided by the higher of the applicable State minimum wage or Federal minimum hourly rate under the Fair Labor Standards Act of 1938 [29 U.S.C. 206(a)(1)].

(ii) The total hours of participation in such program required of any member of a household, individually, in any month, together with any hours worked in another program carried out under section 2029 of this title and any hours worked for compensation (in cash or in kind) in any other capacity, shall not exceed one hundred and twenty hours per month.

(G) The State agency may operate any program component under this paragraph in which individuals elect to participate.

(H) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.

(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to $25 per month; and

(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act [42 U.S.C. 601 et seq.] is in operation), except that no such payment or reimbursement shall exceed the applicable local market rate. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).

(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of purchase of service contracts or vouchers or by providing vouchers to the household.

(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of title 26.

(J) The Secretary shall promulgate guidelines that (i) enable State agencies, to the maximum extent practicable, to design and operate an employment and training program that is compatible and consistent with similar programs operated within the State, and (ii) ensure, to the maximum extent practicable, that employment and training programs are provided for Indians on reservations.

(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including funds used to carry out subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).

(L) The Secretary shall ensure that State agencies comply with the requirements of this paragraph and section 2020(e)(22)[1] of this title.

(M) The facilities of the State public employment offices and agencies operating programs under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] or of the State public employment offices and other State agencies and providers carrying out activities under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] may be used to find employment and training opportunities for household members under the programs under this paragraph.

(e) Students

No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half-time in an institution of higher education, unless the individual—

(1) is under age 18 or is age 50 or older;

(2) is not physically or mentally fit;

(3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of—

(A) a program under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.];

(B) an employment and training program under this section;

(C) a program under section 2296 of title 19; or

(D) another program for the purpose of employment and training operated by a State or local government, as determined to be appropriate by the Secretary;

(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

(5) is—

(A) a parent with responsibility for the care of a dependent child under age 6; or

(B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual to attend class and satisfy the requirements of paragraph (4);

(6) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(7) is so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act [42 U.S.C. 601 et seq.] or its successor programs; or

(8) is enrolled full-time in an institution of higher education, as determined by the institution, and is a single parent with responsibility for the care of a dependent child under age 12.

(f) Aliens

No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 1101(a)(15) and 1101(a)(20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students

[1] See References in Text note below.

who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8; or (D) an alien who has qualified for conditional entry pursuant to sections 1157 and 1158 of title 8; or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8; or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 1231(b)(3) of title 8. No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household. The income (less, at State option, a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member.

(g) Residents of States which provide State supplementary payments

No individual who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93–66, as amended, shall be considered to be a member of a household for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] and section 212(a) of Public Law 93–66, and (2) the level of which has been found by the Commissioner of Social Security to have been specifically increased so as to include the bonus value of food stamps.

(h) Transfer of assets to qualify

No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

(i) Comparable treatment for disqualification

(1) In general

If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

(2) Rules and procedures

If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

(3) Application after disqualification period

A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this chapter and shall be treated as a new applicant, except that a prior disqualification under subsection (d) of this section shall be considered in determining eligibility.

(j) Disqualification for receipt of multiple food stamp benefits

An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.

(k) Disqualification of fleeing felons

No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(2) violating a condition of probation or parole imposed under a Federal or State law.

***(l)* Custodial parent's cooperation with child support agencies**

(1) In general

At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as ''the individual'') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in obtaining support for—

(i) the child; or

(ii) the individual and the child.

(2) Good cause for noncooperation

Paragraph (1) shall not apply to the individual if good cause is found for refusing to co-

operate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

(3) Fees

Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(m) Noncustodial parent's cooperation with child support agencies

(1) In general

At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as ''the individual'') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in providing support for the child.

(2) Refusal to cooperate

(A) Guidelines

The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

(B) Procedures

The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

(3) Fees

Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(4) Privacy

The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.

(n) Disqualification for child support arrears

(1) In general

At the option of a State agency, no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

(2) Exceptions

Paragraph (1) shall not apply if—

(A) a court is allowing the individual to delay payment; or

(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.

***(o)* Work requirement**

(1) "Work program" defined

In this subsection, the term ''work program'' means—

(A) a program under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.];

(B) a program under section 2296 of title 19; and

(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under subsection (d)(4) of this section, other than a job search program or a job search training program.

(2) Work requirement

Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 36-month period, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not—

(A) work 20 hours or more per week, averaged monthly;

(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency;

(C) participate in and comply with the requirements of a program under section 2029 of this title or a comparable program established by a State or political subdivision of a State; or

(D) receive benefits pursuant to paragraph (3), (4), (5), or (6).

(3) Exception

Paragraph (2) shall not apply to an individual if the individual is—

(A) under 18 or over 50 years of age;

(B) medically certified as physically or mentally unfit for employment;

(C) a parent or other member of a household with responsibility for a dependent child;

(D) otherwise exempt under subsection (d)(2) of this section; or

(E) a pregnant woman.

(4) Waiver

(A) In general

On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

(i) has an unemployment rate of over 10 percent; or

(ii) does not have a sufficient number of jobs to provide employment for the individuals.

(B) Report

The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(5) Subsequent eligibility

(A) Regaining eligibility

An individual denied eligibility under paragraph (2) shall regain eligibility to participate in the food stamp program if, during a 30-day period, the individual—

(i) works 80 or more hours;

(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

(iii) participates in and complies with the requirements of a program under section 2029 of this title or a comparable program established by a State or political subdivision of a State.

(B) Maintaining eligibility

An individual who regains eligibility under subparagraph (A) shall remain eligible as long as the individual meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

(C) Loss of employment

(i) In general

An individual who regained eligibility under subparagraph (A) and who no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2) shall remain eligible for a consecutive 3-month period, beginning on the date the individual first notifies the State agency that the individual no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

(ii) Limitation

An individual shall not receive any benefits pursuant to clause (i) for more than a single 3-month period in any 36-month period.

(6) 15-percent exemption

(A) Definitions

In this paragraph:

(i) Caseload

The term ''caseload'' means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(ii) Covered individual

The term ''covered individual'' means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph (2), who—

(I) is not eligible for an exception under paragraph (3);

(II) does not reside in an area covered by a waiver granted under paragraph (4);

(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

(IV) is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph (2); and

(V) is not receiving food stamp benefits under paragraph (5).

(B) General rule

Subject to subparagraphs (C) through (G), a State agency may provide an exemption from the requirements of paragraph (2) for covered individuals.

(C) Fiscal year 1998

Subject to subparagraphs (E) and (G), for fiscal year 1998, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out section 2025(c) of this title for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

(D) Subsequent fiscal years

Subject to subparagraphs (E) through (G), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (4).

(E) Caseload adjustments

The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as determined by the Secretary.

(F) Exemption adjustments

During fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency under this paragraph to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year under this paragraph is lesser or greater than the average monthly number of exemptions estimated for the State agency for such preceding fiscal year under this paragraph.

(G) Reporting requirement

A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.

(7) Other program rules

Nothing in this subsection shall make an individual eligible for benefits under this chap-

ter if the individual is not otherwise eligible for benefits under the other provisions of this chapter.

(Pub. L. 88–525, § 6, Aug. 31, 1964, 78 Stat. 704; Pub. L. 94–339, § 3, July 5, 1976, 90 Stat. 800; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 964; Pub. L. 96–58, §§ 5, 9, Aug. 14, 1979, 93 Stat. 391, 392; Pub. L. 96–249, title I, §§ 109, 110, 114, 115, 139, 140, May 26, 1980, 94 Stat. 359, 361, 370; Pub. L. 97–35, title I, §§ 108(b), (c), 109, 112, Aug. 13, 1981, 95 Stat. 361, 362; Pub. L. 97–98, title XIII, §§ 1310, 1311, Dec. 22, 1981, 95 Stat. 1284, 1285; Pub. L. 97–253, title I, §§ 145(e), 154–161, 189(b)(1), 190(a), (b), Sept. 8, 1982, 96 Stat. 774, 777, 778, 787; Pub. L. 98–204, §§ 5, 6, Dec. 2, 1983, 97 Stat. 1385, 1386; Pub. L. 99–198, title XV, §§ 1513(b), 1516, 1517(a), Dec. 23, 1985, 99 Stat. 1571–1573; Pub. L. 100–435, title II, § 202(b), (c), title IV, § 404(a)–(d), Sept. 19, 1988, 102 Stat. 1656, 1665–1667; Pub. L. 101–624, title XVII, §§ 1723–1726(b)(1), (c), (d), 1727, Nov. 28, 1990, 104 Stat. 3786–3788; Pub. L. 102–237, title IX, §§ 907, 941(3), Dec. 13, 1991, 105 Stat. 1885, 1892; Pub. L. 103–66, title XIII, §§ 13922(b), 13942, Aug. 10, 1993, 107 Stat. 675, 677; Pub. L. 103–225, title I, §§ 101(a), 104(b), Mar. 25, 1994, 108 Stat. 106, 107; Pub. L. 103–296, title I, § 108(f)(1), (2), Aug. 15, 1994, 108 Stat. 1486, 1487; Pub. L. 104–193, title I, § 109(b), title VIII, §§ 813–815(a), 816, 817(a), 818, 819(a), (c), 820–824(a), Aug. 22, 1996, 110 Stat. 2169, 2314, 2315, 2318, 2320–2323; Pub. L. 104–208, div. C, title III, § 308(g)(7)(D)(i), Sept. 30, 1996, 110 Stat. 3009–624; Pub. L. 105–33, title I, § 1001, Aug. 5, 1997, 111 Stat. 251; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(2)(B), (f)(2)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–418, 2681–429.)

AMENDMENT OF SECTION

Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(f)(2)(B), (g)(2)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–429, 2681–435, provided that, effective July 1, 2000, this section is amended as follows:

(i) in subsection (d)(4)(M), by striking ''the State public employment offices and agencies operating programs under the Job Training Partnership Act or of'';

(ii) in subsection (e)(3), by striking subparagraph (A) and inserting the following:

(A) a program under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.];

(iii) in subsection (o)(1)(A), by striking ''Job Training Partnership Act or''.

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c)(3), (5), (d)(1)(D)(iii)(II), (2), (4)(I)(i)(II), (K), (e)(6), (7), (g), (i)(2), (*l*)(1), (3), (m), and (n)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Part D of title IV of the Act is classified generally to part D (§ 651 et seq.) of subchapter IV of chapter 7 of Title 42. Title IV–A of the Act (part A of title IV) is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§ 601 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Fair Labor Standards Act of 1938, as amended, referred to in subsec. (d)(2), (4)(F)(i), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

Section 2020(e)(22) of this title, referred to in subsec. (d)(4)(L), was redesignated section 2020(e)(21) of this title by Pub. L. 104–193, title VIII, § 835(1)(D)(i), Aug. 22, 1996, 110 Stat. 2330.

The Job Training Partnership Act, referred to in subsecs. (d)(4)(M), (e)(3)(A), and (*o*)(1)(A), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (d)(4)(M), (e)(3)(A), and (*o*)(1)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Section 212(a) of Pub. L. 93–66, referred to in subsec. (g), is Pub. L. 93–66, title II, § 212(a), July 9, 1973, 87 Stat. 155, which is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

AMENDMENTS

1998—Subsec. (d)(4)(M). Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(2)(B)(i)], substituted ''the State public employment offices and agencies operating programs under the Job Training Partnership Act or of the State public employment offices and other State agencies and providers carrying out activities under title I of the Workforce Investment Act of 1998'' for ''the State public employment offices and agencies operating programs under the Job Training Partnership Act''.

Subsec. (e)(3)(A). Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(2)(B)(ii)], added subpar. (A) and struck out former subpar. (A) which read as follows: ''a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);''.

Subsec. (*o*)(1)(A). Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(2)(B)(iii)], substituted ''Job Training Partnership Act or title I of the Workforce Investment Act of 1998'' for ''Job Training Partnership Act (29 U.S.C. 1501 et seq.)''

1997—Subsec. (*o*)(2)(D). Pub. L. 105–33, § 1001(1), substituted ''(5), or (6)'' for ''or (5)''.

Subsec. (*o*)(6), (7). Pub. L. 105–33, § 1001(2), (3), added par. (6) and redesignated former par. (6) as (7).

1996—Subsec. (b)(1)(i). Pub. L. 104–193, § 813(1), substituted ''1 year'' for ''six months''.

Subsec. (b)(1)(ii). Pub. L. 104–193, § 813(2), substituted ''2 years'' for ''1 year''.

Subsec. (b)(1)(iii)(IV). Pub. L. 104–193, § 814, added subcl. (IV).

Subsec. (c)(5). Pub. L. 104–193, § 109(b)(1), substituted ''the State program funded'' for ''the State plan approved''.

Subsec. (d). Pub. L. 104–193, § 815(a), inserted subsec. heading.

Subsec. (d)(1). Pub. L. 104–193, § 815(a), added par. (1) and struck out former par. (1) which related to ineligibility in case of refusal of person or head of household to register for or accept employment.

Subsec. (d)(2). Pub. L. 104–193, §§ 816, 819(c), struck out ''that is comparable to a requirement of paragraph (1)'' after ''person is subject'' in cl. (A) and inserted at end ''A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age.''

Subsec. (d)(4). Pub. L. 104–193, § 817(a)(1), inserted par. heading.

Subsec. (d)(4)(A). Pub. L. 104–193, § 817(a)(1), (2), inserted subpar. heading, designated existing provisions as cl. (i), inserted heading, substituted ''Each State''

for ''Not later than April 1, 1987, each State'', inserted ''work,'' after ''skills, training,'', and added cl. (ii).

Subsec. (d)(4)(B). Pub. L. 104–193, §817(a)(3), in introductory provisions, inserted before colon '', except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application'', in cl. (i), struck out ''with terms and conditions comparable to those prescribed in subparagraphs (A) and (B) of section 402(a)(35) of part A of title IV of the Social Security Act, except that the State agency shall retain the option to apply employment requirements prescribed under this clause to program applicants at the time of application'' after ''search programs'', and in cl. (iv), redesignated subcls. (III) and (IV) as (I) and (II), respectively, and struck out former subcls. (I) and (II) which read as follows:

''(I) limit employment experience assignments to projects that serve a useful public purpose in fields such as health, social services, environmental protection, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care;

''(II) to the extent possible, use the prior training, experience, and skills of the participating member in making appropriate employment or training experience assignments;''.

Subsec. (d)(4)(D). Pub. L. 104–193, §817(a)(4), in cl. (i), struck out ''to which the application of such participation requirement is impracticable as applied to such categories due to factors such as the availability of work opportunities and the cost-effectiveness of the employment requirements. In making such a determination, the State agency may designate a category consisting of all such household members residing in a specific area of the State. Each State may exempt, with the approval of the Secretary, members of households that have participated in the food stamp program 30 days or less'' after ''household members'', in cl. (ii), struck out ''but with respect to whom such participation is impracticable because of personal circumstances such as lack of job readiness and employability, the remote location of work opportunities, and unavailability of child care'' after ''clause (i)'', and in cl. (iii), substituted ''the exemption continues to be valid'' for '', on the basis of the factors used to make a determination under clause (i) or (ii), the exemption continues to be valid. Such evaluations shall occur no less often than at each certification or recertification in the case of exemptions under clause (ii)''.

Subsec. (d)(4)(E). Pub. L. 104–193, §817(a)(5), struck out at end ''Through September 30, 1995, two States may, on application to and after approval by the Secretary, give priority in the provision of services to voluntary participants (including both exempt and non-exempt participants), except that this sentence shall not excuse a State from compliance with the performance standards issued under subparagraphs (K) and (L), and the Secretary may, at the Secretary's discretion, approve additional States' requests to give such priority if the Secretary reports to Congress on the number and characteristics of voluntary participants given priority under this sentence and such other information as the Secretary determines to be appropriate.''

Subsec. (d)(4)(G). Pub. L. 104–193, §817(a)(6), struck out ''(i)'' after ''(G)'' and struck out cl. (ii) which read as follows: ''The State agency shall permit, to the extent it determines practicable, individuals not subject to requirements imposed under subparagraph (E) or who have complied, or are in the process of complying, with such requirements to participate in any program under this paragraph.''

Subsec. (d)(4)(H). Pub. L. 104–193, §817(a)(7), struck out ''(ii)'' before ''Federal funds'' and struck out cl. (i) which read as follows: ''The Secretary shall issue regulations under which each State agency shall establish a conciliation procedure for the resolution of disputes involving the participation of an individual in the program.''

Subsec. (d)(4)(I)(i)(II). Pub. L. 104–193, §817(a)(8), substituted '', except that no such payment or reimbursement shall exceed the applicable local market rate'' for '', or was in operation, on September 19, 1988) up to any limit set by the State agency (which limit shall not be less than the limit for the dependent care deduction under section 2014(e) of this title), but in no event shall such payment or reimbursements exceed the applicable local market rate as determined by procedures consistent with any such determination under the Social Security Act''.

Subsec. (d)(4)(K). Pub. L. 104–193, §817(a)(9)(A), added subpar. (K) and struck out former subpar. (K) which authorized establishment of performance standards for each State that, in case of persons who were subject to employment requirements under this section and who were not exempt under subpar. (D), designated minimum percentages (not to exceed 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995) of such persons that State agencies were to place in employment and training programs.

Subsec. (d)(4)(L). Pub. L. 104–193, §817(a)(10), struck out ''(i)'' before ''The Secretary'' and struck out cl. (ii) which read as follows: ''If the Secretary determines that a State agency has failed, without good cause, to comply with such a requirement, including any failure to meet a performance standard under subparagraph (J), the Secretary may withhold from such State, in accordance with section 2025(a), (c), and (h) of this title, such funds as the Secretary determines to be appropriate, subject to administrative and judicial review under section 2023 of this title.''

Pub. L. 104–193, §817(a)(9), redesignated subpar. (M) as (L) and struck out former subpar. (L) which authorized Secretary to establish performance standards and measures applicable to employment and training programs that were based on employment outcomes, including increases in earnings.

Subsec. (d)(4)(M), (N). Pub. L. 104–193, §817(a)(9)(B), redesignated subpars. (M) and (N) as (L) and (M), respectively.

Subsec. (e)(6). Pub. L. 104–193, §109(b)(2), substituted ''benefits under a State program funded'' for ''aid to families with dependent children''.

Subsec. (f). Pub. L. 104–193, §818, in last sentence, inserted '', at State option,'' after ''(less''.

Subsec. (f)(2)(F). Pub. L. 104–208 substituted ''1231(b)(3)'' for ''1253(h)''.

Subsec. (i). Pub. L. 104–193, §819(a), added subsec. (i).

Subsec. (j). Pub. L. 104–193, §820, added subsec. (j).

Subsec. (k). Pub. L. 104–193, §821, added subsec. (k).

Subsecs. (*l*), (m). Pub. L. 104–193, §822, added subsecs. (*l*) and (m).

Subsec. (n). Pub. L. 104–193, §823, added subsec. (n).

Subsec. (*o*). Pub. L. 104–193, §824(a), added subsec. (*o*).

1994—Subsec. (c)(1)(A)(ii) to (iv). Pub. L. 103–225, §101(a)(1), redesignated cls. (iii) and (iv) as (ii) and (iii), respectively, and struck out former cl. (ii) which read ''households residing on a reservation;''.

Subsec. (c)(1)(C). Pub. L. 103–225, §101(a)(2), added subpar. (C).

Subsec. (c)(3). Pub. L. 103–296, §108(f)(1), inserted ''the Commissioner of Social Security and'' before ''the Secretary of Health and Human Services''.

Subsec. (c)(4). Pub. L. 103–225, §104(b), substituted ''Except as provided in paragraph (1)(C), any'' for ''Any''.

Subsec. (g). Pub. L. 103–296, §108(f)(2), substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services''.

1993—Subsec. (b)(1)(ii), (iii). Pub. L. 103–66, §13942, added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) for a period of one year upon the second occasion of any such determination; and

''(iii) permanently upon the third occasion of any such determination.''

Subsec. (d)(4)(I)(i)(II). Pub. L. 103–66, §13922(b), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: ''the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an indi-

vidual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation or was in operation, on September 19, 1988), but in no event shall such payment or reimbursements exceed $160 per dependent per month. Individuals subject to the program under this paragraph may not be required to participate if dependent care costs exceed $160 per dependent per month.''

1991—Subsec. (c)(1)(A)(ii). Pub. L. 102–237, §941(3)(A), realigned margin.

Subsec. (d)(1)(A). Pub. L. 102–237, §941(3)(B), substituted ''who is a physically'' for ''who is physically'', ''Secretary; (ii) refuses'' for ''Secretary; (ii) refuses'' requiring no change in text, and ''two months; or (iii) refuses'' for ''two months; (iii) refuses''.

Subsec. (d)(4)(B)(vii). Pub. L. 102–237, §941(3)(C), substituted ''Secretary,'' for ''Secretary,,'' and ''aimed at'' for ''aimed an''.

Subsec. (d)(4)(D)(iii). Pub. L. 102–237, §941(3)(D), substituted ''clause (i) or (ii)'' for ''clauses (i) or (ii)''.

Subsec. (d)(4)(I)(i)(II). Pub. L. 102–237, §941(3)(E), substituted ''601 et seq.)'' for ''601 et seq.))'' and ''), but in'' for '', but in''.

Subsec. (d)(4)(K)(i). Pub. L. 102–237, §907(b), substituted ''10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995'' for ''50 percent through September 30, 1989'' and inserted at end ''The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).''

Subsec. (d)(4)(L). Pub. L. 102–237, §907(a), amended subpar. (L) generally, substituting present provisions for provisions requiring establishment of performance standards by the Secretary, after consultation with the Office of Technology Assessment, Secretary of Labor, Secretary of Health and Human Services, and appropriate designated State officials, which standards were to be coordinated with the corresponding standards under the Job Training Partnership Act and the performance standards under title IV of the Social Security Act, which were to permit variations to take into account differing conditions in different States, and which were to be published and implemented not later than Oct. 1, 1991, and directing the Office of Technology Assessment, not later than 180 days after the Secretary publishes proposed measures for performance standards, to develop model performance standards, compare these standards with the Secretary, and report the result of such comparison to the Speaker of the House of Representatives, President pro tempore of the Senate, and Secretary of Agriculture.

1990—Subsec. (c)(1)(A)(ii) to (iv). Pub. L. 101–624, §1723, added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively.

Subsec. (c)(2)(C). Pub. L. 101–624, §1724(1), substituted ''State agency designed forms'' for ''forms approved by the Secretary''.

Subsec. (c)(3). Pub. L. 101–624, §1724(2), substituted ''they contain the information relevant to eligibility and benefit determinations that is specified by the State agency'' for '', in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels''.

Subsec. (d)(1). Pub. L. 101–624, §1725, inserted after first sentence ''The State agency shall allow the household to select an adult parent of children in the household as its head where all adult household members making application agree to the selection. The household may designate its head of household under this paragraph each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.''

Subsec. (d)(4)(B)(v). Pub. L. 101–624, §1726(a), inserted ''and literacy,'' after ''basic skills''.

Subsec. (d)(4)(B)(vi), (vii). Pub. L. 101–624, §1726(b)(1), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (d)(4)(E). Pub. L. 101–624, §1726(c), inserted at end ''Through September 30, 1995, two States may, on application to and after approval by the Secretary, give priority in the provision of services to voluntary participants (including both exempt and non-exempt participants), except that this sentence shall not excuse a State from compliance with the performance standards issued under subparagraphs (K) and (L), and the Secretary may, at the Secretary's discretion, approve additional States' requests to give such priority if the Secretary reports to Congress on the number and characteristics of voluntary participants given priority under this sentence and such other information as the Secretary determines to be appropriate.''

Subsec. (d)(4)(L)(iii). Pub. L. 101–624, §1726(d), substituted ''October'' for ''April''.

Subsec. (e). Pub. L. 101–624, §1727, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if he or she (1) is physically and mentally fit and is between the ages of eighteen and sixty, (2) is enrolled at least half time in an institution of higher education, or is an individual who is not assigned to or placed in an institution of higher learning through a program under the Job Training Partnership Act, and (3)(A) is not employed a minimum of twenty hours per week or does not participate in a federally financed work study program during the regular school year; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E) is not so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act, as amended (42 U.S.C. 602).''

1988—Subsec. (c)(1). Pub. L. 100–435, §202(b), substituted subpars. (A) and (B) for undesignated provisions requiring households with household income determined on retrospective basis to file periodic reports with system of less frequent reporting for certain categories of households.

Subsec. (c)(2). Pub. L. 100–435, §202(c), added cl. (E).

Subsec. (d)(4)(B)(i). Pub. L. 100–435, §404(a)(1), struck out ''have no obligation to incur costs exceeding $25 per participant per month, as provided in subparagraph (B)(vi), and the State agency shall'' before ''retain the option''.

Subsec. (d)(4)(B)(v). Pub. L. 100–435, §404(a)(3), (4), added cl. (v). Former cl. (v) redesignated (vi).

Subsec. (d)(4)(B)(vi). Pub. L. 100–435, §404(a)(2), (3), redesignated former cl. (v) as (vi) and inserted ''or the State under regulations issued by the Secretary,'' after ''the Secretary'' and ''employment, educational and training'' after ''other''.

Subsec. (d)(4)(H). Pub. L. 100–435, §404(b), added subpar. (H). Former subpar. (H) redesignated (I).

Subsec. (d)(4)(I). Pub. L. 100–435, §404(b)(1), (c), redesignated subpar. (H) as (I) and amended subpar. generally. Prior to amendment, subpar. (I) read as follows: ''The State agency shall reimburse participants in programs carried out under this paragraph, including those participating under subparagraph (G), for the actual costs of transportation, and other actual costs, that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to $25 per month.'' Former subpar. (I) redesignated (J).

Subsec. (d)(4)(J), (K). Pub. L. 100–435, §404(b)(1), redesignated subpars. (I) and (J) as (J) and (K), respectively. Former subpar. (K) redesignated (M).

Subsec. (d)(4)(L). Pub. L. 100–435, §404(b)(1), (d), added subpar. (L) and redesignated former subpar. (L) as (N).

Subsec. (d)(4)(M), (N). Pub. L. 100–435, §404(b)(1), redesignated former subpars. (K) and (L) as (M) and (N), respectively.

1985—Subsec. (c)(1). Pub. L. 99–198, §1513(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''State agencies shall require certain categories of households, including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by subsection (d) of this section to register for work, and all households required to file a similar report under title IV–A of the Social Security Act, but not including households that have no earned income and in which all adult members are elderly or disabled members, to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection.''

Pub. L. 99–198, §1513(b)(2), inserted after second sentence, provision empowering State agencies to require households, other than households with respect to which household income is required by section 2014(f)(2)(A) of this title to be calculated on a prospective basis, to file periodic reports of household circumstances in accordance with the standards prescribed by the Secretary under the preceding provisions of this paragraph.

Subsec. (d)(1). Pub. L. 99–198, §1516(2), inserted sentences at end of par. (1) directing that any period of ineligibility for violations under this paragraph shall end when the household member who committed the violation complies with the requirement that has been violated, and that if the household member who committed the violation leaves the household during the period of ineligibility, such household shall no longer be subject to sanction for such violation and, if it is otherwise eligible, may resume participation in the food stamp program, but any other household of which such person thereafter becomes the head of the household shall be ineligible for the balance of the period of ineligibility.

Subsec. (d)(1)(A). Pub. L. 99–198, §1516(1)(A), (B), designated existing provisions of first sentence of par. (1) as cl. (A) and in provisions of cl. (A) as so designated substituted ''no person shall be eligible to participate in the food stamp program who is a physically and mentally fit person between the ages of sixteen and sixty'' for ''no household shall be eligible for assistance under this chapter if it includes a physically and mentally fit person between the ages of eighteen and sixty'' in provisions preceding subcl. (i).

Subsec. (d)(1)(A)(ii). Pub. L. 99–198, §1517(a)(1), substituted ''refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required under paragraph (4), including any reasonable employment requirements as are prescribed by the State agency in accordance with paragraph (4), and the period of ineligibility shall be two months'' for ''refuses to fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary, which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application''.

Subsec. (d)(1)(A)(iii), (iv). Pub. L. 99–198, §1516(1)(C), redesignated cl. (iv) as (iii). Former cl. (iii), relating to a head of household who voluntarily quits any job without good cause, with a proviso that the period of ineligibility would be ninety days, was struck out.

Subsec. (d)(1)(B). Pub. L. 99–198, §1516(1)(D), added cl. (B).

Subsec. (d)(2)(F). Pub. L. 99–198, §1516(3), added cl. (F).

Subsec. (d)(4). Pub. L. 99–198, §1517(a)(2), added par. (4).

Subsec. (e)(2). Pub. L. 99–198, §1516(4), inserted ''or is an individual who is not assigned to or placed in an institution of higher learning through a program under the Job Training Partnership Act,''.

Subsec. (f)(2)(D). Pub. L. 99–198, §1516(5)(A), (B), substituted ''sections 1157 and 1158 of title 8'' for ''section 1153(a)(7) of title 8 because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity''.

Subsec. (f)(2)(F). Pub. L. 99–198, §1516(5)(C), struck out ''because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion'' after ''section 1253(h) of title 8''.

1983—Subsec. (c)(1). Pub. L. 98–204, §5, inserted sentence authorizing the Secretary to permit State agencies to accept, as satisfying the requirement that households report at such specified less frequent intervals, (i) recertifications conducted in accordance with section 2020(e)(4) of this title, (ii) in-person interviews conducted during a certification period, (iii) written reports filed by households, or (iv) such other documentation or actions as the Secretary may prescribe.

Subsec. (c)(3). Pub. L. 98–204, §6, substituted ''Reports required to be filed monthly under paragraph (1) shall be the sole reporting requirement for subject matter included in such reports'' for ''The reporting requirements contained in paragraph (1) of this subsection shall be the sole such requirements for reporting changes in circumstances for participating households''.

1982—Subsec. (c)(1). Pub. L. 97–253, §§145(e), 154, 155, in first sentence substituted ''in which all adult members are elderly or disabled members'' for ''in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under title I, II, X, XIV, and XVI of the Social Security Act'' and inserted provision that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection, and, in last sentence, struck out '', on a form designed or approved by the Secretary,'' after ''to the State agency''.

Subsec. (c)(5). Pub. L. 97–253, §156, added par. (5).

Subsec. (d)(1). Pub. L. 97–253, §§157, 158, inserted '', which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application'' after ''Secretary'' in cl. (ii), substituted ''ninety days'' for ''sixty days from the time of the voluntary quit'' in cl. (iii), and inserted provision that an employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.

Subsec. (d)(2)(C). Pub. L. 97–253, §§159, 190(a), redesignated subpar. (D) as (C), and struck out former subpar. (C) which provided that a person who would otherwise be required to comply with the requirements of par. (1) was exempt if he or she was a parent or other caretaker of a child in a household where there was another able-bodied parent subject to the requirements of this subsection.

Subsec. (d)(2)(D) to (F). Pub. L. 97–253, §190(a), redesignated subpars. (D) to (F) as (C) to (E), respectively. Former subpar. (D) redesignated (C).

Subsec. (d)(3), (4). Pub. L. 97–253, §§160, 190(b), redesignated par. (4) as (3), and struck out former par. (3)

which provided that to the extent that a State employment service was assigned responsibility for administering the provisions of this subsection, it had to comply with regulations issued jointly by the Secretary and the Secretary of Labor, which regulations had to be patterned to the maximum extent practicable on the work incentive program requirements set forth in title IV of the Social Security Act and had to take into account the diversity of the needs of the food stamp work registration population.

Subsec. (e)(3)(B). Pub. L. 97–253, § 161, substituted ''; (B) is not a parent with responsibility for the care of a dependent child under age six;'' for ''or (B) is not the head of a household (or spouse of such head) containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or''.

Subsec. (e)(3)(C) to (E). Pub. L. 97–253, § 161, added subpars. (C) and (D) and redesignated former subpar. (C) as (E).

Subsec. (g)(2). Pub. L. 97–253, § 189(b)(1), substituted reference to the Secretary of Health and Human Services for former reference to the Secretary of Health, Education, and Welfare.

1981—Subsec. (b). Pub. L. 97–35, § 112, substituted provisions setting forth disqualification penalties for fraud and misrepresentation, ineligibility period for benefits, and applicable procedures, for provisions relating to prior fraudulent use of coupons or authorization cards, ineligibility period for benefits, and repayment for fraudulent conduct.

Subsec. (c). Pub. L. 97–35, § 108(b), in par. (1) inserted provisions enumerating categories of households subject to requirements, and substituted ''(f)'' for ''(f)(2)'', and added par. (4).

Subsec. (c)(1). Pub. L. 97–35, § 108(c), struck out provisions respecting election of retrospective accounting system, and filing of periodic reports by household categories.

Subsec. (d)(1). Pub. L. 97–98, §§ 1310, 1311(1), (2), substituted in cl. (i) ''twelve'' for ''six'', struck out in cl. (iii) '', unless the household was certified for benefits under this chapter immediately prior to such unemployment'' after ''without good cause'', and inserted in cl. (iv) ''(including the lack of adequate child care for children above the age of five and under the age of twelve)'' after ''good cause''.

Subsec. (d)(2). Pub. L. 97–98, § 1311(3), (4), inserted in cl. (A) '', in which case, failure by such person to comply with any work requirement to which such person is subject that is comparable to a requirement of paragraph (1) shall be the same as failure to comply with that requirement of paragraph (1)'' after ''compensation system'' and substituted in cl. (B) ''six'' for ''twelve''.

Subsec. (d)(4). Pub. L. 97–35, § 109(a), inserted provisions relating to an increase in allotments as a result of a decrease in income of striking members of a household, and struck out proviso relating to income qualifications, etc., of subsec. (i).

Subsec. (i). Pub. L. 97–35, § 109(c), struck out subsec. (i) which related to eligibility of a household containing a person involved in a labor-management dispute.

1980—Subsec. (b). Pub. L. 96–249, § 109, inserted provisions permitting each State to decide to proceed against alleged fraud in the program either by way of administrative fraud hearings or by way of reference to appropriate legal authorities for civil or criminal action, or both.

Subsec. (c). Pub. L. 96–249, § 110, inserted provisions compelling States electing to use a retrospective accounting system to require that certain categories of households file periodic reports of household circumstances following standards prescribed by the Secretary.

Subsec. (d)(2)(D). Pub. L. 96–249, § 140, substituted ''enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section)'' for ''shall be subject to the requirements of paragraph (1) of this subsection during any period of more than thirty days when such school or program is in vacation or recess and any such person enrolled in an institution of higher education shall be subject to the requirements of subsection (e)(3)(B) of this section as well)''.

Subsec. (d)(4). Pub. L. 96–249, § 114, added par. (4).

Subsec. (e). Pub. L. 96–249, § 139, substituted requirement that he or she is physically and mentally fit and is between the ages of eighteen and sixty for requirement that he or she has reached his or her eighteenth birthday, inserted requirement that he or she is not so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act, and struck out requirement that he or she is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes.

Subsec. (f). Pub. L. 96–249, § 115, inserted provisions requiring that the income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member.

1979—Subsec. (b). Pub. L. 96–58, § 5, provided that, after any specified period of disqualification pursuant to findings under clauses (1) or (2) of this subsection, no disqualified individual would be eligible to participate in the food stamp program unless that individual agreed to a reduction in the allotment of the household of which that individual is a member or to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that would be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct, and that if any disqualified individual elected repayment in cash under the provisions of the preceding sentence and failed to make payments in accordance with the schedule determined by the Secretary, the household of which that individual was a member would be subject to appropriate allotment reductions.

Subsec. (i). Pub. L. 96–58, § 9, added subsec. (i).

1977—Pub. L. 95–113 substituted revised provisions covering eligibility disqualifications for provisions relating to the issuance, usage, and design of coupons which are now covered by section 2016 of this title.

1976—Subsecs. (b) to (e). Pub. L. 94–339 added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(2)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(2)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1005(b) of Pub. L. 105–33 provided that: ''The amendments made by sections 1001 and 1002 [amending this section and section 2025 of this title] take effect on October 1, 1997, without regard to whether regulations have been promulgated to implement the amendments made by such sections.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Amendment by section 109(b) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and

continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Sept. 1, 1994, see section 13971(b)(4) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 908 [probably should be 907] of Pub. L. 102–237 effective Sept. 30, 1991, and amendment by section 941(3) of Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1), (3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 202(b), (c) and 404(a)(2)–(4), (b), (d) of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, and amendment by section 404(a)(1), (c) of Pub. L. 100–435 to be effective and implemented on July 1, 1989, except that amendment by section 404 of Pub. L. 100–435 to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (b)(4), (c)(2) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–35, except section 108(c) of Pub. L. 97–35 (which amended this section), effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title. See section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

Amendments by Pub. L. 97–35, except for amendment made by section 108(c) of Pub. L. 97–35, effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

Section 108(c) of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1983.

EFFECTIVE DATE OF 1979 AMENDMENT

Secretary of Agriculture to issue final regulations implementing the amendment of subsec. (b) of this section by Pub. L. 96–58 within 150 days after Aug. 14, 1979, see section 10(b) of Pub. L. 96–58, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

REGULATIONS

Section 1005(a) of title I of Pub. L. 105–33 provided that: ''Not later than 1 year after the date of enactment of this Act [Aug. 5, 1997], the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendments made by this title [amending this section and sections 2020 and 2025 of this title].''

TRANSITION PROVISION FOR WORK REQUIREMENT

Section 824(b) of Pub. L. 104–193 provided that: ''The term 'preceding 36-month period' in section 6(*o*) of the Food Stamp Act of 1977 [7 U.S.C. 2015(*o*)], as added by subsection (a), does not include, with respect to a State, any period before the earlier of—

''(1) the date the State notifies recipients of food stamp benefits of the application of section 6(*o*); or

''(2) the date that is 3 months after the date of enactment of this Act [Aug. 22, 1996].''

EXEMPTION FROM MONTHLY REPORTING SYSTEMS FOR HOUSEHOLDS RESIDING ON INDIAN RESERVATIONS

Section 908(a)(2) of Pub. L. 102–237, as amended by Pub. L. 103–11, §1, Apr. 1, 1993, 107 Stat. 41; Pub. L. 103–205, §1, Dec. 17, 1993, 107 Stat. 2418, provided that no State agency be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until Mar. 15, 1994, and directed Secretary of Agriculture to issue final regulations requiring exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than Dec. 1, 1992, prior to repeal by Pub. L. 103–225, title I, §104(a), Mar. 25, 1994, 108 Stat. 107.

MANDATORY MONTHLY REPORTING-RETROSPECTIVE BUDGETING FOR FOOD STAMP PROGRAM; PROHIBITION

Pub. L. 98–107, §101(b), Oct. 1, 1983, 97 Stat. 735, provided in part: ''That notwithstanding any other provision of this joint resolution, no part of any of the funds appropriated or otherwise made available by this or any other Act may be used to implement mandatory monthly reporting-retrospective budgeting for the food stamp program during the first three months of the fiscal year ending September 30, 1984''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2016, 2020, 2022, 2024, 2025, 2026, 2029, 2030, 2031 of this title; title 20 section 9271; title 26 section 51; title 29 sections 1605, 1792, 2822, 2841; title 42 section 654.

§ 2016. Issuance and use of coupons

(a) Printing

Coupons shall be printed under such arrangements and in such denominations as may be determined by the Secretary to be necessary, and (except as provided in subsection (j) of this section) shall be issued only to households which have been duly certified as eligible to participate in the food stamp program.

(b) Approved food stores; receipt of cash in change for coupons used to purchase food

Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided*, That nothing in this chapter shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores: *Provided further*, That eligible households using coupons to purchase food may receive cash in change therefor so long as the cash received does not equal or exceed the value of the lowest coupon denomination issued.

(c) Design of coupons

Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

(d) Coupon level inventories; monitorship; monthly operations report

The Secretary shall develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon issuers for the purpose of providing that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such issuers). Such procedures shall provide that coupon inventories in the hands of such issuers are not in excess of the reasonable needs of such issuers taking into consideration the ease with which such coupon inventories may be resupplied. The Secretary shall require each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary or the Secretary's designee, which may include the State agency, a written report of the issuer's operations during such period. In addition to other information deemed by the Secretary to be appropriate, the Secretary shall require that the report contain an oath, or affirmation, signed by the coupon issuer, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon issuer, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(e) Delivery and control procedures

The Secretary shall prescribe appropriate procedures for the delivery of coupons to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensure adequate accountability.

(f) State issuance liability

Notwithstanding any other provision of this chapter, the State agency shall be strictly liable to the Secretary for any financial losses involved in the acceptance, storage and issuance of coupons, including any losses involving failure of a coupon issuer to comply with the requirements specified in section 2020(e)(20)[1] of this title, except that in the case of losses resulting from the issuance and replacement of authorizations for coupons and allotments which are sent through the mail, the State agency shall be liable to the Secretary to the extent prescribed in the regulations promulgated by the Secretary.

(g) Alternative system or documents; costs

(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary shall require a State agency—

(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program.

(h) Staggered issuance procedures

(1) The State agency may establish a procedure for staggering the issuance of coupons to eligible households throughout the month. Upon the request of the tribal organization that exercises governmental jurisdiction over the reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days of a month.

(2) Any procedure established under paragraph (1) shall not reduce the allotment of any household and shall ensure that no household experiences an interval between issuances of more than 40 days. The procedure may include issuing a household's benefits in more than one issuance.

(i) Electronic benefit transfers

(1) IN GENERAL.—

(A) IMPLEMENTATION.—Not later than October 1, 2002, each State agency shall implement an electronic benefit transfer system under which household benefits determined under section 2017(a) or 2035 of this title are issued from and stored in a central databank, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

(B) TIMELY IMPLEMENTATION.—Each State agency is encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

(i) commercial electronic funds transfer technology;

(ii) the need to permit interstate operation and law enforcement monitoring; and

[1] See References in Text note below.

(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.

(2) The Secretary shall issue final regulations that establish standards for the approval of such a system. The standards shall include—

(A) determining the cost-effectiveness of the system to ensure that its operational cost, including the pro rata cost of capital expenditures and other reasonable startup costs, does not exceed the operational cost of issuance systems in use prior to the implementation of the electronic benefit transfer system;

(B) defining the required level of recipient protection regarding privacy, ease of use, and access to and service in retail food stores;

(C) the terms and conditions of participation by retail food stores, financial institutions, and other appropriate parties;

(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

(ii) effective not later than 2 years after August 22, 1996, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment;

(E) system transaction interchange, reliability, and processing speeds;

(F) financial accountability;

(G) the required testing of system operations prior to implementation;

(H) the analysis of the results of system implementation in a limited project area prior to expansion; and

(I) procurement standards.

(3) In the case of a system described in paragraph (1) in which participation is not optional for households, the Secretary shall not approve such a system unless—

(A) a sufficient number of eligible retail food stores, including those stores able to serve minority language populations, have agreed to participate in the system throughout the area in which it will operate to ensure that eligible households will not suffer a significant reduction in their choice of retail food stores or a significant increase in the cost of food or transportation to participating food stores; and

(B) any special equipment necessary to allow households to purchase food with the benefits issued under this chapter is operational—

(i) in the case of a participating retail food store in which coupons are used to purchase 15 percent or more of the total dollar amount of food sold by the store (as determined by the Secretary), at all registers in the store; and

(ii) in the case of other participating stores, at a sufficient number of registers to provide service that is comparable to service provided individuals who are not members of food stamp households, as determined by the Secretary.

(4) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 2025 of this title, subject to the limitations in section 2025(g) of this title.

(5) The Secretary shall periodically inform State agencies of the advantages of using electronic benefit systems to issue benefits in accordance with this subsection in lieu of issuing coupons to households.

(6) This subsection shall not diminish the authority of the Secretary to conduct projects to test automated or electronic benefit delivery systems under section 2026(f) of this title.

(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper-based food stamp issuance system.

(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.

(10) APPLICABLE LAW.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 1693b of title 15 shall not apply to benefits under this chapter delivered through any electronic benefit transfer system.

(11) APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

(A) DEFINITIONS.—In this paragraph:

(i) AFFILIATE.—The term ''affiliate'' has the meaning provided the term in section 1841(k) of title 12.

(ii) COMPANY.—The term ''company'' has the meaning provided the term in section 1971 of title 12, but shall not include a bank, a bank holding company, or any subsidiary of a bank holding company.

(iii) ELECTRONIC BENEFIT TRANSFER SERVICE.—The term ''electronic benefit transfer service'' means the processing of electronic transfers of household benefits, determined under section 2017(a) or 2035 of this title, if the benefits are—

(I) issued from and stored in a central databank;

(II) electronically accessed by household members at the point of sale; and

(III) provided by a Federal or State government.

(iv) POINT-OF-SALE SERVICE.—The term ''point-of-sale service'' means any product or service related to the electronic authorization and processing of payments for mer-

chandise at a retail food store, including credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

(B) RESTRICTIONS.—A company may not sell or provide electronic benefit transfer services, or fix or vary the consideration for electronic benefit transfer services, on the condition or requirement that the customer—

(i) obtain some additional point-of-sale service from the company or an affiliate of the company; or

(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

(C) CONSULTATION WITH THE FEDERAL RESERVE BOARD.—Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System.

(j) State option to issue benefits to certain individuals made ineligible by welfare reform

(1) In general

Notwithstanding any other provision of law, a State agency may, with the approval of the Secretary, issue benefits under this chapter to an individual who is ineligible to participate in the food stamp program solely as a result of section 2015(*o*)(2) of this title or section 1612 or 1613 of title 8.

(2) State payments to Secretary

(A) In general

Not later than the date the State agency issues benefits to individuals under this subsection, the State agency shall pay the Secretary, in accordance with procedures established by the Secretary, an amount that is equal to—

(i) the value of the benefits; and

(ii) the costs of printing, shipping, and redeeming coupons, and other Federal costs, incurred in providing the benefits, as determined by the Secretary.

(B) Crediting

Notwithstanding section 3302(b) of title 31, payments received under subparagraph (A) shall be credited to the food stamp program appropriation account or the account from which the costs were drawn, as appropriate, for the fiscal year in which the payment is received.

(3) Reporting

To be eligible to issue benefits under this subsection, a State agency shall comply with reporting requirements established by the Secretary to carry out this subsection.

(4) Plan

To be eligible to issue benefits under this subsection, a State agency shall—

(A) submit a plan to the Secretary that describes the conditions and procedures under which the benefits will be issued, including eligibility standards, benefit levels, and the methodology the State agency will use to determine amounts due the Secretary under paragraph (2); and

(B) obtain the approval of the Secretary for the plan.

(5) Violations

A sanction, disqualification, fine, or other penalty prescribed under Federal law (including sections 2021 and 2024 of this title) shall apply to a violation committed in connection with a coupon issued under this subsection.

(6) Ineligibility for administrative reimbursement

Administrative and other costs incurred in issuing a benefit under this subsection shall not be eligible for Federal funding under this chapter.

(7) Exclusion from enhanced payment accuracy systems

Section 2025(c) of this title shall not apply to benefits issued under this subsection.

(Pub. L. 88–525, § 7, Aug. 31, 1964, 78 Stat. 705; Pub. L. 91–671, § 5, Jan. 11, 1971, 84 Stat. 2050; Pub. L. 93–86, § 3(m), Aug. 10, 1973, 87 Stat. 248; Pub. L. 93–125, § 1(k), Oct. 18, 1973, 87 Stat. 450; Pub. L. 94–339, § 2, July 5, 1976, 90 Stat. 799; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 967; Pub. L. 97–98, title XIII, § 1312, Dec. 22, 1981, 95 Stat. 1285; Pub. L. 97–253, title I, §§ 162, 190(c)(2), Sept. 8, 1982, 96 Stat. 778, 787; Pub. L. 99–198, title XV, §§ 1518, 1519, Dec. 23, 1985, 99 Stat. 1578; Pub. L. 100–435, title II, § 203(b), Sept. 19, 1988, 102 Stat. 1657; Pub. L. 101–624, title XVII, §§ 1728, 1729(a), Nov. 28, 1990, 104 Stat. 3788, 3789; Pub. L. 103–225, title I, § 102, Mar. 25, 1994, 108 Stat. 107; Pub. L. 104–193, title VIII, § 825(a), Aug. 22, 1996, 110 Stat. 2324; Pub. L. 105–18, title VII, [(a)], June 12, 1997, 111 Stat. 216.)

REFERENCES IN TEXT

Section 2020(e)(20) of this title, referred to in subsec. (f), was redesignated section 2020(e)(19) of this title by Pub. L. 104–193, title VIII, § 835(1)(D)(i), Aug. 22, 1996, 110 Stat. 2330.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–18, title VII, [(a)(1)], inserted ''(except as provided in subsection (j) of this section)'' after ''necessary, and''.

Subsec. (j). Pub. L. 105–18, title VII, [(a)(2)], added subsec. (j).

1996—Subsec. (i). Pub. L. 104–193, § 825(a)(1), inserted subsec. heading.

Subsec. (i)(1). Pub. L. 104–193, § 825(a)(1), added par. (1) and struck out former par. (1) which read as follows:

''(1)(A) Any State agency may, with the approval of the Secretary, implement an on-line electronic benefit transfer system in which household benefits determined under section 2017(a) of this title are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

''(B) No State agency may implement or expand an electronic benefit transfer system without prior approval from the Secretary.''

Subsec. (i)(2). Pub. L. 104–193, § 825(a)(2)(A), struck out ''effective no later than April 1, 1992,'' after ''regulations'' in introductory provisions.

Subsec. (i)(2)(A). Pub. L. 104–193, § 825(a)(2)(B), struck out '', in any 1 year,'' after ''does not exceed'' and ''on-line'' before ''electronic benefit''.

Subsec. (i)(2)(D). Pub. L. 104–193, § 825(a)(2)(C), added subpar. (D) and struck out former subpar. (D) which read as follows: ''system security;''.

Subsec. (i)(2)(I). Pub. L. 104–193, § 825(a)(2)(D)–(F), added subpar. (I).

Subsec. (i)(7) to (11). Pub. L. 104–193, § 825(a)(3), added pars. (7) to (11).

1994—Subsec. (h)(1). Pub. L. 103–225 inserted second sentence and struck out former second sentence which read as follows: ''The State agency shall establish such a procedure for eligible households residing on reservations.''

1990—Subsec. (h). Pub. L. 101–624, § 1728, amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''The State agency may implement a procedure for staggering the issuance of coupons to eligible households throughout the entire month: *Provided*, That the procedure ensures that, in the transition period from other issuance procedures, no eligible household experiences an interval between coupon issuances of more than 40 days, either through regular issuances by the State agency or through supplemental issuances.''

Subsec. (i). Pub. L. 101–624, § 1729(a), added subsec. (i).

1988—Subsec. (h). Pub. L. 100–435 struck out par. (1) designation and par. (2) which read as follows: ''For any eligible household that applies for participation in the food stamp program during the last fifteen days of a month and is issued benefits within that period, coupons shall be issued for the first full month of participation by the the [sic] eighth day of the first full month of participation.''

1985—Subsec. (g)(1). Pub. L. 99–198, § 1519, substituted ''shall'' for ''may'' in provisions preceding subpar. (A).

Subsec. (h). Pub. L. 99–198, § 1518, added subsec. (h).

1982—Subsec. (f). Pub. L. 97–253, § 190(c)(2), substituted reference to section 2020(e)(20) of this title for former reference to section 2020(e)(21) of this title.

Subsec. (g). Pub. L. 97–253, § 162, added subsec. (g).

1981—Subsec. (f). Pub. L. 97–98 substituted ''strictly liable'' for ''responsible'' and inserted provision including any losses involving failure of a coupon issuer to comply with the requirements of section 2020(e)(21) of this title, except that in the case of losses resulting from the issuance and replacement of authorizations for coupons and allotments sent through the mail, State agency liability be to the extent prescribed in regulations.

1977—Pub. L. 95–113 substituted revised provisions relating to issuance and use of coupons for provisions relating to value of the coupon allotment which are now covered by section 2017 of this title.

1976—Subsec. (d). Pub. L. 94–339 designated existing provisions as par. (1) and added pars. (2) to (7).

1973—Subsec. (a). Pub. L. 93–125 substituted ''for households of a given size unless the increase in the face value'' for ''for value''.

Pub. L. 93–86 substituted provisions relating to determination of semiannual adjustments in face value of coupon allotment for provisions relating to determination of annual adjustments in such allotment.

1971—Subsec. (a). Pub. L. 91–671 substituted provision for issuance of coupon allotment in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted annually to reflect changes in prices of food published by Bureau of Labor Statistics for prior provision for issuance in such amount as will provide households with an opportunity more nearly to obtain a low-cost nutritionally adequate diet and inserted ''any'' before ''households''.

Subsec. (b). Pub. L. 91–671 substituted provisions respecting charges to households for coupon allotments representing reasonable investment on part of the households, issuance of coupon allotments without charge where monthly income is less than $30 for a family of four, and election of coupon allotment with a lesser face value than the face value authorized to be issued for prior provision for a charge determined to be equivalent to normal expenditures for food.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1728 of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, and amendment by section 1729 of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(a), (b)(2) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 effective Jan. 1, 1989, except with regard to those States not implementing section 203(a) of Pub. L. 100–435 (amending section 2017 of this title), see section 701(b)(3)(B) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SUSPENSION OF STAGGERED ISSUANCE OF FOOD STAMP COUPONS

Pub. L. 102–237, title IX, § 908(a)(1), Dec. 13, 1991, 105 Stat. 1886, as amended by Pub. L. 103–11, § 1, Apr. 1, 1993, 107 Stat. 41; Pub. L. 103–205, § 1, Dec. 17, 1993, 107 Stat. 2418, provided that no State agency be required to implement 7 U.S.C. 2016(h)(1), regarding staggering of issuance of food stamp coupons, until Mar. 15, 1994, and directed Secretary of Agriculture to issue final regulations requiring staggered issuance of coupons no later than Dec. 1, 1992, prior to repeal by Pub. L. 103–225, title I, § 104(a), Mar. 25, 1994, 108 Stat. 107.

FOOD STAMP COUPONS, COST INCREASE SUSPENSION

Pub. L. 94–4, Feb. 20, 1975, 89 Stat. 6, provided that notwithstanding the provisions of 7 U.S.C. 2016(b), the charge imposed on any household for a coupon allotment under this chapter after Feb. 20, 1975, and prior to Dec. 30, 1975, could not exceed the charge that would have been imposed on such household for such coupon allotment under rules and regulations promulgated under this chapter and in effect on Jan. 1, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2024, 2026, 2027, 2035 of this title.

§ 2017. Value of allotment

(a) Calculation

The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 2014(d) and (e) of this title, rounded to the nearest lower whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be $10 per month.

(b) Benefits not deemed income or resources for certain purposes

The value of benefits that may be provided under this chapter, whether through coupons, access devices, or otherwise[1] shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this chapter.

(c) First month benefits prorated

(1) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued, except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10. Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month.

(2) As used in this subsection, the term ''initial month'' means (A) the first month for which an allotment is issued to a household, (B) the first month for which an allotment is issued to a household following any period in which such household was not participating in the food stamp program under this chapter after the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 2020(e)(10) of this title, and (C) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program.

(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 2020(e)(3) of this title in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 2020(e) of this title in the case of a household that is entitled to expedited service.

[1] So in original. Probably should be followed by a comma.

(d) Reduction of public assistance benefits

(1) In general

If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

(B) the State agency may reduce the allotment of the household by not more than 25 percent.

(2) Rules and procedures

If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.

(e) Allotments for households residing in centers

(1) In general

In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 2012(i) of this title, a State agency may provide an allotment for the individual to—

(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

(B) the individual, if the individual leaves the center.

(2) Direct payment

A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.

(Pub. L. 88–525, § 8, Aug. 31, 1964, 78 Stat. 705; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 968; Pub. L. 97–35, title I, §§ 104(b), 110, Aug. 13, 1981, 95 Stat. 359, 361; Pub. L. 97–253, title I, §§ 143(c), 152(b), 163, 164, Sept. 8, 1982, 96 Stat. 773, 776, 778; Pub. L. 99–198, title XV, § 1520, Dec. 23, 1985, 99 Stat. 1578; Pub. L. 100–387, title V, § 502(a), Aug. 11, 1988, 102 Stat. 960; Pub. L. 100–435, title II, § 203(a), Sept. 19, 1988, 102 Stat. 1656; Pub. L. 101–624, title XVII, §§ 1730, 1732, Nov. 28, 1990, 104 Stat. 3790; Pub. L. 102–237, title IX, §§ 909, 910, Dec. 13, 1991, 105 Stat. 1887; Pub. L. 103–66, title XIII, § 13916, Aug. 10, 1993, 107 Stat. 674; Pub. L. 103–296, title I, § 108(f)(1), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 104–193, title VIII, §§ 826–830, 854(c)(1), Aug. 22, 1996, 110 Stat. 2327, 2342.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete

classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, § 826, struck out before period at end ", and shall be adjusted on each October 1 to reflect the percentage change in the cost of the thrifty food plan without regard to the special adjustments under section 2012(*o*) of this title for the 12-month period ending the preceding June, with the result rounded to the nearest $5".

Subsec. (c)(2)(B). Pub. L. 104–193, § 827, struck out "of more than one month" after "following any period".

Subsec. (c)(3). Pub. L. 104–193, § 828, added par. (3) and struck out former par. (3) which read as follows: "A State agency—

"(A) in the case of a household that is not entitled in the month in which it applies to expedited service under section 2020(e)(9) of this title, may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraph (3) of section 2020(e) of this title; and

"(B) in the case of a household that is entitled in the month in which it applies to expedited service under section 2020(e)(9) of this title, shall provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 2020(e) of this title."

Subsec. (d). Pub. L. 104–193, § 829, added subsec. (d) and struck out former subsec. (d) which read as follows: "A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 2014(d) and 2014(e) of this title) to the extent that the decrease is the result of such penalty."

Subsec. (e). Pub. L. 104–193, § 854(c)(1), redesignated subsec. (f) as (e) and struck out former subsec. (e) which provided for simplified application procedures for beneficiaries of other programs, and for allotments, evaluation, cost sharing, and standardized procedures and benefits.

Subsec. (f). Pub. L. 104–193, § 854(c)(1), redesignated subsec. (f) as (e).

Pub. L. 104–193, § 830, added subsec. (f).

1994—Subsec. (e)(6). Pub. L. 103–296 inserted "the Commissioner of Social Security and" before "the Secretary of Health and Human Services".

1993—Subsec. (c)(2)(B). Pub. L. 103–66 inserted "of more than one month in" after "following any period".

1991—Subsec. (b). Pub. L. 102–237, § 909, substituted "benefits that may be provided under this chapter, whether through coupons, access devices, or otherwise" for "the allotment provided any eligible household" and "benefits" for "an allotment".

Subsec. (c)(1). Pub. L. 102–237, § 910(1), inserted at end "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."

Subsec. (c)(2)(B). Pub. L. 102–237, § 910(2), substituted "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 2020(e)(10) of this title" for "previous participation in such program".

1990—Subsec. (a). Pub. L. 101–624, § 1730, inserted before period at end ", and shall be adjusted on each October 1 to reflect the percentage change in the cost of the thrifty food plan without regard to the special adjustments under section 2012(*o*) of this title for the 12-month period ending the preceding June, with the result rounded to the nearest $5".

Subsec. (c)(3). Pub. L. 101–624, § 1732, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "An eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 2020(e) of this title."

1988—Subsec. (c). Pub. L. 100–387 substituted "(2)" for "and (2)" and added cl. (3).

Subsec. (c)(1), (2). Pub. L. 100–435, § 203(a)(1), (2), designated first sentence of subsec. (c) as par. (1) and designated second sentence of subsec. (c) as par. (2), and redesignated cls. (1) to (3) of par. (2) as cls. (A) to (C), respectively.

Subsec. (c)(3). Pub. L. 100–435, § 203(a)(3), added par. (3).

1985—Subsec. (e). Pub. L. 99–198 added subsec. (e).

1982—Subsec. (a). Pub. L. 97–253, §§ 143(c), 152(b), substituted "nearest lower whole dollar" for "nearest whole dollar", and struck out provision which required the Secretary, six months after the implementation of the elimination of the charge for allotments and annually thereafter, to report to Congress the effect on participation and cost thereof.

Subsec. (c). Pub. L. 97–253, § 163, inserted provision that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10, and substituted "following any period" for "following any period of more than thirty days" in cl. (2).

Subsec. (d). Pub. L. 97–253, § 164, added subsec. (d).

1981—Subsec. (a). Pub. L. 97–35, § 104(b), inserted "(d) and (e)" after "2014".

Subsec. (c). Pub. L. 97–35, § 110, added subsec. (c).

1977—Pub. L. 95–113 substituted revised provisions relating to the value of the coupon allotment for provisions covering approval of retail stores and wholesale food concerns which are now covered by section 2018 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Sept. 1, 1994, see section 13971(b)(4) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1730 of Pub. L. 101–624 effective Oct. 1, 1990, and amendment by section 1732 of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a), (b)(1) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–435 effective Jan. 1, 1989, and implemented by States by Jan. 1, 1990, see section 701(b)(3)(A) of Pub. L. 100–435, set out as a note under section 2012 of this title.

Section 502(b) of Pub. L. 100–387 provided that:

''(1) The amendments made by this section [amending this section] take effect on the date of enactment of this Act [Aug. 11, 1988].

''(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 [this chapter] to any household for any month beginning before the effective period of this section begins.''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2025, 2026, 2029, 2035 of this title.

§ 2018. Approval of retail food stores and wholesale food concerns

(a) Applications; qualifications; certificate of approval; periodic reauthorization

(1) Regulations issued pursuant to this chapter shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (A) the nature and extent of the food business conducted by the applicant; (B) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (C) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval. No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.

(2) The Secretary shall issue regulations providing for—

(A) the periodic reauthorization of retail food stores and wholesale food concerns; and

(B) periodic notice to participating retail food stores and wholesale food concerns of the definitions of ''retail food store'', ''staple foods'', ''eligible foods'', and ''perishable foods''.

(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.

(b) Effective and efficient operation of program; effect of disqualification; posting of bond

(1) No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. No co-located wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time.

(2)(A) A buyer or transferee (other than a bona fide buyer or transferee) of a retail food store or wholesale food concern that has been disqualified under section 2021(a) of this title may not accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

(B) A buyer or transferee may not, as a result of the sale or transfer of such store or concern, be required to furnish a bond under section 2021(d) of this title.

(c) Information submitted by applicants; safeguards; disclosure to and use by State agencies

Regulations issued pursuant to this chapter shall require an applicant retail food store or wholesale food concern to submit information, which may include relevant income and sales tax filing documents, which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this chapter or the regulations issued pursuant to this chapter. The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified. Regulations issued pursuant to this chapter shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this chapter or the regulations issued pursuant to

this chapter, except that such information may be disclosed to and used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this chapter or any other Federal or State law and the regulations issued under this chapter or such law, and State agencies that administer the special supplemental nutrition program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966 [42 U.S.C. 1786], for purposes of administering the provisions of that Act [42 U.S.C. 1771 et seq.] and the regulations issued under that Act. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

(d) Hearing upon failure of applicant to receive approval; waiting period for new application

Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 2023 of this title. A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.

(e) Reporting of abuses by public

Approved retail food stores shall display a sign providing information on how persons may report abuses they have observed in the operation of the food stamp program.

(f) Limitation on participation of house-to-house trade routes

In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.

(Pub. L. 88–525, §9, Aug. 31, 1964, 78 Stat. 705; Pub. L. 95–113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 968; Pub. L. 97–98, title XIII, §§1313, 1314, Dec. 22, 1981, 95 Stat. 1285; Pub. L. 97–253, title I, §165, Sept. 8, 1982, 96 Stat. 779; Pub. L. 99–198, title XV, §§1521, 1532(b), Dec. 23, 1985, 99 Stat. 1579, 1583; Pub. L. 99–570, title XI, §11002(d), Oct. 27, 1986, 100 Stat. 3207–168; Pub. L. 101–624, title XVII, §§1733, 1734, Nov. 28, 1990, 104 Stat. 3791; Pub. L. 102–237, title IX, §941(4), Dec. 13, 1991, 105 Stat. 1892; Pub. L. 103–225, title II, §§202, 203, Mar. 25, 1994, 108 Stat. 108; Pub. L. 103–448, title II, §204(w)(2)(A), Nov. 2, 1994, 108 Stat. 4746; Pub. L. 104–193, title VIII, §§831–834, Aug. 22, 1996, 110 Stat. 2328.)

REFERENCES IN TEXT

That Act, meaning the Child Nutrition Act of 1966, referred to in subsec. (c), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–193, §831, inserted at end ''No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.''

Subsec. (a)(3). Pub. L. 104–193, §832, added par. (3).

Subsec. (c). Pub. L. 104–193, §833, in first sentence, inserted '', which may include relevant income and sales tax filing documents,'' after ''submit information'' and inserted after first sentence ''The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.''

Subsec. (d). Pub. L. 104–193, §834, inserted at end ''A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.''

1994—Subsec. (a)(2). Pub. L. 103–225, §202, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary is authorized to issue regulations providing for a periodic reauthorization of retail food stores and wholesale food concerns.''

Subsec. (c). Pub. L. 103–448 in second sentence substituted ''special supplemental nutrition program'' for ''special supplemental food program''.

Pub. L. 103–225, §203, in second sentence inserted ''Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this chapter or any other Federal or State law and the regulations issued under this chapter or such law, and'' after ''disclosed to and used by'', inserted after second sentence ''Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.'', and in last sentence substituted ''The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit'' for ''Such purposes shall not exclude''.

1991—Subsec. (a)(1). Pub. L. 102–237 redesignated cls. (1) to (3) as (A) to (C), respectively.

1990—Subsec. (a). Pub. L. 101–624, §1733, designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 101–624, § 1734, inserted after first sentence ''No co-located wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households.''

1986—Subsec. (g). Pub. L. 99–570, § 1102(d), (f)(3), temporarily added subsec. (g) which read as follows: ''In an area in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the participation of an establishment or shelter described in section 2012(g)(9) of this title damages the program's integrity, the Secretary shall limit the participation of such establishment or shelter in the food stamp program, unless the establishment or shelter is the only establishment or shelter serving the area.''. See Effective and Termination Dates of 1986 Amendment note below.

1985—Subsec. (b). Pub. L. 99–198, § 1532(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 99–198, § 1521, inserted provisions relating to disclosure of information to, and the use by, State agencies which administer the special supplemental food program for women, infants, and children, authorized under section 17 of the Child Nutrition Act of 1966.

1982—Subsec. (f). Pub. L. 97–253 added subsec. (f).

1981—Subsec. (c). Pub. L. 97–98, § 1313, inserted provision that such purposes not exclude the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

Subsec. (e). Pub. L. 97–98, § 1314, added subsec. (e).

1977—Pub. L. 95–113 substituted revised provisions covering approval of retail food stores and wholesale food concerns for provisions relating to redemption of coupons which are now covered by section 2019 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Amendment by Pub. L. 99–570 effective, and to be implemented by issuance of final regulations, not later than Apr. 1, 1987, and cease to be effective after Sept. 30, 1990, see section 11002(f)(1), (2) of Pub. L. 99–570, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2023, 2024 of this title; title 26 section 6109; title 42 sections 405, 8011.

§ 2019. Redemption of coupons

Regulations issued pursuant to this chapter shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or which are insured under the Federal Credit Union Act [12 U.S.C. 1751 et seq.] and have retail food stores or wholesale food concerns in their field of membership, with the cooperation of the Treasury Department, except that retail food stores defined in section 2012(k)(4) of this title shall be authorized to redeem their members' food coupons prior to receipt by the members of the food so purchased, and publicly operated community mental health centers or private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs, public and private nonprofit shelters that prepare and serve meals for battered women and children, and public or private nonprofit group living arrangements that serve meals to disabled or blind residents, shall not be authorized to redeem coupons through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the Federal Credit Union Act. No financial institution may impose on or collect from a retail food store a fee or other charge for the redemption of coupons that are submitted to the financial institution in a manner consistent with the requirements, other than any requirements relating to cancellation of coupons, for the presentation of coupons by financial institutions to the Federal Reserve banks.

(Pub. L. 88–525, § 10, Aug. 31, 1964, 78 Stat. 706; Pub. L. 91–671, § 6, Jan. 11, 1971, 84 Stat. 2051; Pub. L. 92–603, title IV, § 411(c)–(e), Oct. 30, 1972, 86 Stat. 1491; Pub. L. 93–86, § 3(f), (i), (k), Aug. 10, 1973, 87 Stat. 247, 248; Pub. L. 93–125, § 1(j), Oct. 18, 1973, 87 Stat. 450; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969; Pub. L. 96–58, § 8, Aug. 14, 1979, 93 Stat. 392; Pub. L. 96–249, title I, § 101(b), May 26, 1980, 94 Stat. 357; Pub. L. 97–98, title XIII, § 1315, Dec. 22, 1981, 95 Stat. 1285; Pub. L. 99–198, title XV, §§ 1501(b), 1522, 1523(a), Dec. 23, 1985, 99 Stat. 1566, 1580; Pub. L. 99–570, title XI, § 11002(e), Oct. 27, 1986, 100 Stat. 3207–168.)

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in text, is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended,

which is classified generally to chapter 14 (§ 1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

AMENDMENTS

1986—Pub. L. 99–570, § 11002(e), (f), temporarily struck out ''and'' after ''battered women and children,'' and inserted '', and public or private nonprofit establishments, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses''. See Effective and Termination Dates of 1986 Amendment note below.

1985—Pub. L. 99–198, § 1501(b), inserted reference to publicly operated community mental health centers.

Pub. L. 99–198, § 1522, inserted '', or which are insured under the Federal Credit Union Act and have retail food stores or wholesale food concerns in their field of membership'' and ''or the Federal Credit Union Act''.

Pub. L. 99–198, § 1523(a), inserted sentence providing that no financial institution may impose on or collect from a retail food store a fee or other charge for the redemption of coupons that are submitted to the financial institution in a manner consistent with the requirements, other than any requirements relating to cancellation of coupons, for the presentation of coupons by financial institutions to the Federal Reserve banks.

1981—Pub. L. 97–98 substituted ''financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation'' for ''banks'' wherever appearing.

1980—Pub. L. 96–249 substituted ''purchased,'' for ''purchased'' and ''residents'' for ''residents,'' and inserted '', public and private nonprofit shelters that prepare and serve meals for battered women and children'' after ''programs''.

1979—Pub. L. 96–58 inserted provisions relating to public and private nonprofit group living arrangements that serve meals to disabled or blind residents.

1977—Pub. L. 95–113 substituted revised provisions covering redemption of coupons for provisions relating to administration of program which are now covered by section 2020 of this title.

1973—Subsec. (e). Pub. L. 93–86, § 3(i), inserted cls. (6) and (7), designated former cl. (6) as (8), and inserted provision relating to time for submission of plan of operation to Secretary for approval and time for Secretary to make a determination of approval or disapproval of such plan.

Subsec. (h). Pub. L. 93–125 inserted ''members of'' after ''the Secretary shall permit''.

Pub. L. 93–86, § 3(k), inserted provisions authorizing meal purchases from senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary.

Subsec. (i). Pub. L. 93–86, § 3(f), added subsec. (i).

1972—Subsec. (c). Pub. L. 92–603, § 411(c), struck out provisions relating to filing of an affidavit by household for certification of eligibility for public assistance.

Subsec. (e). Pub. L. 92–603, § 411(d), (e), substituted ''prescribed by the Secretary in the regulations issued pursuant to this chapter'' for ''used by them in the certification of applicants for benefits under the federally aided public assistance programs'' in cl. (2), and struck out provisions requiring the State agency to institute procedures under which any household participating in the food stamp program shall be entitled to have the charges for its coupon allotment deducted from grants or payments such household is entitled to receive and have its coupon allotment distributed to it with such grant or payment.

1971—Subsec. (c). Pub. L. 91–671, § 6(a), inserted provisions respecting certification of eligibility for benefits by execution of an affidavit and duration of validity of a certification upon removal of a household from one political subdivision to another.

Subsec. (e). Pub. L. 91–671, § 6(b), substituted ''regulations'' for ''regulation'' in second sentence preceding cl. (1) and ''from time to time may'' for ''may from time to time'', and added cls. (5) and (6) and provision for withholding in the State plan.

Subsec. (h). Pub. L. 91–671, § 6(c), added subsec. (h).

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Amendment by Pub. L. 99–570 effective, and to be implemented by issuance of final regulations, not later than Apr. 1, 1987, and cease to be effective after Sept. 30, 1990, see section 11002(f)(1), (2) of Pub. L. 99–570, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–58 to be implemented in all States by July 1, 1980, but not to affect the rights or liabilities of Secretary, States, and applicant or participant households under provisions of this chapter as in effect on July 1, 1979, until implemented, see section 10(c) of Pub. L. 96–58, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92–603, set out as a note under section 2012 of this title.

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and functions transferred, see Pub. L. 101–73, title IV, §§ 401–406, Aug. 9, 1989, 103 Stat. 354–363, set out as a note under section 1437 of Title 12, Banks and Banking.

PROMULGATION OF REGULATIONS REGARDING CHARGES FOR REDEMPTION OF COUPONS

Section 1523(b) of Pub. L. 99–198 provided that: ''The Secretary of Agriculture, in consultation with the Board of Governors of the Federal Reserve System, shall issue regulations implementing the amendment made by subsection (a) [amending this section].''

PUBLICLY OPERATED COMMUNITY HEALTH CENTERS

Provisions of this section concerning private, nonprofit drug addiction or alcoholic treatment and rehabilitation programs to be applicable to publicly operated community health centers, see section 101(b) of Pub. L. 98–107, set out in part as a note under section 2012 of this title.

EXTENSION UNTIL OCTOBER 1, 1976, OF FINAL DATE FOR COMPLIANCE WITH REGULATIONS GOVERNING USE OF FOOD STAMPS BY AFDC FAMILIES

Pub. L. 94–182, title II, § 201, Dec. 31, 1975, 89 Stat. 1056, permitted the final date for compliance with regula-

tions implementing former subsec. (e)(7) of this section to be extended until Oct. 1, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2012a of this title; title 42 section 4728.

§ 2020. Administration

(a) State responsibility; records, inspection, and audit

The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this chapter and the regulations issued pursuant to this chapter. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this chapter.

(b) Correction of improper denials and underissuances

When a State agency learns, through its own reviews under section 2025 of this title or other reviews, or through other sources, that it has improperly denied, terminated, or underissued benefits to an eligible household, the State agency shall promptly restore any improperly denied benefits to the extent required by subsection (e)(11) of this section and section 2023(b) of this title, and shall take other steps to prevent a recurrence of such errors where such error was caused by the application of State agency practices, rules or procedures inconsistent with the requirements of this chapter or with regulations or policies of the Secretary issued under the authority of this chapter.

(c) Discrimination prohibited

In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.

(d) Plan of operation by State agency; approval by Secretary; Indians

The State agency (as defined in section 2012(n)(1) of this title) of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State in every political subdivision. The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled. In the case of all or part of an Indian reservation, the State agency as defined in section 2012(n)(1) of this title shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 2012(n)(1) of this title) is failing, subsequent to August 31, 1964, properly to administer such program on such reservation in accordance with the purposes of this chapter and further determines that the State agency as defined in section 2012(n)(2) of this title is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qualify as expeditiously as possible as a State agency pursuant to section 2012(n)(2) of this title. A State agency, as defined in section 2012(n)(1) of this title, before it submits its plan of operation to the Secretary for the administration of the food stamp program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

(e) Requisites of State plan of operation

The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) that the State agency shall (A) at the option of the State agency, inform low-income households about the availability, eligibility requirements, application procedures, and benefits of the food stamp program; and (B) use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of

low-income households speak a language other than English.

(B) In carrying out subparagraph (A), a State agency—

(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

(ii) shall develop an application containing the information necessary to comply with this chapter;

(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

(I) the information contained in the application is true; and

(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 2015(f) of this title;

(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and

(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State.

(C) Nothing in this chapter shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency's application system that does not rely exclusively on the collection and retention of paper applications or other records.

(D) The signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;

(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification of income other than that determined to be excluded by section 2014(d) of this title (in part through the use of the information, if any, obtained under section 2025(e) of this title), household size (in any case such size is questionable), and such other eligibility factors as the Secretary determines to be necessary to implement sections 2014 and 2015 of this title, although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and such other eligibility factors as the State agency determines are necessary, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application, and that the State agency shall provide each applicant household, at the time of application, a clear written statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification prior to the start of the last month of its certification period advising the household that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection: *Provided*, That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 2014(f)(2) and 2015(c) of this title if administratively necessary;

(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 2014 and 2015 of this title and shall include no additional requirements imposed by the State agency;

(6) that—

(A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this chapter; and

(B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the Office of Personnel Management pursuant to section 4728 of title 42 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis;

(7) that an applicant household may be represented in the certification process and that an eligible household may be represented in coupon issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances, except that the Secretary may restrict the number of households which may be represented by an in-

dividual and otherwise establish criteria and verification standards for representation under this paragraph;

(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this chapter, regulations issued pursuant to this chapter, Federal assistance programs, or federally assisted State programs, except that—

(A) the safeguards shall not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of law;

(B) notwithstanding any other provision of law, all information obtained under this chapter from an applicant household shall be made available, upon request, to local, State or Federal law enforcement officials for the purpose of investigating an alleged violation of this chapter or any regulation issued under this chapter;

(C) the safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service) for purposes of collecting the amount of an overissuance of coupons, as determined under section 2022(b) of this title, from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 or a Federal income tax refund as authorized by section 3720A of title 31;

(D) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—

(i) the member—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);

(ii) locating or apprehending the member is an official duty; and

(iii) the request is being made in the proper exercise of an official duty; and

(E) the safeguards shall not prevent compliance with paragraph (16) or (20)(B);

(9) that the State agency shall—

(A) provide coupons no later than 7 days after the date of application to any household which—

(i)(I) has gross income that is less than $150 per month; or

(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

(ii) has liquid resources that do not exceed $100;

(B) provide coupons no later than 7 days after the date of application to any household that has a combined gross income and liquid resources that is less than the monthly rent, or mortgage, and utilities of the household; and

(C) to the extent practicable, verify the income and liquid resources of a household referred to in subparagraph (A) or (B) prior to issuance of coupons to the household;

(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier, except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective. At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing;

(11) upon receipt of a request from a household, for the prompt restoration in the form of coupons to a household of any allotment or portion thereof which has been wrongfully denied or terminated, except that allotments shall not be restored for any period of time more than one year prior to the date the State agency receives a request for such restoration from a household or the State agency is notified or otherwise discovers that a loss to a household has occurred;

(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

(13) for indicators of expected performance in the administration of the program;

(14) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that

such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program;

(15) that the State agency shall require each household certified as eligible to participate by methods other than the out-of-office methods specified in the fourth sentence of paragraph (2) of this subsection in those project areas or parts of project areas in which the Secretary, in consultation with the Department's Inspector General, finds that it would be useful to protect the program's integrity and would be cost effective, to present a photographic identification card when using its authorization card in order to receive its coupons. The State agency may permit a member of a household to comply with this paragraph by presenting a photographic identification card used to receive assistance under a welfare or public assistance program;

(16) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.];

(17) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the food stamp program;

(18) at the option of the State agency, that information may be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b–7 of title 42 and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 503(d) of title 42 may be requested and utilized by the State agency (described in section 2012(n)(1) of this title) to the extent permitted under the provisions of section 503(d) of title 42;

(19) that, in project areas or parts thereof where authorization cards are used, and eligible households are required to present photographic identification cards in order to receive their coupons, the State agency shall include, in any agreement or contract with a coupon issuer, a provision that (A) the issuer shall (i) require the presenter to furnish a photographic identification card at the time the authorization card is presented, and (ii) record on the authorization card the identification number shown on the photographic identification card; and (B) if the State agency determines that the authorization card has been stolen or otherwise was not received by a household certified as eligible, the issuer shall be liable to the State agency for the face value of any coupons issued in the transaction in which such card is used and the issuer fails to comply with the requirements of clause (A) of this paragraph;

(20) that the State agency shall establish a system and take action on a periodic basis—

(A) to verify and otherwise ensure that an individual does not receive coupons in more than 1 jurisdiction within the State; and

(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the food stamp program as a member of any household, except that—

(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

(ii) a State agency that obtains information collected under section 1382(e)(1)(I)(i)(I) of title 42 pursuant to section 1382(e)(1)(I)(ii)(II) of title 42, or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.

(21) the plans of the State agency for carrying out employment and training programs under section 2015(d)(4) of this title, including the nature and extent of such programs, the geographic areas and households to be covered under such program, and the basis, including any cost information, for exemptions of categories and individuals and for the choice of employment and training program components reflected in the plans;

(22) in a project area in which 5,000 or more households participate in the food stamp program, for the establishment and operation of a unit for the detection of fraud in the food stamp program, including the investigation, and assistance in the prosecution, of such fraud;

(23) at the option of the State, for procedures necessary to obtain payment of uncollected overissuance of coupons from unemployment compensation pursuant to section 2022(c) of this title;

(24) the guidelines the State agency uses in carrying out section 2015(i) of this title; and

(25) if a State elects to carry out a Simplified Food Stamp Program under section 2035 of this title, the plans of the State agency for operating the program, including—

(A) the rules and procedures to be followed by the State agency to determine food stamp benefits;

(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

(C) a description of the method by which the State agency will carry out a quality control system under section 2025(c) of this title.

(f) Nutrition education

(1) In general

To encourage the purchase, preparation, and consumption of nutritious foods, the Secretary is authorized to assign responsibility for the nutrition education of individuals eligible for food stamps, or the program for the distribution of commodities on reservations, to the Cooperative Extension Service, in cooperation with the Food and Nutrition Service. State agencies shall encourage food stamp program participants to participate in the expanded food and nutrition education program conducted under section 343(d) of this title, and any program established under sections 3175a through 3175e of this title. At the request of personnel of such education program, State agencies, wherever practicable, shall allow personnel and information materials of such education program to be placed in food stamp offices.

(2) Grants

(A) In general

The Secretary shall make available not more than $600,000 for each of fiscal years 1998 through 2001 to pay the Federal share of grants made to eligible private nonprofit organizations and State agencies to carry out subparagraph (B).

(B) Eligibility

A private nonprofit organization or State agency shall be eligible to receive a grant under subparagraph (A) if the organization or agency agrees—

(i) to use the funds to direct a collaborative effort to coordinate and integrate nutrition education into health, nutrition, social service, and food distribution programs for food stamp participants and other low-income households; and

(ii) to design the collaborative effort to reach large numbers of food stamp participants and other low-income households through a network of organizations, including schools, child care centers, farmers' markets, health clinics, and outpatient education services.

(C) Preference

In deciding between 2 or more private nonprofit organizations or State agencies that are eligible to receive a grant under subparagraph (B), the Secretary shall give a preference to an organization or agency that conducted a collaborative effort described in subparagraph (B) and received funding for the collaborative effort from the Secretary before August 5, 1997.

(D) Federal share

(i) In general

Subject to subparagraph (E), the Federal share of a grant under this paragraph shall be 50 percent.

(ii) No in-kind contributions

The non-Federal share of a grant under this paragraph shall be in cash.

(iii) Private funds

The non-Federal share of a grant under this paragraph may include amounts from private nongovernmental sources.

(E) Limit on individual grant

The Federal share of a grant under subparagraph (A) may not exceed $200,000 for a fiscal year.

(g) State noncompliance; correction of failures

If the Secretary determines, upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of compliance by a State agency of a type specified in this subsection, that in the administration of the food stamp program there is a failure by a State agency without good cause to comply with any of the provisions of this chapter, the regulations issued pursuant to this chapter, the State plan of operation submitted pursuant to subsection (d) of this section, the State plan for automated data processing submitted pursuant to subsection (*o*)(2) of this section, or the requirements established pursuant to section 2032 of this title the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue, and, whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 2025(a), 2025(c), and 2025(g) of this title as the Secretary determines to be appropriate, subject to administrative and judicial review under section 2023 of this title.

(h) Deposit by State to cover fraudulently or negligently issued coupons

If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any coupon or coupons issued as a result of such negligence or fraud.

(i) Application and denial procedures

(1) Application procedures

Notwithstanding any other provision of law, households in which all members are applicants for or recipients of supplemental security income shall be informed of the availability of benefits under the food stamp program and be assisted in making a simple application to participate in such program at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration.

(2) Denial and termination

Except in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no household shall have its application to participate in the food stamp program denied nor its benefits under the food stamp program terminated solely on the basis that its application to participate has been denied or its benefits have been terminated under any of the programs carried out under the statutes specified in the second sentence of section 2014(a) of this title and without a separate determination by the State agency that the household fails to satisfy the eligibility requirements for participation in the food stamp program.

(j) Notice of availability of benefits and applications; revision of memorandum of understanding

(1) Any individual who is an applicant for or recipient of supplemental security income or social security benefits (under regulations prescribed by the Secretary in conjunction with the Commissioner of Social Security) shall be informed of the availability of benefits under the food stamp program and informed of the availability of a simple application to participate in such program at the social security office.

(2) The Secretary and the Commissioner of Social Security shall revise the memorandum of understanding in effect on December 23, 1985, regarding services to be provided in social security offices under this subsection and subsection (i) of this section, in a manner to ensure that—

(A) applicants for and recipients of social security benefits are adequately notified in social security offices that assistance may be available to them under this chapter;

(B) applications for assistance under this chapter from households in which all members are applicants for or recipients of supplemental security income will be forwarded immediately to the State agency in an efficient and timely manner; and

(C) the Commissioner of Social Security receives from the Secretary reimbursement for costs incurred to provide such services.

(k) Use of post offices

Subject to the approval of the President, post offices in all or part of the State may issue, upon request by the State agency, food stamps to eligible households.

***(l)* Special financial audit review of high participation States**

Whenever the ratio of a State's average food stamp participation in any quarter of a fiscal year to the State's total population in that quarter (estimated on the basis of the latest available population estimates as provided by the Department of Commerce, Bureau of the Census, Series P–25, Current Population Reports (or its successor series)) exceeds 60 per centum, the Office of the Inspector General of the Department of Agriculture shall immediately schedule a financial audit review of a sample of project areas within that State. Any financial audit review subsequent to the first such review, required under the preceding sentence, shall be conducted at the option of the Office of the Inspector General.

(m) Alaskan fee agents; use and services

The Secretary shall provide for the use of fee agents in rural Alaska. As used in this subsection ''fee agent'' means a paid agent who, although not a State employee, is authorized by the State to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide other services as required by the State agency. Such services shall not include making final decisions on household eligibility or benefit levels.

(n) Verification by State agencies

The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 2015(g) of this title or both coupons and assistance provided in lieu of coupons under section 2026(b)(1) of this title.

***(o)* Data processing systems; model plan; comprehensive automation and computerization; State plans; evaluation and report to Congress; corrective measures by State; time for implementation**

(1) The Secretary shall develop, after consultation with, and with the assistance of, an advisory group of State agencies appointed by the Secretary without regard to the provisions of the Federal Advisory Committee Act, a model plan for the comprehensive automation of data processing and computerization of information systems under the food stamp program. The plan shall be developed and made available for public comment through publication of the proposed plan in the Federal Register not later than October 1, 1986. The Secretary shall complete the plan, taking into consideration public comments received, not later than February 1, 1987. The elements of the plan may include intake procedures, eligibility determinations and calculation of benefits, verification procedures, coordination with related Federal and State programs, the issuance of benefits, reconciliation procedures, the generation of notices, and program reporting. In developing the plan, the Secretary shall take into account automated data processing and information systems already in existence in States and shall provide for consistency with such systems.

(2) Not later than October 1, 1987, each State agency shall develop and submit to the Secretary for approval a plan for the use of an automated data processing and information retrieval system to administer the food stamp program in such State. The State plan shall take into consideration the model plan developed by the Secretary under paragraph (1) and shall provide time frames for completion of various phases of the State plan. If a State agency already has a sufficient automated data processing and information retrieval system, the State plan may, subject to the Secretary's approval, reflect the existing State system.

(3) Not later than April 1, 1988, the Secretary shall prepare and submit to Congress an evalua-

tion of the degree and sufficiency of each State's automated data processing and computerized information systems for the administration of the food stamp program, including State plans submitted under paragraph (2). Such report shall include an analysis of additional steps needed for States to achieve effective and cost-efficient data processing and information systems. The Secretary, thereafter, shall periodically update such report.

(4) Based on the Secretary's findings in such report submitted under paragraph (3), the Secretary may require a State agency, as necessary to rectify identified shortcomings in the administration of the food stamp program in the State, except where such direction would displace State initiatives already under way, to take specified steps to automate data processing systems or computerize information systems for the administration of the food stamp program in the State if the Secretary finds that, in the absence of such systems, there will be program accountability or integrity problems that will substantially affect the administration of the food stamp program in the State.

(5)(A) Subject to subparagraph (B), in the case of a plan for an automated data processing and information retrieval system submitted by a State agency to the Secretary under paragraph (2), such State agency shall—

(i) commence implementation of its plan not later than October 1, 1988; and

(ii) meet the time frames set forth in the plan.

(B) The Secretary shall extend a deadline imposed under subparagraph (A) to the extent the Secretary deems appropriate based on the Secretary's finding of a good faith effort of a State agency to implement its plan in accordance with subparagraph (A).

(p) State verification option

Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1320b–7 of title 42.

(q) Denial of food stamps for prisoners

The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in subsection (e)(20)(B) of this section from participating in the food stamp program as a member of any household.

(Pub. L. 88–525, § 11, Aug. 31, 1964, 78 Stat. 707; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969; Pub. L. 96–249, title I, §§ 113, 116–120, 122, 123, May 26, 1980, 94 Stat. 361–363; Pub. L. 97–35, title I, § 111(a), Aug. 13, 1981, 95 Stat. 362; Pub. L. 97–98, title XIII, §§ 1316–1320(a), 1321–1323, Dec. 22, 1981, 95 Stat. 1286, 1287; Pub. L. 97–253, title I, §§ 166–174, 180(b)(1), 189(b)(2), 190(c)(1), Sept. 8, 1982, 96 Stat. 779, 780, 783, 787; Pub. L. 98–204, § 7, Dec. 2, 1983, 97 Stat. 1386; Pub. L. 98–369, div. B, title VI, § 2651(i), July 18, 1984, 98 Stat. 1150; Pub. L. 99–198, title XV, §§ 1507(b), 1517(b), 1525–1531(a), (b), 1535(b)(1), 1537(b), (c), Dec. 23, 1985, 99 Stat. 1568, 1576, 1580–1582, 1584, 1586, 1587; Pub. L. 100–77, title VIII, §§ 808(a), 809(a), July 22, 1987, 101 Stat. 536; Pub. L. 100–435, title II, § 204(a), title III, §§ 310, 311, 320, 321(a), 322, 323, 330, 352, Sept. 19, 1988, 102 Stat. 1657, 1660–1662, 1665; Pub. L. 101–624, title XVII, §§ 1736–1741, 1763(b), Nov. 28, 1990, 104 Stat. 3793, 3794, 3806; Pub. L. 102–237, title IX, § 941(5), (6), Dec. 13, 1991, 105 Stat. 1892; Pub. L. 103–66, title XIII, § 13941(a), Aug. 10, 1993, 107 Stat. 676; Pub. L. 103–296, title I, § 108(f)(2), (3), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104–66, title I, § 1011(x), Dec. 21, 1995, 109 Stat. 711; Pub. L. 104–193, title VIII, §§ 809(b), 819(b), 835–840, 844(b), 848(b)(1), 854(b), Aug. 22, 1996, 110 Stat. 2313, 2320, 2329–2331, 2333, 2334, 2342; Pub. L. 105–33, title I, §§ 1003(a)(1), (2), (b), 1004, Aug. 5, 1997, 111 Stat. 255, 256; Pub. L. 105–379, § 1(a), Nov. 12, 1998, 112 Stat. 3399.)

ENACTMENT OF SUBSECTION (r)

Pub. L. 105–379, § 1(a), (c), Nov. 12, 1998, 112 Stat. 3399, provided that, effective June 1, 2000, this section is amended by adding a new subsection (r) as follows:

(r) Denial of food stamps for deceased individuals

Each State agency shall—

(1) enter into a cooperative arrangement with the Commissioner of Social Security, pursuant to the authority of the Commissioner under section 405(r)(3) of title 42, to obtain information on individuals who are deceased; and

(2) use the information to verify and otherwise ensure that benefits are not issued to individuals who are deceased.

REFERENCES IN TEXT

The Indian Self-Determination Act (25 U.S.C. 450), referred to in subsec. (d), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Immigration and Nationality Act, referred to in subsec. (e)(16), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (*o*)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1997—Subsec. (e)(8)(E). Pub. L. 105–33, § 1003(a)(2), substituted ''paragraph (16) or (20)(B)'' for ''paragraph (16)''.

Subsec. (e)(20). Pub. L. 105–33, § 1003(a)(1), added par. (20) and struck out former par. (20) which read as follows: ''that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State;''.

Subsec. (f). Pub. L. 105–33, § 1004, inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (q). Pub. L. 105–33, § 1003(b), added subsec. (q).

1996—Subsec. (e)(2). Pub. L. 104–193, § 835(1)(A), added par. (2) and struck out former par. (2) which required that each State plan of operation was to provide that each household which contacted food stamp office in person during office hours to make what could reasonably be interpreted as oral or written request for food stamp assistance was to receive and be permitted to

file, on same day that such contact was first made, simplified, uniform national application form for participation in food stamp program.

Subsec. (e)(3). Pub. L. 104–193, §§ 809(b), 835(1)(B), substituted ''shall'' for ''shall—'' after ''and that the State agency'', struck out ''(A)'' before ''provide each applicant household'' and struck out subpars. (B) to (E) and concluding provisions which provided that State agency was to assist each applicant household in obtaining appropriate verification and completing application process, not require any household to submit additional proof of matter on which State agency already had current verification, not deny any application for participation solely because of failure of person outside household to cooperate, process applications if household complied with requirements of first sentence of section 2015(c) of this title by taking appropriate steps to verify information otherwise required to be verified under this chapter, provide household, at time of each certification and recertification, with statement describing reporting responsibilities of household under this chapter, and provide toll-free or local telephone number, or telephone number at which collect calls would be accepted by State agency, at which household could reach appropriate representative of State agency.

Subsec. (e)(6). Pub. L. 104–193, § 836, substituted ''(6) that—'' for ''(6) that'', realigned margins of subpars. (A) and (B), in subpar. (B) substituted ''Office of Personnel Management'' for ''United States Civil Service Commission'', and struck out subpars. (C) to (E) which read as follows: ''(C) the State agency shall provide a continuing, comprehensive program of training for all personnel undertaking such certification so that eligible households are promptly and accurately certified to receive the allotments for which they are eligible under this chapter; (D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are qualified to perform such certification; and (E) at its option, the State agency may provide, or contract for the provision of, training and assistance to persons working with volunteer or nonprofit organizations that provide program information activities or eligibility screening to persons potentially eligible for food stamps;''.

Subsec. (e)(8). Pub. L. 104–193, §§ 837, 844(b), in introductory provisions, substituted ''except that—'' for ''except that'', in subpar. (A), realigned margin, substituted ''the safeguards'' for ''such safeguards'' and semicolon for comma at end, in subpar. (B), realigned margin and substituted ''chapter;'' for ''chapter, and'', in subpar. (C), realigned margin, substituted ''the safeguards'' for ''such safeguards'', struck out ''and excluding claims arising from an error of the State agency, that has not been recovered pursuant to such section'' before '', from Federal pay'', and inserted before semicolon at end ''or a Federal income tax refund as authorized by section 3720A of title 31'', and added subpars. (D) and (E).

Subsec. (e)(9). Pub. L. 104–193, § 838, in subpar. (A), substituted ''7 days'' for ''five days'', redesignated subpar. (C) as (B), substituted ''7 days'' for ''five days'', and struck out former subpar. (B) which read as follows: ''provide coupons no later than five days after the date of application to any household in which all members are homeless individuals and that meets the income and resource criteria for coupons under this chapter;'', and redesignated subpar. (D) as (C) and substituted ''or (B)'' for '', (B), or (C)''.

Subsec. (e)(10). Pub. L. 104–193, § 839, inserted before semicolon at end a period and ''At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing''.

Subsec. (e)(14). Pub. L. 104–193, § 835(1)(C), (D)(i), redesignated par. (15) as (14) and struck out former par. (14) which read as follows: ''that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet;''.

Subsec. (e)(15) to (17). Pub. L. 104–193, § 835(1)(D)(i), redesignated pars. (16) to (18) as (15) to (17), respectively. Former par. (15) redesignated (14).

Subsec. (e)(18). Pub. L. 104–193, § 840, substituted ''at the option of the State agency, that information may be'' for ''that information is'' and ''may be requested'' for ''shall be requested''.

Pub. L. 104–193, § 835(1)(D)(i), redesignated par. (19) as (18). Former par. (18) redesignated (17).

Subsec. (e)(19) to (22). Pub. L. 104–193, § 835(1)(D)(i), redesignated pars. (20) to (23) as (19) to (22), respectively. Former par. (19) redesignated (18).

Subsec. (e)(23). Pub. L. 104–193, §§ 819(b)(1), 835(1)(D)(i), redesignated par. (24) as (23) and struck out ''and'' at end. Former par. (23) redesignated (22).

Subsec. (e)(24). Pub. L. 104–193, § 835(1)(D)(ii), redesignated par. (26) as (24). Former par. (24) redesignated (23).

Subsec. (e)(25). Pub. L. 104–193, § 854(b), added par. (25).

Pub. L. 104–193, §§ 819(b)(2), 835(1)(C), substituted semicolon for concluding period and struck out par. (25) which read as follows: ''a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within such area where the mail loss rates exceed standards set by the Secretary.''

Subsec. (e)(26). Pub. L. 104–193, § 835(1)(D)(ii), redesignated par. (26) as (24).

Pub. L. 104–193, § 819(b)(3), added par. (26).

Subsec. (g). Pub. L. 104–193, § 848(b)(1), in first sentence, struck out ''the Secretary's standards for the efficient and effective administration of the program established under section 2025(b)(1) of this title or'' before ''the requirements established pursuant to section 2032''.

Subsec. (i). Pub. L. 104–193, § 835(2)(A), inserted subsec. heading.

Subsec. (i)(1). Pub. L. 104–193, § 835(2)(A), designated portion of existing provisions as par. (1), inserted heading, and substituted ''Notwithstanding any other provision of law,'' for ''Notwithstanding any other provision of law, the Secretary, the Commissioner of Social Security and the Secretary of Health and Human Services shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act; (2)''.

Subsec. (i)(2). Pub. L. 104–193, § 835(2)(B), substituted a period, par. (2) designation, heading, and ''Except in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no'' for ''; (3) households in which all members are included in a federally aided public assistance or State or local general assistance grant in a State that has a sin-

gle State-wide general assistance application form shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form, and households applying for a local general assistance grant in a local jurisdiction in which the agency administering the general assistance program also administers the food stamp program shall be provided an application for participation in the food stamp program at the time of their application for general assistance, along with information concerning how to apply for the food stamp program; and (4) new applicants, as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file. In addition to implementing paragraphs (1) through (4), the State agency shall inform applicants for benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that such applicants may file, along with their application for such benefits, an application for benefits under this chapter, and that if such applicants file, they shall have a single interview for food stamps and for benefits under part A of title IV of the Social Security Act. No''.

Subsec. (p). Pub. L. 104–193, §840(2), added subsec. (p).

1995—Subsec. (*l*). Pub. L. 104–66 struck out '', and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days'' after ''within that State'' in first sentence.

1994—Subsec. (i). Pub. L. 103–296, §108(f)(3), inserted '', the Commissioner of Social Security'' after ''the Secretary'' in first sentence.

Subsec. (j). Pub. L. 103–296, §108(f)(2), substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' wherever appearing.

1993—Subsec. (e)(8)(C). Pub. L. 103–66 added cl. (C).

1991—Subsec. (b). Pub. L. 102–237, §941(6), redesignated subsec. (p) as (b) and transferred it to follow subsec. (a).

Subsec. (e)(2). Pub. L. 102–237, §941(5)(A), substituted a semicolon for period at end.

Subsec. (e)(3)(D). Pub. L. 102–237, §941(5)(B)(i), substituted ''section 2015 of this title)'' for ''section 2015 of this title''.

Subsec. (e)(3)(E). Pub. L. 102–237, §941(5)(B)(ii), made technical amendment to clarify alignment of margin of concluding provisions.

Subsec. (e)(15). Pub. L. 102–237, §941(5)(C), substituted a semicolon for period at end.

Subsec. (p). Pub. L. 102–237, §941(6), redesignated subsec. (p) as (b) and transferred it to follow subsec. (a).

1990—Subsec. (e)(2). Pub. L. 101–624, §1736(1), substituted ''on or near its front cover) explanations'' for ''instructions'' in third sentence.

Pub. L. 101–624, §1736(2), substituted ''The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 2015(f) of this title. The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process.'' for ''One adult member of a household that is applying for a coupon allotment shall be required to certify in writing, under penalty of perjury, the truth of the information contained in the application for the allotment.''

Subsec. (e)(3)(E). Pub. L. 101–624, §1737, inserted before semicolon at end a period followed by ''Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. The Secretary may issue regulations to preclude the use of the estimates for households with extremely low shelter costs for whom the following sentence shall not apply. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses''.

Subsec. (e)(21). Pub. L. 101–624, §1738(1), struck out ''and'' after ''within the State;''.

Subsec. (e)(22). Pub. L. 101–624, §1738(2), substituted semicolon for period at end.

Subsec. (e)(25). Pub. L. 101–624, §1738(3)–(5), added par. (25).

Subsec. (f). Pub. L. 101–624, §1739, inserted first sentence and struck out former first sentence which read as follows: ''To encourage the purchase of nutritious foods, the Secretary is authorized to extend food and nutrition education to reach food stamp program participants, using the methods and techniques developed in the expanded food and nutrition education and other programs.''

Subsec. (g). Pub. L. 101–624, §1763(b), inserted ''or the requirements established pursuant to section 2032 of this title'' after ''section 2025(b)(1) of this title'' in first sentence.

Subsec. (i)(3). Pub. L. 101–624, §1740, inserted ''in a State that has a single State-wide general assistance application form'' after ''grant'' and inserted before semicolon at end '', and households applying for a local general assistance grant in a local jurisdiction in which the agency administering the general assistance program also administers the food stamp program shall be provided an application for participation in the food stamp program at the time of their application for general assistance, along with information concerning how to apply for the food stamp program''.

Subsec. (j)(1). Pub. L. 101–624, §1741, inserted ''supplemental security income or'' after ''recipient of''.

1988—Subsec. (e)(1)(A). Pub. L. 100–435, §204(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''not conduct food stamp outreach activities with funds provided under this chapter except, at the option of the State agency, food stamp informational activities directed at homeless individuals; and''.

Subsec. (e)(2). Pub. L. 100–435, §310, inserted provisions relating to brief, simply-written, and readable application forms.

Pub. L. 100–435, §330, substituted ''The State agency shall waive in-office interviews, on a household's request, if a household is unable to appoint an authorized representative pursuant to paragraph (7) and has no adult household members able to come to the appropriate State agency office because such members are elderly, are mentally or physically handicapped, live in a location not served by a certification office, or have transportation difficulties or similar hardships as determined by the State agency (including hardships due to residing in a rural area, illness, care of a household member, prolonged severe weather, or work or training hours). If an in-office interview is waived, the State agency may conduct a telephone interview or a home visit. The State agency shall provide for telephone contact by, mail delivery of forms to, and mail return of forms by, households that have transportation difficulties or similar hardships.'' for ''The State agency shall comply with the standards established by the Secretary for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person at a certification office or through a representative pursuant to paragraph (7) of this subsection, so that such persons may have an adequate opportunity to be certified properly;''.

Subsec. (e)(3). Pub. L. 100–435, §323, inserted provisions at end relating to dissemination of statements describing reporting responsibilities and telephone number to call State agency.

Pub. L. 100–435, §311, inserted cls. (A) to (E).

Subsec. (e)(6)(C). Pub. L. 100–435, §322(a), substituted ''shall provide'' for ''shall undertake to provide'' and inserted ''so that eligible households are promptly and accurately certified to receive the allotments for which they are eligible under this chapter'' after ''such certification''.

Subsec. (e)(6)(D). Pub. L. 100–435, §321(a), added cl. (D).

Subsec. (e)(6)(E). Pub. L. 100–435, §322(b), added cl. (E).

Subsec. (i). Pub. L. 100–435, §352, amended second sentence generally. Prior to amendment, second sentence read as follows: ''Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.''

Subsec. (p). Pub. L. 100–435, §320, added subsec. (p).

1987—Subsec. (e)(1)(A). Pub. L. 100–77, §808(a), inserted ''except, at the option of the State agency, food stamp informational activities directed at homeless individuals'' after ''this chapter''.

Subsec. (e)(9). Pub. L. 100–77, §809(a), added subpars. (B) and (C), redesignated former subpar. (B) as (D), and directed the substitution of ''a household referred to in subparagraph (A), (B), or (C)'' for ''the household'' which was executed by making the substitution for the first reference to ''the household'' as the probable intent of Congress.

1985—Subsec. (e)(2). Pub. L. 99–198, §1529, inserted provision directing the State agency to provide a method of certifying and issuing coupons to eligible households that do not reside in permanent dwellings or who do not have fixed mailing addresses and to take such steps as are necessary to ensure that participation in the food stamp program is limited to eligible households.

Pub. L. 99–198, §1525, inserted requirement that one adult member of a household that is applying for a coupon allotment certify in writing, under penalty of perjury, the truth of the information contained in the application for the allotment.

Subsec. (e)(3). Pub. L. 99–198, §1527, struck out ''only'' after ''verification'', inserted '', household size (in any case such size is questionable,'', and substituted ''such other eligibility factors as the State agency determines are necessary'' for ''any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the error rate reduction system conducted under section 2025 of this title and as approved by the Secretary''.

Subsec. (e)(16). Pub. L. 99–198, §1528, substituted ''fourth sentence'' for ''last sentence'', inserted ''and would be cost effective'' after ''integrity'', and inserted provision authorizing the State agency to permit a member of a household to comply with this paragraph by presenting a photographic identification card used to receive assistance under a welfare or public assistance program.

Subsec. (e)(22). Pub. L. 99–198, §1517(b), added par. (22).

Subsec. (e)(23). Pub. L. 99–198, §1526, added par. (23).

Subsec. (e)(24). Pub. L. 99–198, §1535(b)(1), added par. (24).

Subsec. (f). Pub. L. 99–198, §1530, inserted provisions directing State agencies to encourage food stamp program participants to participate in the expanded food and nutrition education program conducted under section 343(d) of this title and any program established under sections 3175a through 3175e of this title and, at the request of personnel of such education program, allow personnel and information materials of such education program to be placed in food stamp offices.

Subsec. (g). Pub. L. 99–198, §1537(c), inserted ''the State plan for automated data processing submitted pursuant to subsection (*o*)(2) of this section,'' and substituted ''sections 2025(a), 2025(c), and 2025(g) of this title'' for ''sections 2025(a) and 2025(c) of this title''.

Subsec. (i). Pub. L. 99–198, §1531(a), in cl. (2) of first sentence, inserted ''applicants for or'' after ''members are'' and substituted ''informed of the availability of benefits under the food stamp program and be assisted in making a simple application to participate in such program'' for ''permitted to apply for participation in the food stamp program by executing a simple application'', effective Oct. 1, 1986.

Pub. L. 99–198, §1507(b), inserted sentence directing that no household shall have its application to participate in the food stamp program denied nor its benefits under the food stamp program terminated solely on the basis that its application to participate has been denied or its benefits have been terminated under any of the programs carried out under the statutes specified in the second sentence of section 2014(a) of this title and without a separate determination by the State agency that the household fails to satisfy the eligibility requirements for participation in the food stamp program.

Subsec. (j). Pub. L. 99–198, §1531(b), amended subsec. (j) generally, effective Oct. 1, 1986. Prior to amendment, subsec. (j) read as follows: ''The Secretary, in conjunction with the Secretary of Health and Human Services, is authorized to prescribe regulations permitting applicants for and recipients of social security benefits to apply for food stamps at social security offices and be certified for food stamp eligibility in such offices in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.''

Subsec. (*o*). Pub. L. 99–198, §1537(b), added subsec. (*o*).

1984—Subsec. (e)(19). Pub. L. 98–369 amended par. (19) generally. Prior to amendment, par. (19) read as follows: ''that—

''(A) in any case in which information is available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security Act (42 U.S.C. 503(d)), the information shall be requested and utilized by the State agency to the extent permitted under such section; or

''(B) in any case in which information is not available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security Act—

''(i) information available from the Social Security Administration under section 6103(*l*)(7) of title 26 shall be requested and utilized by the State agency to the extent permitted under such section; or

''(ii) similar information available from other sources shall be requested and utilized by the State agency to the extent approved by the Secretary and permitted by any law controlling access to the information;''.

1983—Subsec. (e)(19). Pub. L. 98–204 amended par. (19) generally. Prior to amendment, par. (19) read as follows: ''that information available from the Social Security Administration under the provisions of section 6103(i)(7) of title 26, and information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act, shall be requested and utilized by the State agency (described in section 2012(n)(1) of this title), to the extent permitted under the provisions of such sections, except that the State agency shall not be required to request such information from the Social Security Administration if such information is available from the agency administering the State unemployment compensation laws;''.

1982—Subsec. (d). Pub. L. 97–253, §166, inserted provision that the Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.

Subsec. (e)(2). Pub. L. 97–253, §167(a), struck out ''points and hours of certification, and for'' after ''Secretary for'' in last sentence.

Subsec. (e)(3). Pub. L. 97–253, §180(b)(1), substituted ''section 2025(e) of this title'' for ''subsections (h) and

(i) of section 2025 of this title'' and ''error rate reduction system'' for ''quality control program'', respectively.

Subsec. (e)(7). Pub. L. 97–253, §168, substituted ''an'' for ''any'' wherever appearing and inserted provision that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph.

Subsec. (e)(8). Pub. L. 97–253, §169, substituted '', regulations issued pursuant to this chapter, Federal assistance programs, or federally assisted State programs'' for ''or the regulations issued pursuant to this chapter''.

Subsec. (e)(9). Pub. L. 97–253, §170, added par. (9). Former par. (9), which required that the State plan of operation provide that households in immediate need because of no income as defined in section 2014(d) and (e) of this title would receive coupons on an expedited basis, was struck out.

Subsec. (e)(10). Pub. L. 97–253, §171, inserted provision that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective.

Subsec. (e)(13). Pub. L. 97–253, §§167(b), 190(c)(1), redesignated par. (14) as (13) and struck out former par. (13) which provided that the State plan of operation provide for compliance with standards set by the Secretary with respect to points and hours of coupon issuance.

Subsec. (e)(14) to (21). Pub. L. 97–253, §190(c)(1), redesignated pars. (14) to (22) as (13) to (21), respectively.

Subsec. (e)(22). Pub. L. 97–253, §§172, 190(c)(1), added par. (22) and redesignated it as par. (21).

Subsec. (i). Pub. L. 97–253, §§173, 189(b)(2)(A), inserted provision requiring each State agency to implement pars. (1) and (2), and permitting each such agency to implement either par. (3) or (4), or both, and substituted reference to the Secretary of Health and Human Services for former reference to the Secretary of Health, Education, and Welfare.

Subsec. (j). Pub. L. 97–253, §189(b)(2)(B), substituted reference to the Secretary of Health and Human Services for former reference to the Secretary of Health, Education, and Welfare.

Subsec. (n). Pub. L. 97–253, §174, added subsec. (n).

1981—Subsec. (b). Pub. L. 97–98, §1316, struck out subsec. (b) which provided that certification of a household as eligible in any political subdivision, in the event of removal of such household to another political subdivision in which the food stamp program is operating, remains valid for participation in the food stamp program for a period of sixty days from the date of such removal.

Subsec. (e)(1). Pub. L. 97–35 added cl. (A) and redesignated cl. (C) as (B). Former cls. (A) and (B), relating to informing low-income households about the program, and conducting other outreach activities, respectively, were struck out.

Subsec. (e)(2). Pub. L. 97–98, §1317, inserted provision that the application contain in understandable terms and in prominent and boldface lettering a statement that the information provided by the applicant is subject to verification and if incorrect the applicant may be subject to denial of food stamps and criminal prosecution.

Subsec. (e)(4). Pub. L. 97–98, §1318, substituted ''prior to'' for ''immediately prior to or at'' and ''advising the household'' for ''advising it''.

Subsec. (e)(8). Pub. L. 97–98, §1319, inserted provision that such safeguards not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of law and that, notwithstanding any other provision of law, all information obtained under this chapter from an applicant household be available to local, State, or Federal law enforcement officials for the purpose of investigating an alleged violation of this chapter or any regulation issued under this chapter.

Subsec. (e)(11). Pub. L. 97–98, §1320(a), inserted provision that allotments not be restored for any period of time more than one year prior to the date the State agency receives a request for such restoration from a household or the State agency is notified or otherwise discovers that a loss to a household has occurred.

Subsec. (e)(20), (21). Pub. L. 97–98, §1321, added pars. (20) and (21).

Subsec. (f). Pub. L. 97–98, §1322, substituted ''is authorized to extend food and nutrition education to reach food stamp participants, using methods and techniques developed in the expanded food and nutrition education and other programs'' for ''shall extend the expanded food and nutrition education program to the greatest extent possible to reach food stamp program participants'' and struck out provision that the program be supplemented by the development of single concept printed materials, specifically designed for persons with low reading and comprehension levels, on how to buy and prepare more nutritious and economical meals and on the relationship between food and good health.

Subsec. (m). Pub. L. 97–98, §1323, added subsec. (m).

1980—Subsec. (e)(3). Pub. L. 96–249, §116, inserted ''(in part through the use of the information, if any, obtained under subsections (h) and (i) of section 2025 of this title)'' after ''section 2014(d) of this title'' and ''although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the quality control program conducted under section 2025 of this title and as approved by the Secretary'' after ''sections 2014 and 2015 of this title,''.

Subsec. (e)(4). Pub. L. 96–249, §113, inserted proviso that the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 2014(f)(2) and 2015(c) of this title if administratively necessary.

Subsec. (e)(17) to (19). Pub. L. 96–249, §§117–119, added pars. (17) to (19).

Subsec. (g). Pub. L. 96–249, §120, inserted '', upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of compliance by a State agency of a type specified in this subsection,'' after ''the Secretary determines'', ''without good cause'' after ''to comply'', ''or the Secretary's standards for the efficient and effective administration of the program established under section 2025(b)(1) of this title'' after ''subsection (d) of this section,'', and '', and whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 2025(a) and (c) of this title as the Secretary determines to be appropriate, subject to administrative and judicial review under section 2023 of this title'' after ''relief shall issue''.

Subsec. (i)(2). Pub. L. 96–249, §122, substituted ''simple application'' for ''simplified affidavit''.

Subsec. (*l*). Pub. L. 96–249, §123, added subsec. (*l*).

1977—Pub. L. 95–113 substituted revised provisions relating to the administration of the program for provisions relating to the disqualification of retail stores and wholesale concerns which are now covered by section 2021 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–379, §1(c), Nov. 12, 1998, 112 Stat. 3399, provided that: ''This section [amending this section and enacting provisions set out as a note below] and the amendments made by this section take effect on June 1, 2000.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1003(a)(3) of Pub. L. 105–33 provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section] shall take effect on the date that is 1 year after the date of enactment of this Act [Aug. 5, 1997].

''(B) EXTENSION.—The Secretary of Agriculture may grant a State an extension of time to comply with the amendments made by this subsection, not to exceed beyond the date that is 2 years after the date of enactment of this Act, if the chief executive officer of the State submits a request for the extension to the Secretary—

''(i) stating the reasons why the State is not able to comply with the amendments made by this subsection by the date that is 1 year after the date of enactment of this Act;

''(ii) providing evidence that the State is making a good faith effort to comply with the amendments made by this subsection as soon as practicable; and

''(iii) detailing a plan to bring the State into compliance with the amendments made by this subsection as soon as practicable but not later than the date of the requested extension.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by sections 1736(1), 1737, 1738, 1740, and 1741 of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, amendment by section 1736(2) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after promulgation of implementing regulations to be promulgated not later than Apr. 1, 1991, and amendment by sections 1739 and 1763(b) of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(a), (b)(2), (3) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on July 1, 1989, except that amendment by sections 204(a), 310, 311, 321(a), 322, 323, and 352 of Pub. L. 100–435 to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(b)(4), (c)(2) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 809(b) of Pub. L. 100–77 provided that: ''The amendments made by this section [amending this section] shall become effective and be implemented as soon as the Secretary of Agriculture determines is practicable after the date of enactment of this Act [July 22, 1987], but not later than 160 days after the date of enactment of this Act.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1531(a), (b) of Pub. L. 99–198 provided that the amendments made by that section are effective Oct. 1, 1986.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Apr. 1, 1985, unless a waiver has been granted to a State to delay effective date but in no event beyond Sept. 30, 1986, see section 2651(*l*)(2) of Pub. L. 98–369, set out as a note under section 1320b–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendments by sections 166 to 174, 189(b)(2), and 190(c)(1) of Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by section 180(b)(1) of Pub. L. 97–253 effective Oct. 1, 1982, see section 193(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–35 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

REGULATIONS

Secretary of Agriculture to promulgate regulations necessary to implement amendment of this section by Pub. L. 105–33, not later than one year after Aug. 5, 1997, see §1005(a) of Pub. L. 105–33 set out as a note under section 2015 of this title.

REPORT

Pub. L. 105–379, §1(b), Nov. 12, 1998, 112 Stat. 3399, provided that: ''Not later than September 1, 2000, the Secretary of Agriculture shall submit a report regarding the progress and effectiveness of the cooperative arrangements entered into by State agencies under section 11(r) of the Food Stamp Act of 1977 (7 U.S.C. 2020(r)) (as added by subsection (a)) to—

''(1) the Committee on Agriculture of the House of Representatives;

''(2) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(3) the Committee on Ways and Means of the House of Representatives;

''(4) the Committee on Finance of the Senate; and

''(5) the Secretary of the Treasury.''

AUDIT OF SIMPLIFIED FOOD STAMP APPLICATION AT SOCIAL SECURITY ADMINISTRATION OFFICES

Section 1742 of Pub. L. 101–624 directed Comptroller General to conduct an audit of programs established

under 7 U.S.C. 2020(i) and (j) under which an applicant for or recipient of social security benefits may make or be provided a simple application to participate in the food stamp program at social security offices, and, not later than Dec. 31, 1991, deliver a report on results of study to Committee on Agriculture of House of Representatives, Committee on Agriculture, Nutrition, and Forestry of Senate, and Special Committee on Aging of Senate.

EX. ORD. NO. 12116. ISSUANCE OF FOOD STAMPS BY POSTAL SERVICE

Ex. Ord. No. 12116, Jan. 19, 1979, 44 F.R. 4647, provided: By the authority vested in me as President of the United States of America by Section 11(k) of the Food Stamp Act of 1977 (91 Stat. 974; 7 U.S.C. 2020(k)), the United States Postal Service is hereby granted approval for post offices in all or part of any State to issue food stamps to eligible households, upon request by the appropriate State agency, as defined in Section 3(n) of the Food Stamp Act of 1977 (91 Stat. 960; 7 U.S.C. 2012(n)).

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2015, 2016, 2017, 2025, 2026, 2027, 2030, 2031, 2035 of this title.

§ 2021. Civil money penalties and disqualification of retail food stores and wholesale food concerns

(a) Disqualification or civil penalty

Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to $10,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this chapter or the regulations issued pursuant to this chapter. Regulations issued pursuant to this chapter shall provide criteria for the finding of a violation and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.

(b) Period of disqualification

Disqualification under subsection (a) of this section shall be—

(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification;

(3) permanent upon—

(A) the third occasion of disqualification;

(B) the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 for each violation (except that the amount of civil money penalties imposed for violations occurring during a single investigation may not exceed $40,000) in lieu of disqualification under this subparagraph, for such purchase of coupons or trafficking in coupons or cards that constitutes a violation of the provisions of this chapter or the regulations issued pursuant to this chapter, if the Secretary determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the chapter and the regulations, including evidence that—

(i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and

(ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or

(II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or

(C) a finding of the sale of firearms, ammunition, explosives, or controlled substance (as defined in section 802 of title 21) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 for each violation (except that the amount of civil money penalties imposed for violations occurring during a single investigation may not exceed $40,000) in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence (including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation) that the store or food concern had an effective policy and program in effect to prevent violations of this chapter; and

(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.

(c) Review

The action of disqualification or the imposition of a civil money penalty shall be subject to review as provided in section 2023 of this title.

(d) Bonds

As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) of this section to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this chapter. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this chapter after furnishing such bond, such store or concern shall forfeit to the Secretary an

amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this chapter. Such store or concern may obtain a hearing on such forfeiture pursuant to section 2023 of this title.

(e) Transfer of ownership; penalty in lieu of disqualification period; fines for acceptance of loose coupons; judicial action to recover penalty or fine

(1) In the event any retail food store or wholesale food concern that has been disqualified under subsection (a) of this section is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern shall be subjected to a civil money penalty in an amount established by the Secretary through regulations to reflect that portion of the disqualification period that has not yet expired. If the retail food store or wholesale food concern has been disqualified permanently, the civil money penalty shall be double the penalty for a ten-year disqualification period, as calculated under regulations issued by the Secretary. The disqualification period imposed under subsection (b) of this section shall continue in effect as to the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this subsection.

(2) At any time after a civil money penalty imposed under paragraph (1) has become final under the provisions of section 2023(a) of this title, the Secretary may request the Attorney General to institute a civil action against the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business to collect the penalty and such court shall have jurisdiction to hear and decide such action. In such action, the validity and amount of such penalty shall not be subject to review.

(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in regulations issued under this chapter. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this chapter separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.

(f) Fines for unauthorized third parties that accept food stamps

The Secretary may impose a fine against any person not approved by the Secretary to accept and redeem food coupons who violates any provision of this chapter or a regulation issued under this chapter, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this chapter separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine.

(g) Disqualification of retailers who are disqualified under WIC program

(1) In general

The Secretary shall issue regulations providing criteria for the disqualification under this chapter of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 1786 of title 42.

(2) Terms

A disqualification under paragraph (1)—

(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) notwithstanding section 2023 of this title, shall not be subject to judicial or administrative review.

(Pub. L. 88–525, §12, Aug. 31, 1964, 78 Stat. 707; Pub. L. 95–113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 974; Pub. L. 97–253, title I, §§175, 176(a), Sept. 8, 1982, 96 Stat. 781; Pub. L. 99–198, title XV, §1532(a), Dec. 23, 1985, 99 Stat. 1582; Pub. L. 100–435, title III, §344, Sept. 19, 1988, 102 Stat. 1664; Pub. L. 101–624, title XVII, §§1743–1745, Nov. 28, 1990, 104 Stat. 3795, 3796; Pub. L. 103–66, title XIII, §§13943, 13944, Aug. 10, 1993, 107 Stat. 677; Pub. L. 104–127, title IV, §401(a), Apr. 4, 1996, 110 Stat. 1026; Pub. L. 104–193, title VIII, §§841–843, Aug. 22, 1996, 110 Stat. 2331, 2332.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, §841, inserted at end ''Regulations issued pursuant to this chapter shall provide criteria for the finding of a violation and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.''

Subsec. (b)(3)(B). Pub. L. 104–127, §401(a), struck out ''(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)'' after ''substantial evidence'' and substituted '', including evidence that—'' and cls. (i) and (ii) for ''; or''.

Subsec. (b)(4). Pub. L. 104–193, §842, added par. (4).

Subsec. (g). Pub. L. 104–193, §843, added subsec. (g).

1993—Subsec. (b)(3)(B). Pub. L. 103–66, §13943, substituted ''for violations occurring during a single investigation'' for ''during a 2-year period''.

Subsec. (b)(3)(C). Pub. L. 103–66, §13944, substituted ''substance (as'' for ''substances (as the term is'' and ''for violations occurring during a single investigation'' for ''during a 2-year period''.

1990—Subsec. (b)(3). Pub. L. 101–624, §1743, in subpar. (A) struck out ''or'' after ''disqualification;'', in subpar. (B) inserted ''for each violation (except that the amount of civil money penalties imposed during a 2-

year period may not exceed $40,000)'' after ''$20,000'' and ''(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)'' after ''evidence'', and substituted ''; or'' for period at end, and added subpar. (C).

Subsec. (e)(3). Pub. L. 101–624, § 1744, added par. (3).

Subsec. (f). Pub. L. 101–624, § 1745, added subsec. (f).

1988—Subsec. (b)(3). Pub. L. 100–435 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern.''

1985—Subsec. (e). Pub. L. 99–198 added subsec. (e).

1982—Subsec. (a). Pub. L. 97–253, § 175(1)–(3), redesignated first sentence as subsec. (a), substituted ''$10,000'' for ''$5,000'', and struck out second sentence relating to disqualification.

Subsec. (b). Pub. L. 97–253, § 175(3), added subsec. (b) relating to disqualification.

Subsec. (c). Pub. L. 97–253, § 175(4), redesignated last sentence as subsec. (c).

Subsec. (d). Pub. L. 97–253, § 176(a), added subsec. (d).

1977—Pub. L. 95–113 substituted revised provisions covering civil money penalties and disqualification of retail food stores and wholesale food concerns for provisions relating to the determination and disposition of claims which are now covered by section 2022 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2018, 2023 of this title; title 26 section 6109; title 42 section 405.

§ 2022. Disposition of claims

(a) Authority of Secretary; review of State program investment when settling claims; interest on claims against State agencies; joint and several liability

(1) The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this chapter or the regulations issued pursuant to this chapter, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients, including the power to waive claims if the Secretary determines that to do so would serve the purposes of this chapter. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies. The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 2025 of this title to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 2023 of this title. In determining whether to settle, adjust, compromise, or waive a claim arising against a State agency pursuant to section 2025(c) of this title, the Secretary shall review a State agency's plans for new dollar investment in activities to improve program administration in order to reduce payment error, and shall take the State agency's plans for new dollar investment in such activities into consideration as the Secretary considers appropriate. To the extent that a State agency does not pay a claim established under section 2025(c)(1)(C) of this title, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 2025(c)(7) of this title. If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 1 year after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned. Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.

(2) Each adult member of a household shall be jointly and severally liable for the value of any overissuance of coupons.

(b) Collection of overissuances

(1) In general

Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

(A) reducing the allotment of the household;

(B) withholding amounts from unemployment compensation from a member of the household under subsection (c) of this section;

(C) recovering from Federal pay or a Federal income tax refund under subsection (d) of this section; or

(D) any other means.

(2) Cost effectiveness

Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(3) Maximum reduction absent fraud

If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 2015(b)(1) of this title and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

(A) 10 percent of the monthly allotment of the household; or

(B) $10.

(4) Procedures

A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.

(c) Food stamp intercept of unemployment benefits

(1) As used in this subsection, the term ''uncollected overissuance'' means the amount of an overissuance of coupons, as determined under subsection (b)(1) of this section, that has not been recovered pursuant to subsection (b)(1) of this section.

(2) A State agency may determine on a periodic basis, from information supplied pursuant to section 49b(b) of title 29, whether an individual receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) owes an uncollected overissuance.

(3) A State agency may recover an uncollected overissuance—

(A) by—

(i) entering into an agreement with an individual described in paragraph (2) under which specified amounts will be withheld from unemployment compensation otherwise payable to the individual; and

(ii) furnishing a copy of the agreement to the State agency administering the unemployment compensation law; or

(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation.

(d) Recovery of overissuance of coupons

The amount of an overissuance of coupons, as determined under subsection (b)(1) of this section, that has not been recovered pursuant to such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 or a Federal income tax refund as authorized by section 3720A of title 31.

(Pub. L. 88–525, § 13, Aug. 31, 1964, 78 Stat. 707; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974; Pub. L. 97–35, title I, § 113, Aug. 13, 1981, 95 Stat. 363; Pub. L. 97–253, title I, §§ 177, 178, Sept. 8, 1982, 96 Stat. 781, 782; Pub. L. 99–198, title XV, §§ 1533–1535(a), Dec. 23, 1985, 99 Stat. 1583; Pub. L. 100–435, title VI, §§ 601, 602, Sept. 19, 1988, 102 Stat. 1674; Pub. L. 101–624, title XVII, § 1746, Nov. 28, 1990, 104 Stat. 3796; Pub. L. 102–237, title IX, § 911, Dec. 13, 1991, 105 Stat. 1887; Pub. L. 103–66, title XIII, §§ 13941(b), 13951(a), Aug. 10, 1993, 107 Stat. 676, 677; Pub. L. 104–193, title VIII, § 844(a), Aug. 22, 1996, 110 Stat. 2332.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–193, § 844(a)(1), added subsec. (b) and struck out former subsec. (b) which provided for reduction of allotment for households with ineligible individuals and collection by State agencies of claims against households arising from overissuance of coupons.

Subsec. (d). Pub. L. 104–193, § 844(a)(2), substituted '', as determined under subsection (b)(1) of this section,'' for ''as determined under subsection (b) of this section and except for claims arising from an error of the State agency,'' and inserted before period at end ''or a Federal income tax refund as authorized by section 3720A of title 31''.

1993—Subsec. (a)(1). Pub. L. 103–66, § 13951(a), in fifth sentence, struck out ''(after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary)'' after ''30 days from the date on which the bill for collection'' and in sixth sentence substituted ''1 year'' for ''2 years''.

Subsec. (d). Pub. L. 103–66, § 13941(b), added subsec. (d).

1991—Subsec. (b)(2)(A). Pub. L. 102–237 inserted before period at end of first sentence '', except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment''.

1990—Subsec. (b)(1)(A). Pub. L. 101–624 substituted ''on the date of receipt (or, if the date of receipt is not a business day, on the next business day)'' for ''within thirty days''.

1988—Subsec. (a)(1). Pub. L. 100–435, § 601, inserted provisions relating to review of State agency's plans for program investment to reduce payment error when Secretary determines whether to settle, etc., claims under section 2025(c) of this title.

Pub. L. 100–435, § 602, inserted provisions relating to failure of State agency to pay a claim under section 2025(c)(1)(C) of this title and interest with respect to unpaid portion of such claims.

1985—Subsec. (a). Pub. L. 99–198, § 1533, designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1)(B). Pub. L. 99–198, § 1534, substituted ''shall'' for ''may'' and inserted '', unless the State agency demonstrates to the satisfaction of the Secretary that such other means are not cost effective''.

Subsec. (c). Pub. L. 99–198, § 1535(a), added subsec. (c).

1982—Subsec. (b)(1). Pub. L. 97–253, §§ 177(a), 178, redesignated existing provisions, which were formerly undesignated, as subpar. (A), inserted ''within thirty days of a demand for an election'' after ''make an election'', and added subpar. (B).

Subsec. (b)(2). Pub. L. 97–253, § 177(b), redesignated existing provisions, which had been undesignated, as subpar. (A) and added subpar. (B).

1981—Pub. L. 97–35 designated existing provisions as subsec. (a), inserted provisions relating to power to waive claims, and the power to otherwise reduce amounts, and added subsec. (b).

1977—Pub. L. 95–113 substituted revised provisions relating to the determination and disposition of claims for provisions relating to administrative and judicial review which are now covered by section 2023 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13941(b) of Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, and amendment by section 13951(a) of Pub. L. 103–66 effective Oct. 1, 1991, see section 13971(a), (b)(1)(A) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective Dec. 13, 1991, see section 1101(d)(4) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 effective Oct. 1, 1985, with respect to claims under section 2025(c) of this title for quality control review periods after such date, and provisions of this section that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 to remain in effect for claims arising with respect to such periods, see section 701(b)(5)(B), (D)(i) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2020, 2023, 2025, 2027 of this title; title 42 section 503.

§ 2023. Administrative and judicial review; restoration of rights

(a)(1) Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 2018 of this title, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 2021 of this title, or a retail food store or wholesale food concern forfeits a bond under section 2021(d) of this title, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 2022 of this title, or a claim against a State agency is stated pursuant to the provisions of section 2022 of this title, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved.

(2) Such notice shall be delivered by certified mail or personal service.

(3) If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this chapter, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate.

(4) If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final.

(5) If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination.

(6) Determinations regarding claims made pursuant to section 2025(c) of this title (including determinations as to whether there is good cause for not imposing all or a portion of the penalty) shall be made on the record after opportunity for an agency hearing in accordance with section 556 and 557 of title 5 in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence.

(7) Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections[1] 499m(c) and (d) of this title and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence.

(8) The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 2025(c) of this title.

(9) The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 2025(c) of this title in amounts less than $50,000.

(10) Such summary procedure need not include an oral hearing.

(11) On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than $50,000.

(12) Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 2025(c) of this title shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.

(13) If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a re-

[1] So in original. Probably should be ''section''.

tail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination.

(14) The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process.

(15) The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue, except that judicial review of determinations regarding claims made pursuant to section 2025(c) of this title shall be a review on the administrative record.

(16) If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(17) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless on application to the court on not less than ten days' notice, and after hearing thereon and a consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 2021(b) of this title shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.

(b) In any judicial action arising under this chapter, any food stamp allotments found to have been wrongfully withheld shall be restored only for periods of not more than one year prior to the date of the commencement of such action, or in the case of an action seeking review of a final State agency determination, not more than one year prior to the date of the filing of a request with the State for the restoration of such allotments or, in either case, not more than one year prior to the date the State agency is notified or otherwise discovers the possible loss to a household.

(Pub. L. 88–525, §14, Aug. 31, 1964, 78 Stat. 708; Pub. L. 91–671, §7, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 92–603, title IV, §411(f), Oct. 30, 1972, 86 Stat. 1492; Pub. L. 95–113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 974; Pub. L. 97–98, title XIII, §1320(b), Dec. 22, 1981, 95 Stat. 1286; Pub. L. 97–253, title I, §176(b), Sept. 8, 1982, 96 Stat. 781; Pub. L. 99–198, title XV, §1536, Dec. 23, 1985, 99 Stat. 1585; Pub. L. 100–435, title VI, §603, Sept. 19, 1988, 102 Stat. 1674; Pub. L. 103–66, title XIII, §13951(b), Aug. 10, 1993, 107 Stat. 678; Pub. L. 104–193, title VIII, §845, Aug. 22, 1996, 110 Stat. 2333.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (a)(7), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193 designated first through seventeenth sentences as pars. (1) to (17), respectively, and added par. (18).

1993—Subsec. (a). Pub. L. 103–66 inserted ''(including determinations as to whether there is good cause for not imposing all or a portion of the penalty)'' after ''Determinations regarding claims made pursuant to section 2025(c) of this title'' in sixth sentence and struck out at end ''Notwithstanding the administrative or judicial review procedures set forth in this subsection, determinations by the Secretary concerning whether a State agency had good cause for its failure to meet error rate tolerance levels established under section 2025(c) of this title are final.''

1988—Subsec. (a). Pub. L. 100–435 inserted provisions relating to judicial review and determinations regarding excessive payment error rate claims pursuant to section 2025(c) of this title.

1985—Subsec. (a). Pub. L. 99–198 substituted ''on application'' for ''an application'' and ''consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury'' for ''showing of irreparable injury''.

1982—Subsec. (a). Pub. L. 97–253 substituted ''section 2021 of this title, or a retail food store or wholesale food concern forfeits a bond under section 2021(d) of this title,'' for ''section 2021 of this title,''.

1981—Pub. L. 97–98 designated existing provision as subsec. (a) and added subsec. (b).

1977—Pub. L. 95–113 substituted revised provisions for administrative and judicial review for provisions relating to violations and enforcement which are now covered by section 2024 of this title.

1972—Subsec. (e). Pub. L. 92–603 struck out subsec. (e) which provided that no person be charged with violation of this chapter or any other law on the basis of statements or information contained in affidavits filed under section 2019(c) of this title, except for fraud.

1971—Subsec. (a). Pub. L. 91–671, §7(a), provided for purchase of coupons.

Subsec. (b). Pub. L. 91–671, §7(a), included alteration as an offense and made authorization to purchase cards the subject matter of the enumerated offenses.

Subsec. (e). Pub. L. 91–671, §7(b), added subsec. (e).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Oct. 1, 1991, see section 13971(b)(1)(A) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 effective Oct. 1, 1985, with respect to claims under section 2025(c) of this title for quality control review periods after such date, except as otherwise provided, see section 701(b)(5)(C), (D) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into

account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–603 effective Jan. 1, 1973, see section 411(h) of Pub. L. 92–603, set out as a note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2018, 2020, 2021, 2022, 2025 of this title.

§ 2024. Violations and enforcement

(a) Coupon redemption

Notwithstanding any other provision of this chapter, the Secretary may provide for the issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(b) Unauthorized use, transfer, acquisition, alteration, or possession of coupons or authorization cards; restitution by convicted individuals

(1) Subject to the provisions of paragraph (2) of this subsection, whoever knowingly uses, transfers, acquires, alters, or possesses coupons, authorization cards, or access devices in any manner contrary to this chapter or the regulations issued pursuant to this chapter shall, if such coupons, authorization cards, or access devices are of a value of $5,000 or more, be guilty of a felony and shall be fined not more than $250,000 or imprisoned for not more than twenty years, or both, and shall, if such coupons or authorization cards are of a value of $100 or more, but less than $5,000, or if the item used, transferred, acquired, altered, or possessed is an access device that has a value of $100 or more, but less than $5,000, be guilty of a felony and shall, upon the first conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than six months nor more than five years and may also be fined not more than $10,000 or, if such coupons or authorization cards are of a value of less than $100, or if the item used, transferred, acquired, altered, or processed is an access device that has a value of less than $100, shall be guilty of a misdemeanor, and, upon the first conviction thereof, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than $1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 2015(b)(1) of this title.

(2) In the case of any individual convicted of an offense under paragraph (1) of this subsection, the court may permit such individual to perform work approved by the court for the purpose of providing restitution for losses incurred by the United States and the State agency as a result of the offense for which such individual was convicted. If the court permits such individual to perform such work and such individual agrees thereto, the court shall withhold the imposition of the sentence on the condition that such individual perform the assigned work. Upon the successful completion of the assigned work the court may suspend such sentence.

(c) Presentation for payment or redemption of coupons that have been illegally received, transferred, or used

Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this chapter or the regulations issued pursuant to this chapter, shall be guilty of a felony and, upon the first conviction thereof, shall be fined not more than $20,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than one year nor more than five years and may also be fined not more than $20,000, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and, upon the first conviction thereof, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than $1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 2015(b)(1) of this title.

(d) Coupons as obligations of the United States

Coupons issued pursuant to this chapter shall be deemed to be obligations of the United States within the meaning of section 8 of title 18.

(e) Failure to provide monthly operations report; violation of regulations; delivery and control procedures

Any coupon issuer or any officer, employee, or agent thereof convicted of failing to provide the report required under section 2016(d) of this title or of violating the regulations issued under section 2016(d) and (e) of this title shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(f) Liability for financial losses involved in acceptance, storage, and issuance of coupons

Any coupon issuer or any officer, employee, or agent thereof convicted of knowingly providing false information in the report required under section 2016(d) of this title shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(g) Forfeiture of property involved in illegal food stamp transactions

The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished by any person in exchange for coupons, authorization cards or access devices, or anything of value obtained by use of an access device, in any manner contrary to this chapter or the regulations issued under this chapter. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.

(h) Criminal forfeiture

(1) In general

In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c) of this section, a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

(2) Property subject to forfeiture

All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c) of this section, or proceeds traceable to a violation of subsection (b) or (c) of this section, shall be subject to forfeiture to the United States under paragraph (1).

(3) Interest of owner

No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

(4) Proceeds

The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 2018 of this title.

(Pub. L. 88–525, §15, Aug. 31, 1964, 78 Stat. 708; Pub. L. 91–671, §8, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 93–347, §2, July 12, 1974, 88 Stat. 341; Pub. L. 95–113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 975; Pub. L. 96–249, title I, §124, May 26, 1980, 94 Stat. 363; Pub. L. 97–98, title XIII, §1324, Dec. 22, 1981, 95 Stat. 1288; Pub. L. 101–624, title XVII, §§1747(a), (c), 1748, 1749, Nov. 28, 1990, 104 Stat. 3796, 3797; Pub. L. 104–193, title VIII, §846, Aug. 22, 1996, 110 Stat. 2334.)

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–193, §846(a), struck out ''or intended to be furnished'' after ''that are furnished''.

Subsec. (h). Pub. L. 104–193, §846(b), added subsec. (h).

1990—Subsec. (b)(1). Pub. L. 101–624, §1748, inserted ''if such coupons, authorization cards, or access devices are of a value of $5,000 or more, be guilty of a felony and shall be fined not more than $250,000 or imprisoned for not more than twenty years, or both, and shall,'' after ''chapter shall'', and inserted ''but less than $5,000,'' after ''$100 or more'' in two places.

Pub. L. 101–624, §1747(a), substituted '', authorization cards, or access devices in any manner contrary to'' for ''or authorization cards in any manner not authorized by'', and inserted ''or if the item used, transferred, acquired, altered, or possessed is an access device that has a value of $100 or more,'' after ''a value of $100 or more,'', and inserted ''or if the item used, transferred, acquired, altered, or processed is an access device that has a value of less than $100,'' after ''a value of less than $100,''.

Subsec. (c). Pub. L. 101–624, §1749, substituted ''$20,000'' for ''$10,000'' in two places.

Subsec. (g). Pub. L. 101–624, §1747(c), substituted '', authorization cards or access devices, or anything of value obtained by use of an access device, in any manner contrary to'' for ''or authorization cards in any manner not authorized by''.

1981—Subsec. (b). Pub. L. 97–98 designated existing provision as par. (1), inserted provisions specifying the minimum and maximum sentences for the second and any subsequent convictions for felonies and misdemeanors and provision authorizing the court to suspend a person convicted of a felony or misdemeanor under this subsection from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 2015(b)(1) of this title, and added par. (2).

Subsec. (c). Pub. L. 97–98 inserted provisions specifying the minimum and maximum sentences for the second and any subsequent convictions for felonies and misdemeanors and provision authorizing the court to suspend a person convicted of a felony or misdemeanor under this subsection from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 2015(b)(1) of this title.

1980—Subsec. (g). Pub. L. 96–249 added subsec. (g).

1977—Pub. L. 95–113 substituted revised provisions relating to violations and enforcement for provisions relating to the State financing of administrative costs which are now covered by section 2025 of this title.

1974—Pub. L. 93–347 authorized the Secretary of Agriculture to pay each State agency 50 percent of all the State agency's costs in administering the Food Stamp Program and required that each State make reports from time to time at the request of the Secretary of Agriculture on the effectiveness of the administration of the Food Stamp Program in that State.

1971—Subsec. (b). Pub. L. 91–671 struck out ''cooperate with State agencies in the certification of households which are not receiving any type of public assistance so as to insure the effective certification of such households in accordance with the eligibility standards approved under the provisions of section 2019 of this title. Such cooperation shall include payments to State agencies for part of the cost they incur in the certification of such households'' after ''is authorized to'', and in providing for payments to State agencies, increased percentage from 50 to 62½, and substituted cl. (1) provisions for travel and travel-related cost of per-

sonnel for such time as they are employed in taking the action required under section 2019(e) of this title and in making certification determinations for households other than those which consist solely of recipients of welfare assistance for prior cl. (1) for direct salary costs of personnel used to make interviews and such postinterview investigations as are necessary to certify eligibility of such households, for periods of employment, in certifying the eligibility of such households; cl. (2) respecting direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid) of personnel for time of employment as hearing officials under section 2019(e) of this title for prior cl. (2) respecting travel and related costs incurred by personnel in postinterview field investigations of households, and deleted cl. (3) for an amount not to exceed 25 per centum of the costs computed under former cls. (1) and (2).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2015, 2016 of this title; title 18 section 1956; title 26 section 6109; title 42 section 405.

§ 2025. Administrative cost-sharing and quality control

(a) Administrative costs

Subject to subsection (k) of this section, the Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) the certification of applicant households, (2) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (3) the issuance of coupons to all eligible households, (4) food stamp informational activities, including those undertaken under section 2020(e)(1)(A) of this title, but not including recruitment activities, (5) fair hearings, (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g) of this section, (7) food stamp program investigations and prosecutions, and (8) implementing and operating the immigration status verification system established under section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)): *Provided*, That the Secretary is authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all or part of an Indian reservation under section 2020(d) of this title or in a Native village within the State of Alaska identified in section 1610(b) of title 43.[1] such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program, as well as to permit each State to retain 35 percent of the value of all funds or allotments recovered or collected pursuant to sections 2015(b) and 2022(c) of this title and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise from an error of a State agency. The officials responsible for making determinations of ineligibility under this chapter shall not receive or benefit from revenues retained by the State under the provisions of this subsection.

(b) Work supplementation or support program

(1) "Work supplementation or support program" defined

In this subsection, the term ''work supplementation or support program'' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

(2) Program

A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

(3) Procedure

If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

(C) for purposes of—

(i) sections 2014 and 2017(a) of this title, the amount received under this subsection shall be excluded from household income and resources; and

(ii) section 2017(b) of this title, the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

[1] So in original. The period probably should not appear.

(4) Other work requirements

No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 2015(d) of this title, except during the periods in which the individual is employed under the work supplementation or support program.

(5) Length of participation

A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

(6) Displacement

A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.

(c) Payment error improvement system; purposes, establishment, definitions, implementation, etc.

(1) The program authorized under this chapter shall include a system that enhances payment accuracy by establishing fiscal incentives that require State agencies with high error rates to share in the cost of payment error and provide enhanced administrative funding to States with the lowest error rates. Under such system—

(A) the Secretary shall adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) of this section or under subsection (g) of this section, by increasing such share of all such administrative costs by one percentage point to a maximum of 60 percent of all such administrative costs for each full one-tenth of a percentage point by which the payment error rate is less than 6 percent, except that only States whose rate of invalid decisions in denying eligibility is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment prescribed in this subsection;

(B) the Secretary shall foster management improvements by the States by requiring State agencies other than those receiving adjustments under subparagraph (A) to develop and implement corrective action plans to reduce payment errors; and

(C) for any fiscal year in which a State agency's payment error rate exceeds the national performance measure for payment error rates announced under paragraph (6), other than for good cause shown, the State agency shall pay to the Secretary an amount equal to—

(i)[2] the product of—

(I) the value of all allotments issued by the State agency in the fiscal year; times

(II) the lesser of—

(aa) the ratio of—

(aaa) the amount by which the payment error rate of the State agency for the fiscal year exceeds the national performance measure for the fiscal year; to

(bbb) the national performance measure for the fiscal year, or

(bb) 1; times

(III) the amount by which the payment error rate of the State agency for the fiscal year exceeds the national performance measure for the fiscal year.

The amount of liability shall not be affected by corrective action under subparagraph (B).

(2) As used in this section—

(A) the term ''payment error rate'' means the sum of the point estimates of an overpayment error rate and an underpayment error rate determined by the Secretary from data collected in a probability sample of participating households;

(B) the term ''overpayment error rate'' means the percentage of the value of all allotments issued in a fiscal year by a State agency that are either—

(i) issued to households that fail to meet basic program eligibility requirements; or

(ii) overissued to eligible households; and

(C) the term ''underpayment error rate'' means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

(3) The following errors may be measured for management purposes but shall not be included in the payment error rate:

(A) Any errors resulting in the application of new regulations promulgated under this chapter during the first 120 days from the required implementation date for such regulations.

(B) Errors resulting from the use by a State agency of correctly processed information concerning households or individuals received from Federal agencies or from actions based on policy information approved or disseminated, in writing, by the Secretary or the Secretary's designee.

(4) The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, enhanced administrative funding, or claim for payment error, under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

(5) To facilitate the implementation of this subsection each State agency shall submit to the Secretary expeditiously data regarding its operations in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for such fiscal year and determine the amount of either incentive payments under paragraph (1)(A) or claims under paragraph (1)(C). The Secretary shall make a determination for a fiscal year, and notify the State agency of such determination, within nine months following the end of each fiscal year. The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim

[2] So in original. No cl. (ii) has been enacted.

established under paragraph (1)(C) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 2023 of this title (as provided for in paragraph (7)), before the end of the fiscal year following such fiscal year.

(6) At the time the Secretary makes the notification to State agencies of their error rates and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C), the Secretary shall also announce a national performance measure that shall be the sum of the products of each State agency's error rate as developed for the notifications under paragraph (5) times that State agency's proportion of the total value of national allotments issued for the fiscal year using the most recent issuance data available at the time of the notifications issued pursuant to paragraph (5). Where a State fails to meet reporting requirements pursuant to paragraph (4), the Secretary may use another measure of a State's error developed pursuant to paragraph (5), to develop the national performance measure. The announced national performance measure shall be used in determining the State share of the cost of payment error under paragraph (1)(C) for the fiscal year whose error rates are being announced under paragraph (5).

(7) If the Secretary asserts a financial claim against a State agency under paragraph (1)(C), the State may seek administrative and judicial review of the action pursuant to section 2023 of this title.

(8)(A) This paragraph applies to the determination of whether a payment is due by a State agency for a fiscal year under paragraph (1)(C).

(B) Not later than 180 days after the end of the fiscal year, the case review and all arbitrations of State-Federal difference cases shall be completed.

(C) Not later than 30 days thereafter, the Secretary shall—

(i) determine final error rates, the national average payment error rate, and the amounts of payment claimed against State agencies; and

(ii) notify State agencies of the payment claims.

(D) A State agency desiring to appeal a payment claim determined under subparagraph (C) shall submit to an administrative law judge—

(i) a notice of appeal, not later than 10 days after receiving a notice of the claim; and

(ii) evidence in support of the appeal of the State agency, not later than 60 days after receiving a notice of the claim.

(E) Not later than 60 days after a State agency submits evidence in support of the appeal, the Secretary shall submit responsive evidence to the administrative law judge to the extent such evidence exists.

(F) Not later than 30 days after the Secretary submits responsive evidence, the State agency shall submit rebuttal evidence to the administrative law judge to the extent such evidence exists.

(G) The administrative law judge, after an evidentiary hearing, shall decide the appeal—

(i) not later than 60 days after receipt of rebuttal evidence submitted by the State agency; or

(ii) if the State agency does not submit rebuttal evidence, not later than 90 days after the State agency submits the notice of appeal and evidence in support of the appeal.

(H) In considering a claim under this paragraph, the administrative law judge shall consider all grounds for denying the claim, in whole or in part, including the contention of a State agency that the claim should be waived, in whole or in part, for good cause.

(I) The deadlines in subparagraphs (D), (E), (F), and (G) shall be extended by the administrative law judge for cause shown.

(9) As used in this subsection, the term ''good cause'' includes—

(A) a natural disaster or civil disorder that adversely affects food stamp program operations;

(B) a strike by employees of a State agency who are necessary for the determination of eligibility and processing of case changes under the food stamp program;

(C) a significant growth in food stamp caseload in a State prior to or during a fiscal year, such as a 15 percent growth in caseload;

(D) a change in the food stamp program or other Federal or State program that has a substantial adverse impact on the management of the food stamp program of a State; and

(E) a significant circumstance beyond the control of the State agency.

(d) Assessment and evaluation of payment error improvement system

The Secretary shall undertake the following studies of the payment error improvement system established under subsection (c) of this section:

(1) An assessment of the feasibility of measuring payment errors due to improper denials and terminations of benefits or otherwise developing performance standards with financial consequences for improper denials and terminations, including incorporation in subsection (c) of this section. The Secretary shall report the results of such study and the recommendations of the Secretary to the Congress by July 1, 1990.

(2) An evaluation of the effectiveness of the system of program improvement initiated under this section that shall be reported to the Congress along with the Secretary's recommendations no later than 3 years from September 19, 1988.

(e) Use of social security account numbers; access to information

The Secretary and State agencies shall (1) require, as a condition of eligibility for participation in the food stamp program, that each household member furnish to the State agency their social security account number (or numbers, if they have more than one number), and (2) use such account numbers in the administration of the food stamp program. The Secretary and State agencies shall have access to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] that has been provided to the Commissioner of Social Security,

but only to the extent that the Secretary and the Commissioner of Social Security determine necessary for purposes of determining or auditing a household's eligibility to receive assistance or the amount thereof under the food stamp program, or verifying information related thereto.

(f) Payment of certain legal fees

Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of officers and employees of the Department of Agriculture may be paid in judicial or administrative proceedings to which such officers and employees have been made parties and that arise directly out of their performance of duties under this chapter.

(g) Cost sharing for computerization

The Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) of this section for the costs incurred by the State agency in the planning, design, development, or installation of automatic data processing and information retrieval systems that the Secretary determines (1) will assist in meeting the requirements of this chapter, (2) meet such conditions as the Secretary prescribes, (3) are likely to provide more efficient and effective administration of the food stamp program, and (4) will be compatible with other such systems used in the administration of State programs funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]: *Provided*, That there shall be no such payments to the extent that a State agency is reimbursed for such costs under any other Federal program or uses such systems for purposes not connected with the food stamp program: *Provided further*, That any costs matched under this subsection shall be excluded in determining the State agency's administrative costs under any other subsection of this section.

(h) Funding of employment and training programs

(1) IN GENERAL.—

(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available until expended, from funds made available for each fiscal year under section 2027(a)(1) of this title the amount of—

(i) for fiscal year 1996, $75,000,000;

(ii) for fiscal year 1997, $79,000,000;

(iii) for fiscal year 1998—

(I) $81,000,000; and

(II) an additional amount of $131,000,000;

(iv) for fiscal year 1999—

(I) $84,000,000; and

(II) an additional amount of $31,000,000;

(v) for fiscal year 2000—

(I) $86,000,000; and

(II) an additional amount of $86,000,000;

(vi) for fiscal year 2001—

(I) $88,000,000; and

(II) an additional amount of $131,000,000; and

(vii) for fiscal year 2002—

(I) $90,000,000; and

(II) an additional amount of $75,000,000.

(B) ALLOCATION.—

(i) ALLOCATION FORMULA.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula, as determined and adjusted by the Secretary each fiscal year, to reflect—

(I) changes in each State's caseload (as defined in section 2015(*o*)(6)(A) of this title);

(II) for fiscal year 1998, the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 2015(*o*)(3) of this title; and

(III) for each of fiscal years 1999 through 2002, the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 2015(*o*)(3) of this title and who—

(aa) do not reside in an area subject to a waiver granted by the Secretary under section 2015(*o*)(4) of this title; or

(bb) do reside in an area subject to a waiver granted by the Secretary under section 2015(*o*)(4) of this title, if the State agency provides employment and training services in the area to food stamp recipients who are not eligible for an exception under section 2015(*o*)(3) of this title.

(ii) ESTIMATED FACTORS.—The Secretary shall estimate the portion of food stamp recipients who reside in each State who are not eligible for an exception under section 2015(*o*)(3) of this title based on the survey conducted to carry out subsection (c) of this section for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

(iii) REPORTING REQUIREMENT.—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.

(C) REALLOCATION.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.

(E) USE OF FUNDS.—Of the amount of funds a State agency receives under subparagraphs (A) through (D) for a fiscal year, not less than 80 percent of the funds shall be used by the State agency during the fiscal year to serve food stamp recipients who—

(i) are not eligible for an exception under section 2015(*o*)(3) of this title; and

(ii) are placed in and comply with a program described in subparagraph (B) or (C) of section 2015(*o*)(2) of this title.

(F) MAINTENANCE OF EFFORT.—To receive an allocation of an additional amount made available under subclause (II) of each of clauses (iii) through (vii) of subparagraph (A), a State agency shall maintain the expenditures of the State agency for employment and training programs and workfare programs for any fiscal year under paragraph (2), and administrative expenses described in section 2029(g)(1) of this title, at a level that is not less than the level of the expenditures by the State agency to carry out the programs and such expenses for fiscal year 1996.

(G) COMPONENT COSTS.—The Secretary shall monitor State agencies' expenditure of funds for employment and training programs provided under this paragraph, including the costs of individual components of State agencies' programs. The Secretary may determine the reimbursable costs of employment and training components, and, if the Secretary makes such a determination, the Secretary shall determine that the amounts spent or planned to be spent on the components reflect the reasonable cost of efficiently and economically providing components appropriate to recipient employment and training needs, taking into account, as the Secretary deems appropriate, prior expenditures on the components, the variability of costs among State agencies' components, the characteristics of the recipients to be served, and such other factors as the Secretary considers necessary.

(2) If, in carrying out such program during such fiscal year, a State agency incurs costs that exceed the amount allocated to the State agency under paragraph (1), the Secretary shall pay such State agency an amount equal to 50 per centum of such additional costs, subject to the first limitation in paragraph (3), including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work.

(3) The Secretary shall also reimburse each State agency in an amount equal to 50 per centum of the total amount of payments made or costs incurred by the State agency in connection with transportation costs and other expenses reasonably necessary and directly related to participation in an employment and training program under section 2015(d)(4) of this title, except that such total amount shall not exceed an amount representing $25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and an amount equal to the payment made under section 2015(d)(4)(I)(i)(II) of this title but not more than the applicable local market rate, and such reimbursement shall not be made out of funds allocated under paragraph (1).

(4) Funds provided to a State agency under this subsection may be used only for operating an employment and training program under section 2015(d)(4) of this title, and may not be used for carrying out other provisions of this chapter.

(5) The Secretary shall monitor the employment and training programs carried out by State agencies under section 2015(d)(4) of this title to measure their effectiveness in terms of the increase in the numbers of household members who obtain employment and the numbers of such members who retain such employment as a result of their participation in such employment and training programs.

(i) Geographical error-prone profiles

(1) The Department of Agriculture may use quality control information made available under this section to determine which project areas have payment error rates (as defined in subsection (d)(1) of this section) that impair the integrity of the food stamp program.

(2) The Secretary may require a State agency to carry out new or modified procedures for the certification of households in areas identified under paragraph (1) if the Secretary determines such procedures would improve the integrity of the food stamp program and be cost effective.

(j) Training materials regarding certification of farming households

Not later than 180 days after September 19, 1988, and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to State agency personnel who undertake the certification of households that include a member who engages in farming.

(k) Reductions in payments for administrative costs

(1) Definitions

In this subsection:

(A) AFDC program

The term ''AFDC program'' means the program of aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq. (as in effect, with respect to a State, during the base period for that State)).

(B) Base period

The term ''base period'' means the period used to determine the amount of the State family assistance grant for a State under section 403 of the Social Security Act (42 U.S.C. 603).

(C) Medicaid program

The term ''medicaid program'' means the program of medical assistance under a State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) Determinations of amounts attributable to benefiting programs

Not later than 180 days after June 23, 1998, the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture and the States, shall, with respect to the base period for each State, determine—

(A) the annualized amount the State received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as in effect during the base period)) for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the

medicaid program that were allocated to the AFDC program; and

(B) the annualized amount the State would have received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as so in effect)), section 1903(a)(7) of the Social Security Act (42 U.S.C. 1396b(a)(7) (as so in effect)), and subsection (a) of this section (as so in effect), for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program, if those costs had been allocated equally among such programs for which the individual, family, or household was eligible or applied for.

(3) Reduction in payment

(A) In general

Notwithstanding any other provision of this section, effective for each of fiscal years 1999 through 2002, the Secretary shall reduce, for each fiscal year, the amount paid under subsection (a) of this section to each State by an amount equal to the amount determined for the food stamp program under paragraph (2)(B). The Secretary shall, to the extent practicable, make the reductions required by this paragraph on a quarterly basis.

(B) Application

If the Secretary of Health and Human Services does not make the determinations required by paragraph (2) by September 30, 1999—

(i) during the fiscal year in which the determinations are made, the Secretary shall reduce the amount paid under subsection (a) of this section to each State by an amount equal to the sum of the amounts determined for the food stamp program under paragraph (2)(B) for fiscal year 1999 through the fiscal year during which the determinations are made; and

(ii) for each subsequent fiscal year through fiscal year 2002, subparagraph (A) applies.

(4) Appeal of determinations

(A) In general

Not later than 5 days after the date on which the Secretary of Health and Human Services makes any determination required by paragraph (2) with respect to a State, the Secretary shall notify the chief executive officer of the State of the determination.

(B) Review by administrative law judge

(i) In general

Not later than 60 days after the date on which a State receives notice under subparagraph (A) of a determination, the State may appeal the determination, in whole or in part, to an administrative law judge of the Department of Health and Human Services by filing an appeal with the administrative law judge.

(ii) Documentation

The administrative law judge shall consider an appeal filed by a State under clause (i) on the basis of such documentation as the State may submit and as the administrative law judge may require to support the final decision of the administrative law judge.

(iii) Review

In deciding whether to uphold a determination, in whole or in part, the administrative law judge shall conduct a thorough review of the issues and take into account all relevant evidence.

(iv) Deadline

Not later than 60 days after the date on which the record is closed, the administrative law judge shall—

(I) make a final decision with respect to an appeal filed under clause (i); and

(II) notify the chief executive officer of the State of the decision.

(C) Review by Departmental Appeals Board

(i) In general

Not later than 30 days after the date on which a State receives notice under subparagraph (B) of a final decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (referred to in this paragraph as the ''Board'') by filing an appeal with the Board.

(ii) Review

The Board shall review the decision on the record.

(iii) Deadline

Not later than 60 days after the date on which the appeal is filed, the Board shall—

(I) make a final decision with respect to an appeal filed under clause (i); and

(II) notify the chief executive officer of the State of the decision.

(D) Judicial review

The determinations of the Secretary of Health and Human Services under paragraph (2), and a final decision of the administrative law judge or Board under subparagraphs (B) and (C), respectively, shall not be subject to judicial review.

(E) Reduced payments pending appeal

The pendency of an appeal under this paragraph shall not affect the requirement that the Secretary reduce payments in accordance with paragraph (3).

(5) Allocation of administrative costs

(A) In general

No funds or expenditures described in subparagraph (B) may be used to pay for costs—

(i) eligible for reimbursement under subsection (a) of this section (or costs that would have been eligible for reimbursement but for this subsection); and

(ii) allocated for reimbursement to the food stamp program under a plan submit-

ted by a State to the Secretary of Health and Human Services to allocate administrative costs for public assistance programs.

(B) Funds and expenditures

Subparagraph (A) applies to—

(i) funds made available to carry out part A of title IV, or title XX, of the Social Security Act (42 U.S.C. 601 et seq., 1397 et seq.);

(ii) expenditures made as qualified State expenditures (as defined in section 409(a)(7)(B) of that Act (42 U.S.C. 609(a)(7)(B)));

(iii) any other Federal funds (except funds provided under subsection (a) of this section); and

(iv) any other State funds that are—

(I) expended as a condition of receiving Federal funds; or

(II) used to match Federal funds under a Federal program other than the food stamp program.

(Pub. L. 88–525, § 16, Aug. 31, 1964, 78 Stat. 709; Pub. L. 90–91 §§ 1, 2, Sept. 27, 1967, 81 Stat. 228; Pub. L. 90–552, Oct. 8, 1968, 82 Stat. 958; Pub. L. 91–116, Nov. 13, 1969, 83 Stat. 191; Pub. L. 91–671, § 9, Jan. 11, 1971, 84 Stat. 2052; Pub. L. 93–86, § 3(j), Aug. 10, 1973, 87 Stat. 248; Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 976; Pub. L. 96–58, §§ 4, 6, Aug. 14, 1979, 93 Stat. 391; Pub. L. 96–249, title I, §§ 121, 125, 126, 128, 129, May 26, 1980, 94 Stat. 363, 364, 367; Pub. L. 97–35, title I, §§ 111(b), 114, Aug. 13, 1981, 95 Stat. 362, 363; Pub. L. 97–98, title XIII, §§ 1325–1327, Dec. 22, 1981, 95 Stat. 1289; Pub. L. 97–253, title I, §§ 179, 180(a), 189(b)(3), (c), Sept. 8, 1982, 96 Stat. 782, 787; Pub. L. 99–198, title XV, §§ 1517(c), 1524, 1535(c)(1), 1537(a), 1539, Dec. 23, 1985, 99 Stat. 1577, 1580, 1585, 1588; Pub. L. 99–603, title I, § 121(b)(5), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100–77, title VIII, § 808(b), July 22, 1987, 101 Stat. 536; Pub. L. 100–435, title II, § 204(b), title III, § 321(b), (c), title IV, § 404(e), (g), title VI, § 604, Sept. 19, 1988, 102 Stat. 1657, 1662, 1668, 1675; Pub. L. 101–624, title XVII, §§ 1750, 1752(a), 1753, Nov. 28, 1990, 104 Stat. 3797, 3798; Pub. L. 102–237, title IX, § 941(7), Dec. 13, 1991, 105 Stat. 1892; Pub. L. 103–66, title XIII, §§ 13922(c), 13951(c), 13961, Aug. 10, 1993, 107 Stat. 675, 678, 679; Pub. L. 103–296, title I, § 108(f)(2), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104–66, title I, § 1011(j), Dec. 21, 1995, 109 Stat. 710; Pub. L. 104–127, title IV, § 401(b), Apr. 4, 1996, 110 Stat. 1026; Pub. L. 104–193, title I, § 109(c), title VIII, §§ 817(b)–(d), 844(c), 847, 848(a), (b)(2), 849, Aug. 22, 1996, 110 Stat. 2169, 2319, 2320, 2333–2335; Pub. L. 105–33, title I, § 1002(a), Aug. 5, 1997, 111 Stat. 252; Pub. L. 105–185, title V, §§ 501, 502(a), June 23, 1998, 112 Stat. 575; Pub. L. 106–78, title VII, § 758, Oct. 22, 1999, 113 Stat. 1172.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (e), (g), and (k), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Titles XVI, XIX, and XX of the Act are classified generally to subchapters XVI (§ 1381 et seq.), XIX (§ 1396 et seq.), and XX (§ 1397 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

September 19, 1988, referred to in subsec. (d)(2), was in the original ''the date of enactment of this section'', which was translated as meaning the date of enactment of Pub. L. 100–435, which enacted provisions of this section establishing the payment error improvement system, as the probable intent of Congress.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–78, which directed the amendment of ''the Food Stamp Act (Public Law 95–113, section 16(a))'' by inserting ''or in a Native village within the State of Alaska identified in section 1610(b) of title 43.'' before ''such amounts'', was executed by making the amendment to this section, which is section 16(a) of the Food Stamp Act of 1977, Pub. L. 88–525, as amended by Pub. L. 95–113, to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–185, § 502(a)(1), substituted ''Subject to subsection (k) of this section, the Secretary'' for ''The Secretary'' in first sentence.

Subsec. (h)(1)(A)(iv)(II). Pub. L. 105–185, § 501(1), substituted ''$31,000,000'' for ''$131,000,000''.

Subsec. (h)(1)(A)(v)(II). Pub. L. 105–185, § 501(2), substituted ''$86,000,000'' for ''$131,000,000''.

Subsec. (k). Pub. L. 105–185, § 502(a)(2), added subsec. (k).

1997—Subsec. (h)(1). Pub. L. 105–33 added par. (1) and struck out former par. (1) consisting of subpars. (A) to (D) requiring the Secretary to reserve for allocation to State agencies specified amounts for fiscal years 1996 to 2002 to carry out employment and training programs.

1996—Subsec. (a). Pub. L. 104–193, §§ 844(c), 847, inserted ''but not including recruitment activities,'' before ''(5) fair'' and substituted ''35 percent of the value of all funds or allotments recovered or collected pursuant to sections 2015(b) and 2022(c) of this title and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise'' for ''25 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 50 percent thereafter of the value of all funds or allotments recovered or collected pursuant to subsections (b)(1) and (c) of section 2022 of this title and 10 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 25 percent thereafter of the value of all funds or allotments recovered or collected pursuant to section 2022(b)(2) of this title, except the value of funds or allotments recovered or collected pursuant to section 2022(b)(2) of this title which arise''.

Subsec. (b). Pub. L. 104–193, §§ 848(a), 849, added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the States, including standards for the periodic review of the hours that food stamp offices are open during the day, week, or month to ensure that employed individuals are adequately served by the food stamp program, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection.''

Subsec. (c)(1)(B). Pub. L. 104–193, § 848(b)(2), struck out ''pursuant to subsection (b) of this section'' after ''by the States''.

Subsec. (g)(4). Pub. L. 104–193, § 109(c), substituted ''State programs funded under part A of'' for ''State plans under the Aid to Families with Dependent Children Program under''.

Subsec. (h). Pub. L. 104–193, § 817(b), inserted subsec. heading.

Subsec. (h)(1). Pub. L. 104–193, § 817(b), added par. (1) and struck out former par. (1) which authorized Secretary to allocate funds among State agencies for each of the fiscal years 1991 through 2002 to carry out employment and training program under section 2015(d)(4) of this title.

Pub. L. 104–127, §401(b), substituted ''2002'' for ''1995'' wherever appearing in subpars. (A), (B), (D), and (E)(ii).

Subsec. (h)(2). Pub. L. 104–193, §817(c), inserted before period at end '', including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work''.

Subsec. (h)(5). Pub. L. 104–193, §817(d)(1), struck out ''(A)'' before ''The Secretary shall'' and struck out subpar. (B) which read as follows: ''The Secretary shall, not later than January 1, 1989, report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of such employment and training programs.''

Subsec. (h)(6). Pub. L. 104–193, §817(d)(2), struck out par. (6) which read as follows: ''The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 2015(d)(4) of this title.''

1995—Subsec. (i)(3). Pub. L. 104–66 struck out par. (3) which read as follows: ''Not later than 12 months after December 23, 1985, and each 12 months thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that lists project areas identified under paragraph (1) and describes any procedures required to be carried out under paragraph (2).''

1994—Subsec. (e). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in two places.

1993—Subsec. (a). Pub. L. 103–66, §13961(1), added cls. (6) to (8) and in proviso struck out ''authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further'' after ''That the Secretary is''.

Subsec. (c)(1)(C). Pub. L. 103–66, §13951(c)(1), substituted ''national performance measure'' for ''payment error tolerance level'' and substituted ''equal to—'' followed by cl. (i) for ''equal to its payment error rate less such tolerance level times the total value of allotments issued in such a fiscal year by such State agency.''

Subsec. (c)(3)(A). Pub. L. 103–66, §13951(c)(2), substituted ''120 days'' for ''60 days (or 90 days at the discretion of the Secretary)''.

Subsec. (c)(6). Pub. L. 103–66, §13951(c)(3), struck out ''shall be used to establish a payment-error tolerance level. Such tolerance level for any fiscal year will be one percentage point added to the lowest national performance measure ever announced up to and including such fiscal year under this section. The payment-error tolerance level'' after ''The announced national performance measure''.

Subsec. (c)(8), (9). Pub. L. 103–66, §13951(c)(4), added pars. (8) and (9).

Subsec. (g). Pub. L. 103–66, §13961(2), which directed the substitution of ''the amount provided under subsection (a)(6) of this section for'' for ''an amount equal to 63 percent effective on October 1, 1991, of'', was executed to reflect the probable intent of Congress by making the substitution for ''an amount equal to—

''63 percent effective on October 1, 1991, of''.

Subsec. (h)(3). Pub. L. 103–66, §13922(c), substituted ''equal to the payment made under section 2015(d)(4)(I)(i)(II) of this title but not more than the applicable local market rate,'' for ''representing $160 per month per dependent''.

Subsecs. (j), (k). Pub. L. 103–66, §13961(3), (4), redesignated subsec. (k) as (j) and struck out former subsec. (j) which read as follows: ''The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.''

1991—Subsec. (g). Pub. L. 102–237, §941(7)(A), inserted a comma after ''1991''.

Subsec. (h)(4). Pub. L. 102–237, §941(7)(B), substituted ''this chapter'' for ''the chapter''.

1990—Subsec. (a). Pub. L. 101–624, §1750, substituted ''25 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 50 percent thereafter'' for ''50 per centum'', and ''10 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 25 percent thereafter'' for ''25 per centum''.

Subsec. (g). Pub. L. 101–624, §1752(a), substituted ''The'' for ''Effective October 1, 1980, the'' and ''63 percent effective on October 1, 1991'' for ''75 per centum''.

Subsec. (h)(1). Pub. L. 101–624, §1753, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for such fiscal year under section 2027(a)(1) of this title, the amount of $40,000,000 for the fiscal year ending September 30, 1986, $50,000,000 for the fiscal year ending September 30, 1987, $60,000,000 for the fiscal year ending September 30, 1988, and $75,000,000 for each of the fiscal years ending September 30, 1989 and September 30, 1990, to carry out the employment and training program under section 2015(d)(4) of this title, except as provided in paragraph (3), during such fiscal year.''

1988—Subsec. (a)(4). Pub. L. 100–435, §204(b), substituted '', including those undertaken'' for ''permitted''.

Subsec. (c). Pub. L. 100–435, §604(1), added subsec. (c) and struck out former subsec. (c) which related to State incentives for reducing error.

Subsec. (d). Pub. L. 100–435, §604(2), added subsec. (d) and struck out former subsec. (d) which defined ''payment error rate'' and instituted error rate reduction program.

Subsec. (h). Pub. L. 100–435, §321(c), redesignated subsec. (h), relating to payment of costs of immigration status verification system, as (j).

Subsec. (h)(3). Pub. L. 100–435, §404(g), inserted ''for costs of transportation and other actual costs (other than dependent care costs) and an amount representing $160 per month per dependent'' after ''month''.

Subsec. (h)(6). Pub. L. 100–435, §404(e), added par. (6).

Subsec. (j). Pub. L. 100–435, §321(c), redesignated subsec. (h), relating to payment of costs of immigration status verification system, as (j).

Subsec. (k). Pub. L. 100–435, §321(b), added subsec. (k).

1987—Subsec. (a). Pub. L. 100–77 substituted ''(4) food stamp informational activities permitted under section 2020(e)(1)(A) of this title, and (5)'' for ''and (4)'' in first sentence.

1986—Subsec. (h). Pub. L. 99–603 added, at end of section, subsec. (h) relating to payment of costs of immigration status verification system.

1985—Subsec. (a). Pub. L. 99–198, §1535(c)(1), substituted ''subsections (b)(1) and (c) of section 2022 of this title'' for ''section 2022(b)(1) of this title''.

Subsec. (b)(1). Pub. L. 99–198, §1524, inserted '', including standards for the periodic review of the hours that food stamp offices are open during the day, week, or month to ensure that employed individuals are adequately served by the food stamp program,'' after ''States''.

Subsec. (d)(2)(A). Pub. L. 99–198, §1537(a)(1), inserted ''less any amount payable as a result of the use by the State agency of correctly processed information received from an automatic information exchange system made available by any Federal department or agency''.

Subsec. (d)(6). Pub. L. 99–198, §1537(a)(2), added par. (6).

Subsec. (h). Pub. L. 99–198, §1517(c), added subsec. (h) relating to authorization of appropriations, etc.

Subsec. (i). Pub. L. 99–198, §1539, added subsec. (i).

1982—Subsec. (a). Pub. L. 97–253, §179, inserted '', except the value of funds or allotments recovered or collected pursuant to section 2022(b)(2) of this title which arise from an error of a State agency''.

Subsec. (c). Pub. L. 97–253, §180(a)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the exception clause of subsection (a) of this section, by increasing such share to (1) effective October 1, 1978, 60 per centum of all such administrative costs in the case of a State agency whose (A) semiannual cumulative allotment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section are less than five per centum and (B) whose rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage that the Secretary determines to be reasonable; (2) effective October 1, 1980, 65 per centum of all such administrative costs in the case of a State agency meeting the standards contained in paragraph (1) of this subsection; (3) effective October 1, 1980, 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rate as determined under paragraph (1)(A) of this subsection is greater than 5 per centum but less than 8 per centum or the national standard payment error rate for the base period, whichever is lower, and which also meets the standard contained in paragraph (1)(B) of this subsection; and (4) effective October 1, 1980, 55 per centum of all such administrative costs in the case of a State agency whose annual rate of error reduction is equal to or exceeds 25 per centum, and, effective October 1, 1981, which also meets the standard contained in paragraph (1)(B) of this subsection. No State agency shall receive more than one of the increased federally funded shares of administrative costs set forth in paragraphs (1) through (4) of this subsection.''

Subsec. (d). Pub. L. 97–253, §180(a)(2), (3), added subsec. (d), and struck out former subsec. (d) which provided that effective October 1, 1981, and annually thereafter, each State not receiving an increased share of administrative costs pursuant to subsec. (c)(2) of this section was required to develop and submit to the Secretary for approval, as part of the plan of operation required to be submitted under section 2020(d) of this title, a quality control plan for the State which had to specify the actions such State proposes to take in order to reduce the incidence of error rates in and the value of food stamp allotments for households which failed to meet basic program eligibility requirements, food stamp allotments overissued to eligible households, and food stamp allotments underissued to eligible households, and (2) the incidence of invalid decisions in certifying or denying eligibility.

Subsec. (e). Pub. L. 97–253, §§180(a)(2), 189(b)(3), redesignated subsec. (f) as (e), substituted reference to the Secretary of Health and Human Services for former reference to the Secretary of Health, Education, and Welfare. Former subsec. (e), which defined ''quality control'' as the monitoring and reduction of the rate of errors in determining basic eligibility and benefit levels, was struck out.

Subsec. (f). Pub. L. 97–253, §§180(a)(2), 189(c), redesignated subsec. (h) as (f), substituted a period for the semicolon, and struck out ''and'' at the end. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 97–253, §180(a)(2), redesignated former subsec. (i) as (g). Former subsec. (g), which related to State liability for error under this section, was struck out.

Subsecs. (h), (i). Pub. L. 97–253, §180(a)(2), redesignated subsecs. (h) and (i) as (f) and (g), respectively.

1981—Subsec. (a). Pub. L. 97–35 substituted provisions relating to recovery through section 2022(b)(1) and (2) of this title for provisions relating to recovery through prosecutions or other State activities, substituted ''determinations of ineligibility'' for ''determinations of fraud'', struck out ''(1) outreach,'' and redesignated cls. (2) to (5) as (1) to (4), respectively.

Subsec. (b)(1). Pub. L. 97–98, §1325, struck out '', including, but not limited to, staffing standards such as caseload per certification worker limitations,'' after ''by the States''.

Subsec. (c). Pub. L. 97–98, §1326(1), inserted '', and, effective October 1, 1981, which also meets the standard contained in paragraph (1)(B) of this subsection'' after ''exceeds 25 per centum''.

Subsec. (d). Pub. L. 97–98, §1326(2), substituted in provision preceding par. (1) ''October 1, 1981'' for ''October 1, 1978'' and ''subsection (c)(2) of this section'' for ''subsection (c) of this section''.

Subsec. (f). Pub. L. 97–98, §1327, substituted ''State agencies shall'' for ''State agencies may''.

1980—Subsec. (b). Pub. L. 96–249, §121, struck out provisions requiring that if the Secretary finds that a State has failed without good cause to meet any of the Secretary's standards, or has failed to carry out the approved State plan of operation under section 2020(d) of this title, the Secretary withhold from the State such funds authorized under subsections (a) and (c) of this section as the Secretary determines to be appropriate.

Subsec. (c). Pub. L. 96–249, §125, designated existing provisions as par. (1), substituted ''(A) semiannual cumulative'' for ''cumulative'', and added subpar. (B) and pars. (2) to (4).

Subsec. (g). Pub. L. 96–249, §126, added subsec. (g).

Subsec. (h). Pub. L. 96–249, §128, added subsec. (h).

Subsec. (i). Pub. L. 96–249, §129, added subsec. (i).

1979—Subsec. (a). Pub. L. 96–58, §6, authorized the Secretary to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this chapter but directed that officials responsible for making determinations of fraud under this chapter should not receive or benefit from revenues retained by the State under the provisions of this subsection.

Subsec. (f). Pub. L. 96–58, §4, added subsec. (f).

1977—Pub. L. 95–113 substituted revised provisions relating to administrative cost-sharing and quality control for provisions authorizing appropriations and relating to the financial operation of the program which are now covered by section 2027 of this title.

1973—Subsec. (a). Pub. L. 93–86 extended authorization of appropriations from June 30, 1973, to June 30, 1977, and inserted provision relating to availability of appropriated sums.

1971—Subsec. (a). Pub. L. 91–671 is substituted appropriation authorization of ''$1,750,000,000 for the fiscal year ending June 30, 1971; and for the fiscal years ending June 30, 1972 and June 30, 1973 such sums as the Congress may appropriate'' for ''$170,000,000 for the six months ending December 31, 1970''.

1969—Subsec. (a). Pub. L. 91–116 increased appropriation authorization limitation for fiscal year ending June 30, 1970, from $340,000,000 to $610,000,000.

1968—Subsec. (a). Pub. L. 90–552 increased appropriations authorization limitation for fiscal year ending June 30, 1969, from $225,000,000 to $315,000,000, authorized appropriations of $340,000,000 and $170,000,000 for fiscal year ending June 30, 1970, and for six months ending Dec. 31, 1970, substituted ''fiscal period'' for ''fiscal year'', and provided for submission of reports to Congress on or before January 20 of each year setting forth operations under this chapter during preceding calendar year and projecting needs for ensuing calendar year.

1967—Subsec. (a). Pub. L. 90–91 provided for appropriations for the fiscal years ending June 30, 1968 and 1969, and inserted provision dealing with the carrying out of this chapter only with funds appropriated from the general fund of the Treasury for the purposes of this chapter.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–78, title VII, §758, Oct. 22, 1999, 113 Stat. 1172, provided that the amendment made by section 758 is effective beginning in fiscal year 2001 and thereafter.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–185, title V, §510(a), June 23, 1998, 112 Stat. 580, provided that: ''The amendments made by sections 501 and 502 [amending this section] take effect on the date of enactment of this Act [June 23, 1998].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, without regard to whether regulations have been promulgated to implement such amendment, see section 1005(b) of Pub. L. 105–33, set out as a note under section 2015 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(c) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13971 of Pub. L. 103–66 provided that:

''(a) GENERAL EFFECTIVE DATE AND IMPLEMENTATION.—Except as provided in subsection (b), this chapter [chapter 3 (§§13901–13971) of title XIII of Pub. L. 103–66, amending this section and sections 2012, 2014, 2015, 2017, 2020 to 2023, 2026, and 2028 of this title, and enacting provisions set out as a note under section 2011 of this title] and the amendments made by this chapter shall take effect, and shall be implemented beginning on, October 1, 1993.

''(b) SPECIAL EFFECTIVE DATES AND IMPLEMENTATION.—(1)(A) Except as provided in subparagraph (B), section 13951 [amending this section and sections 2022 and 2023 of this title] shall take effect on October 1, 1991.

''(B) The amendment made by section 13951(c)(2) [amending this section] shall take effect on October 1, 1992.

''(2)(A) Except as provided in subparagraph (B), the amendments made by section 13961 [amending this section] shall be effective with respect to calendar quarters beginning on or after April 1, 1994.

''(B) In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, and that demonstrates to the satisfaction of the Secretary of Agriculture that there is no mechanism, under the constitution and laws of the State, for appropriating the additional funds required by the amendments made by this section before the next such regular legislative session, the Secretary may delay the effective date of all or part of the amendments made by section 13961 [amending this section] until the beginning date of a calendar quarter that is not later than the first calendar quarter beginning after the close of the first regular session of the State legislature after the date of enactment of this Act [Aug. 10, 1993].

''(3) Sections 13912(a) and 13912(b)(1) [amending section 2014 of this title] shall take effect, and shall be implemented beginning on, July 1, 1994.

''(4) Sections 13911, 13913, 13914, 13915, 13916, 13922, 13924, 13931, 13932, and 13942 [amending this section and sections 2012, 2014, 2015, and 2017 of this title] shall take effect, and shall be implemented beginning on, September 1, 1994.

''(5)(A) Except as provided in subparagraph (B), section 13921 [amending section 2014 of this title] shall take effect, and shall be implemented beginning on, September 1, 1994.

''(B) State agencies shall implement the amendment made by section 13921 not later than October 1, 1995.

''(6) Section 13912(b)(2) [amending section 2014 of this title] shall take effect, and shall be implemented beginning on, January 1, 1997.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1750 of Pub. L. 101–624 effective Oct. 1, 1990, amendment by section 1752(a) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, and amendment by section 1753 of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(a), (b)(1), (2) of Pub. L. 101–624, set out as a note under section 2012 of this title.

Section 1752(b) of Pub. L. 101–624 provided that: ''The amendment made by subsection (a)(2) [amending this section] shall not apply to proposals for automatic data processing and information retrieval systems under section 16(g) of the Food Stamp Act of 1977 [subsec. (g) of this section] that were approved by the Secretary of Agriculture prior to the date of enactment of this Act [Nov. 28, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 204(b), 321(b), and 404(e) of Pub. L. 100–435 to be effective and implemented on July 1, 1989, amendment by section 321(c) of Pub. L. 100–435 to be effective and implemented on Sept. 19, 1988, amendment by section 404(g) of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, and amendment by section 604 of Pub. L. 100–435 effective Oct. 1, 1985, with respect to claims under subsec. (c) of this section for quality control review periods after such date, except as otherwise provided, except that amendment by sections 204(b), 321(b), (c), 404(e), (g) of Pub. L. 100–435 to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (b)(1), (4), (5), (c)(2) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99–603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1537(a) of Pub. L. 99–198 provided that the amendment made by that section is effective with respect to the fiscal year beginning Oct. 1, 1985, and each fiscal year thereafter.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 179 of Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Enactment by section 180(a) of Pub. L. 97–253 effective Oct. 1, 1982, see section 193(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–35 effective on earlier of Sept. 8, 1982, or date such amendment became effective

pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Secretary of Agriculture to issue final regulations implementing the amendment of this section by Pub. L. 96–58 within 150 days after Aug. 14, 1979, see section 10(b) of Pub. L. 96–58, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

REGULATIONS

Secretary of Agriculture to promulgate regulations necessary to implement amendment of this section by Pub. L. 105–33, not later than one year after Aug. 5, 1997, see section 1005(a) of Pub. L. 105–33, set out as a note under section 2015 of this title.

REVIEW OF METHODOLOGY USED TO MAKE CERTAIN DETERMINATIONS

Pub. L. 105–185, title V, § 502(b), June 23, 1998, 112 Stat. 578, provided that: ''Not later than 1 year after the date of enactment [June 23, 1998], the Comptroller General of the United States shall—

''(1) review the adequacy of the methodology used in making the determinations required under section 16(k)(2)(B) of the Food Stamp Act of 1977 [7 U.S.C. 2025(k)(2)(B)] (as added by subsection (a)(2)); and

''(2) submit a written report on the results of the review to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''

REPORT TO CONGRESS

Section 1002(b) of Pub. L. 105–33 provided that: ''Not later than 30 months after the date of enactment of this Act [Aug. 5, 1997], the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding whether the amounts made available under section 16(h)(1)(A) of the Food Stamp Act of 1977 [7 U.S.C. 2025(h)(1)(A)] (as a result of the amendment made by subsection (a)) have been used by State agencies to increase the number of work slots for recipients subject to section 6(*o*) of the Food Stamp Act of 1977 (7 U.S.C. 2015(*o*)) in employment and training programs and workfare in the most efficient and effective manner practicable.''

QUALITY CONTROL SANCTIONS

Section 1751 of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—No disallowance or other similar action shall be applied to or collected from any State for any of the fiscal years 1983, 1984, or 1985 under section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) or any predecessor statutory or regulatory provision relating to disallowances or other similar actions for erroneous issuances made in carrying out a State plan under such Act [7 U.S.C. 2011 et seq.], except for amounts to be paid or collected after the date of enactment of this Act [Nov. 28, 1990] pursuant to settlement agreements which do not provide for payment adjustments based on future changes in law.

''(b) APPLICATION.—Subsection (a) shall also apply to disallowances described in subsection (a) with respect to which an administrative or judicial appeal is pending on the date of enactment of this Act [Nov. 28, 1990], including any such disallowance that has been collected before such date.''

QUALITY CONTROL STUDIES AND PENALTY MORATORIUM

Section 1538 of Pub. L. 99–198, as amended by Pub. L. 99–260, § 12, Mar. 20, 1986, 100 Stat. 52, provided that:

''(a)(1)(A) The Secretary of Agriculture (hereinafter referred to in this section as the 'Secretary') shall conduct a study of the quality control system used for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

''(B) The study shall—

''(i) examine how best to operate such system in order to obtain information that will allow the State agencies to improve the quality of administration; and

''(ii) provide reasonable data on the basis of which Federal funding may be withheld for State agencies with excessive levels of erroneous payments.

''(2)(A) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1).

''(B) For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis.

''(3) Not later than 1 year after the date the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2), the Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress.

''(b)(1) During the 6-month period beginning on the date of enactment of this Act [Dec. 23, 1985] (hereinafter in this section referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to State agencies pursuant to section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025).

''(2) During the moratorium period, the Secretary and the State agencies shall continue to—

''(A) operate the quality control systems in effect under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.]; and

''(B) calculate error rates under section 16 of such Act [7 U.S.C. 2025].

''(c)(1) Not later than 6 months after the date on which the results of both studies required under subsection (a)(3) have been reported, the Secretary shall publish regulations that shall—

''(A) restructure the quality control system used under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.] to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

''(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions that shall be made for quarters prior to the implementation of the restructured quality control system so as to eliminate reductions for those quarters that would not be required if the restructured quality control system had been in effect during those quarters.

''(2) Beginning 6 months after the date on which the results of both studies required under subsection (a)(3) have been reported, the Secretary shall—

''(A) implement the restructured quality control system; and

''(B) reduce payments to State agencies—

''(i) for quarters after implementation of such system in accordance with the restructured quality control system; and

''(ii) for quarters before implementation of such system, as provided under the regulations described in paragraph (1)(B).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2015, 2016, 2020, 2022, 2023, 2026, 2027, 2030, 2031, 2032, 2035 of this title; title 42 section 629c.

§ 2026. Research, demonstration, and evaluations

(a) Contracts or grants; issuance of aggregate allotments

(1) The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition-related benefits.

(2) The Secretary may, on application, permit not more than two State agencies to establish procedures that allow households whose monthly food stamp benefits do not exceed $20, at their option, to receive, in lieu of their food stamp benefits for the initial period under section 2017 of this title and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed $60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 2020(e) of this title (except that no household shall begin to receive combined allotments under this section until it has complied with all applicable verification requirements of section 2020(e)(3) of this title) and (with respect to the first aggregate allotment so issued) within 40 days of the last coupon issuance.

(b) Pilot projects

(1)(A) The Secretary may conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, and may waive any requirement of this chapter to the extent necessary for the project to be conducted.

(B) PROJECT REQUIREMENTS.—

(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless—

(I) the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals; and

(II) the project includes an evaluation to determine the effects of the project.

(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

(I) improve program administration;

(II) increase the self-sufficiency of food stamp recipients;

(III) test innovative welfare reform strategies; or

(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

(iii) RESTRICTIONS ON PERMISSIBLE PROJECTS.—If the Secretary finds that a project under subparagraph (A) would reduce benefits by more than 20 percent for more than 5 percent of households in the area subject to the project (not including any household whose benefits are reduced due to a failure to comply with work or other conduct requirements), the project—

(I) may not include more than 15 percent of the State's food stamp households; and

(II) shall continue for not more than 5 years after the date of implementation, unless the Secretary approves an extension requested by the State agency at any time.

(iv) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to August 22, 1996;

(II) has the effect of substantially transferring funds made available under this chapter to services or benefits provided primarily through another public assistance program, or using the funds for any purpose other than the purchase of food, program administration, or an employment or training program;

(III) is inconsistent with—

(aa) the last 2 sentences of section 2012(i) of this title;

(bb) the last sentence of section 2014(a) of this title, insofar as a waiver denies assistance to an otherwise eligible household or individual if the household or individual has not failed to comply with any work, behavioral, or other conduct requirement under this or another program;

(cc) section 2014(c)(2) of this title;

(dd) paragraph (2)(B), (4)(F)(i), or (4)(K) of section 2015(d) of this title;

(ee) section 2017(b) of this title;

(ff) section 2020(e)(2)(B) of this title;

(gg) the time standard under section 2020(e)(3) of this title;

(hh) subsection (a), (c), (g), (h)(2), or (h)(3) of section 2025 of this title;

(ii) this paragraph; or

(jj) subsection (a)(1) or (g)(1) of section 2029 of this title;

(IV) modifies the operation of section 2014 of this title so as to have the effect of—

(aa) increasing the shelter deduction to households with no out-of-pocket housing costs or housing costs that consume a low percentage of the household's income; or

(bb) absolving a State from acting with reasonable promptness on substantial reported changes in income or household size (except that this subclause shall not apply with regard to changes related to food stamp deductions);

(V) is not limited to a specific time period;

(VI) waives a provision of section 2035 of this title; or

(VII) waives a provision of section 2016(j) of this title.

(v) ADDITIONAL INCLUDED PROJECTS.—A pilot or experimental project may include projects

involving the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are age sixty-five or over or any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons.

(vi) CASH PAYMENT PILOT PROJECTS.—Any pilot or experimental project implemented under this paragraph and operating as of October 1, 1981, involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act shall be continued through October 1, 2002, if the State so requests.

(C)(i) No waiver or demonstration program shall be approved under this chapter after November 28, 1990, unless—

(I) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, the tax on purchases of food by any such household is waived, or the Secretary determines on the basis of information provided by the State agency that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

(II) the State agency conducting the demonstration project pays the cost of any increased allotments.

(ii) Clause (i) shall not apply if a waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.

(D) RESPONSE TO WAIVERS.—

(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

(I) approves the waiver request;

(II) denies the waiver request and describes any modification needed for approval of the waiver request;

(III) denies the waiver request and describes the grounds for the denial; or

(IV) requests clarification of the waiver request.

(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this chapter.

(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 2015(d) of this title, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days (ten days in at least one pilot project area designated by the Secretary) after the initial registration for employment referred to in section 2015(d)(1)(A)(i) of this title, to accept an offer of employment from a political subdivision or provider pursuant to a program carried out under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph, if all of the jobs supported under the program have been made available to participants in the program before the political subdivision or provider providing the jobs extends an offer of employment under this paragraph, and if the political subdivision or provider, in employing the person, complies with the requirements of Federal law

that relate to the program. The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following September 29, 1977, shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.

(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(B) Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 2015(d) of this title to permit a State to operate an employment and training program for food stamp recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F [1] of title IV of the Social Security Act (42 U.S.C. 681 et seq.). Any work experience program conducted as part of the project shall be conducted in conformity with section 482(f) [1] of such Act (42 U.S.C. 682(f)).

(C) A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of subsections (a)(19) and (g) of section 402 [1] of such Act (42 U.S.C. 602) (but not including the provision of transitional benefits under clauses (ii) through (vii) of section 402(g)(1)(A) [1]) and sections 481 through 487 [1] of such Act (42 U.S.C. 681 through 687). Each reference to ''aid to families with dependent children'' in such sections shall be deemed to be a reference to food stamps for purposes of the demonstration project.

(D) Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which food stamp benefits are converted to cash shall occur only with the consent of the participant.

(E) For the purposes of any project conducted under this paragraph, the provisions of this chapter affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402, and sections 481 through 487,[1] of the Social Security Act.

(F) At least 60 days prior to granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraph for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(G) Waivers may be granted under this paragraph to conduct projects at any one time in a total of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

(H) A waiver for a change in program rules may be granted under this paragraph only for a demonstration project that has been approved by the Secretary, that will be evaluated according to criteria prescribed by the Secretary, and that will be in operation for no more than 4 years.

(I) The Secretary may not grant a waiver under this paragraph on or after August 22, 1996. Any reference in this paragraph to a provision of title IV of the Social Security Act [42 U.S.C. 601 et seq.] shall be deemed to be a reference to such provision as in effect on the day before August 22, 1996.

(c) Evaluation measures; pilot programs for nutritional monitoring

The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence. Further, the Secretary shall, by way of making contracts with or grants to public or private organizations or agencies, implement pilot programs to test various means of measuring on a continuing basis the nutritional status of low income people, with special emphasis on people who are eligible for food stamps, in order to develop minimum common criteria and methods for systematic nutrition monitoring that could be applied on a nationwide basis. The locations of the pilot programs shall be selected to provide a representative geographic and demographic cross-section of political subdivisions that reflect natural usage patterns of health and nutritional services and that contain high proportions of low income people. The Secretary shall report on the progress of these pilot programs on an annual basis commencing on July 1, 1982, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Secretary deems appropriate.

(d) Employment initiatives program

(1) Election to participate

(A) In general

Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

(B) Requirement

A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households in the State that received food stamp benefits during the summer of

[1] See References in Text note below.

1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

(2) Procedure

(A) In general

A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

(B) Payment

The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household participating in the program in the State would be eligible to receive under this chapter but for the operation of this subsection.

(C) Other provisions

For purposes of the food stamp program (other than this subsection)—

(i) cash assistance under this subsection shall be considered to be an allotment; and

(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit during the period for which the cash assistance is provided.

(D) Additional payments

Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

(i) increase the cash benefits provided to each household participating in the program in the State under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by the household, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

(ii) pay the cost of any increase in cash benefits required by clause (i).

(3) Eligibility

A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

(A) has worked in unsubsidized employment for not less than the preceding 90 days;

(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

(4) Evaluation

A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.

(e) Study and report to Congressional committees of effect of reduction of benefits

The Secretary shall conduct a study of the effects of reductions made in benefits provided under this chapter pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.

(f) Demonstration projects for development and use of intelligent computer benefit cards to pay food stamp benefits

In order to encourage States to plan, design, develop, and implement a system for making food stamp benefits available through the use of intelligent benefit cards or other automated or electronic benefit delivery systems, the Secretary may conduct one or more pilot or experimental projects, subject to the restrictions imposed by subsection (b)(1) of this section and section 2016(g)(2) of this title, designed to test whether the use of such cards or systems can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. Intelligent benefit cards developed under such a demonstration project shall contain information, encoded on a computer chip embedded in a credit card medium, including the eligibility of the individual and the amount of benefits to which such individual is entitled. Any other automated or electronic benefit delivery system developed under such a demonstration project shall be able to use a plastic card to access such information from a data file.

(g) Study of effectiveness of food stamp employment and training program

In order to assess the effectiveness of the employment and training programs established under section 2015(d) of this title in placing individuals into the work force and withdrawing such individuals from the food stamp program, the Secretary is authorized to carry out studies comparing the pre- and post-program labor force participation, wage rates, family income, level of receipt of food stamp and other transfer payments, and other relevant information, for samples of participants in such employment and training programs as compared to the appropriate control or comparison groups that did not participate in such programs. Such studies shall, to the maximum extent possible—

(1) collect such data for up to 3 years after the individual has completed the employment and training program; and

(2) yield results that can be generalized to the national program as a whole.

The results of such studies and reports shall be considered in developing or updating the performance standards required under section 2015 of this title.

(h) Demonstration projects for vehicle exclusion limits

The Secretary shall conduct a sufficient number of demonstration projects to evaluate the effects, in both rural and urban areas, of including in financial resources under section 2014(g) of this title the fair market value of licensed vehicles to the extent the value of each vehicle exceeds $4,500, but excluding the value of—

(1) any licensed vehicle that is used to produce earned income, necessary for transportation of an elderly or physically disabled household member, or used as the household's home; and

(2) one licensed vehicle used to obtain, continue, or seek employment (including travel to and from work), used to pursue employment-related education or training, or used to secure food or the benefits of the food stamp program.

(i) Grants to improve food stamp participation

(1)(A) Subject to the availability of funds specifically appropriated to carry out this subsection and subject to the other provisions of this subsection, during each of fiscal years 1992 through 2002, the Secretary shall make grants competitively awarded to public or private nonprofit organizations to fund food stamp outreach demonstration projects (hereinafter in this subsection referred to as the ''projects'') and related evaluations in areas of the United States to increase participation by eligible low-income households in the food stamp program. The total amount of grants provided during a fiscal year may not exceed $5,000,000. Funds appropriated to carry out this subsection shall be used in the year during which the funds are appropriated. Not more than 20 percent of the funds appropriated to carry out this subsection shall be used for evaluations.

(B) The Secretary shall make a grant under this paragraph only to an entity that demonstrates to the Secretary that the entity is able to conduct the outreach functions described in this subsection.

(2) Outreach projects under this subsection shall be targeted toward members of rural, elderly, and homeless populations, low-income working families with children, and non-English speaking minorities (hereinafter in this subsection collectively referred to as ''target populations'').

(3)(A) The Secretary shall appoint an advisory panel (hereinafter in this subsection referred to as the ''panel'') composed of representatives of the target populations as well as individuals with expertise in the area of program evaluation. The panel shall not be subject to the Federal Advisory Committee Act.

(B) The Secretary shall select recipients for grants, taking into consideration any recommendations from the panel concerning criteria that should be used in selecting recipients, to carry out projects under this subsection based on the appropriateness of the methods proposed for the projects to reach target populations. Appropriate methods shall include—

(i) the production of electronic media campaigns (with the total amount allocated for the campaigns in the aggregate not to exceed 15 percent of the total amount of funds specified in paragraph (1)(A));

(ii) utilization of local outreach workers and volunteers;

(iii) development of solutions to transportation and access problems;

(iv) in-service training for those capable of referring households to the program;

(v) community presentations and education;

(vi) pre-screening assistance for program eligibility;

(vii) individualized client assistance;

(viii) consultation and referral for benefit appeals; and

(ix) recruitment of authorized representatives for applicants unable to appear for certification or at authorized food stores.

(C) In selecting grant recipients, the Secretary shall take into consideration the ability of the applicants to produce useful data for evaluation purposes.

(D) In selecting grant recipients from among applicant public agencies, preference shall be given to those applicants that propose to involve nonprofit organizations in projects to be carried out with the grants.

(E) The Secretary shall provide at least one grant equal to 50 percent of the cost of the development of outreach materials aimed at the general food stamp eligible population as well as the specific target populations, including written materials and public service announcements, so that the materials may be used or adopted by other grant recipients, as appropriate. To be eligible to receive any such grant, a recipient shall provide matching funds equal to 50 percent of the cost of the development of materials described in the preceding sentence. In carrying out this subparagraph, the Secretary shall give preference to applicants that demonstrate the ability to disseminate the materials through other public and private nonprofit organizations. Not to exceed $500,000 of the funds provided under this subsection for any fiscal year shall be used for the grant.

(4)(A) The Secretary shall evaluate a sufficient number of projects to be able to determine the effectiveness of the projects and the techniques employed by the projects with respect to—

(i) success in reducing barriers to participation;

(ii) increasing overall program participation including participation among target populations;

(iii) administrative effectiveness;

(iv) program efficiency; and

(v) adequacy of administrative resource levels to conduct the activities effectively.

(B) The Secretary shall provide an interim report on the results of the evaluation carried out under subparagraph (A) not later than 1 year after a sufficient number of projects have begun and a final report not later than 3 years after a sufficient number of projects have begun to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) The Secretary shall also examine and report on previous research regarding reasons for nonparticipation and effective methods to conduct outreach and to reduce barriers to participation.

(5) The Secretary shall—

(A) within 180 days after funds are appropriated, publish such notice as may be necessary to implement this subsection;

(B) accept proposals from organizations for projects under this subsection for 90 days following the date the notice is published; and

(C) begin to award grants under this subsection beginning no later than 180 days following the date the notice is published.

(j) Testing resource accumulation

The Secretary shall conduct, under such terms and conditions as the Secretary shall prescribe, for a period not to exceed 4 years, projects to test allowing not more than 11,000 eligible households, in the aggregate, to accumulate resources up to $10,000 each (which shall be excluded from consideration as a resource) for later expenditure for a purpose directly related to improving the education, training, or employability (including self-employment) of household members, for the purchase of a home for the household, for a change of the household's residence, or for making major repairs to the household's home.

(k) Demonstration projects directed at food coupon trafficking

The Secretary shall use up to $4,000,000 of the funds provided in advance in appropriations Acts for projects authorized by this section to conduct demonstration projects in which State or local food stamp agencies test innovative ideas for working with State or local law enforcement agencies to investigate and prosecute coupon trafficking.

(Pub. L. 88–525, § 17, as added Pub. L. 93–86, § 3(n), Aug. 10, 1973, 87 Stat. 248; amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 977; Pub. L. 95–400, Sept. 30, 1978, 92 Stat. 856; Pub. L. 96–249, title I, §§ 130–132(a), 133, May 26, 1980, 94 Stat. 367, 368; Pub. L. 97–98, title XIII, §§ 1328–1330, Dec. 22, 1981, 95 Stat. 1289, 1290; Pub. L. 97–253, title I, §§ 152(c), 181, 182, 190(d), Sept. 8, 1982, 96 Stat. 776, 784, 785, 787; Pub. L. 99–114, § 4, Oct. 1, 1985, 99 Stat. 488; Pub. L. 99–157, § 2, Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–182, § 2, Dec. 13, 1985, 99 Stat. 1173; Pub. L. 99–198, title XV, § 1540, Dec. 23, 1985, 99 Stat. 1588; Pub. L. 100–435, title V, §§ 504, 505, Sept. 19, 1988, 102 Stat. 1673; Pub. L. 101–624, title XVII, §§ 1729(b), 1731, 1754–1759, Nov. 28, 1990, 104 Stat. 3790, 3798–3800, 3802; Pub. L. 102–237, title IX, § 941(8), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 103–66, title XIII, § 13925, Aug. 10, 1993, 107 Stat. 675; Pub. L. 103–225, title II, § 204, Mar. 25, 1994, 108 Stat. 109; Pub. L. 104–127, title IV, § 401(c), (d), Apr. 4, 1996, 110 Stat. 1026; Pub. L. 104–193, title I, § 109(d), title VIII, §§ 815(b)(1), 850–852, 854(c)(2), Aug. 22, 1996, 110 Stat. 2169, 2317, 2336–2338, 2342; Pub. L. 105–18, title VII, [(b)], June 12, 1997, 111 Stat. 217; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(2)(C), (f)(2)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–418, 2681–429.)

AMENDMENT OF SUBSECTION (b)(2)

Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(f)(2)(C), (g)(2)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–429, 2681–435, provided that, effective July 1, 2000, subsection (b)(2) of this section is amended by striking ''the Job Training Partnership Act or''.

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(1)(B)(v), (vi), (3)(A), (B), (I) and (d)(1)(B), (3)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV, part A of title IV, and title XVI of the Act are classified generally to subchapter IV (§ 601 et seq.), part A (§ 601 et seq.) of subchapter IV, and subchapter XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Part F of title IV of the Act was classified generally to part F (§ 681 et seq.) of subchapter IV of chapter 7 of Title 42, prior to repeal by Pub. L. 104–193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (b)(2), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(2), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Fair Labor Standards Act of 1938, as amended, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

Sections 481 to 487 of the Social Security Act, referred to in subsec. (b)(3)(C), (E), were classified to section 681 to 687, respectively, of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 104–193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167.

Section 402 of the Social Security Act, referred to in subsec. (b)(3)(C), which was classified to section 602 of Title 42, The Public Health and Welfare, was repealed and a new section 402 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, no longer contains subsecs. (a)(19) and (g).

The Omnibus Budget Reconciliation Act of 1981, referred to in subsec. (e), is Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357. Part 1 of subtitle A of title I of the Omnibus

Budget Reconciliation Act amended this chapter generally. For complete classification of this Act to the Code, see Tables.

The Food Stamp and Commodity Distribution Amendments of 1981, referred to in subsec. (e), is title XIII of Pub. L. 97–98, Dec. 22, 1981, 95 Stat. 1282, which amended this chapter generally. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 2011 of this title and Tables.

The Food Stamp Act Amendments of 1982, referred to in subsec. (e), is subtitle E of title I of Pub. L. 97–253, Sept. 8, 1982, 96 Stat. 772, which amended this chapter generally. For complete classification of this Act to the Code, see Short Title of 1982 Amendment note set out under section 2011 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (i)(3)(A), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–277, §101(f) [title VIII, §405(d)(2)(C)], in second sentence, substituted ''to accept an offer of employment from a political subdivision or provider pursuant to a program carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,'' for ''to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812),'' and substituted '', if all of the jobs supported under the program have been made available to participants in the program before the political subdivision or provider providing the jobs extends an offer of employment under this paragraph, and if the political subdivision or provider, in employing the person, complies with the requirements of Federal law that relate to the program.'' for '': *Provided*, That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further*, That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848(a) and (c) and 983).''

1997—Subsec. (b)(1)(B)(iv)(VII). Pub. L. 105–18 added subcl. (VII).

1996—Subsec. (b)(1). Pub. L. 104–193, §§850, 851, in first sentence, substituted ''benefits to eligible households, and may waive any requirement of this chapter to the extent necessary for the project to be conducted.'' along with subpar. (B) heading, cls. (i) to (iv), cl. (v) of subpar. (B) heading, and ''A pilot or experimental project may include'' for ''benefits to eligible households, including'', in subpar. (B)(v), substituted ''are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)'' for ''to aid to families with dependent children under part A of title IV of the Social Security Act'', substituted ''coupons.'' along with cl. (vi) of subpar. (B) heading and ''Any pilot'' for ''coupons. The Secretary may waive the requirements of this chapter to the degree necessary for such projects to be conducted, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted under paragraph (3), shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 2014 and 2017 of this title. Any pilot'', redesignated former subpar. (B) as (C), and added subpar. (D).

Pub. L. 104–193, §109(d)(1), which directed substitution of ''or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)'' for ''to aid to families with dependent children under part A of title IV of the Social Security Act'' in first sentence of subsec. (b)(1)(A), effective July 1, 1997, could not be executed because of amendment by Pub. L. 104–193 which redesignated portions of subsec. (b)(1)(A) and struck out the language sought to be amended. See above.

Pub. L. 104–127, §401(c), substituted ''October 1, 2002'' for ''October 1, 1995'' in last sentence of par. (1)(A).

Subsec. (b)(2). Pub. L. 104–193, §815(b)(1), substituted ''section 2015(d)(1)(A)(i)'' for ''section 2015(d)(1)(i)'' in second sentence.

Subsec. (b)(3)(I). Pub. L. 104–193, §109(d)(2), added subpar. (I).

Subsec. (d). Pub. L. 104–193, §852, added subsec. (d) and struck out former subsec. (d) which authorized pilot projects for employment of applicants and recipients, defined ''qualification period'', and provided for exceptions, waiver of requirements, and reestablishment of eligibility.

Subsec. (i). Pub. L. 104–193, §854(c)(2), redesignated subsec. (j) as (i) and struck out former subsec. (i) which authorized four demonstration projects, in both urban and rural areas, under which households in which each member received benefits under State plan approved under part A of title IV of Social Security Act would be issued monthly allotments following rules and procedures of programs under part A of title IV of Social Security Act, and without regard to eligibility, benefit, and administrative rules established under this chapter.

Subsec. (j). Pub. L. 104–193, §854(c)(2), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (j)(1)(A). Pub. L. 104–127, §401(d), substituted ''2002'' for ''1995''.

Subsecs. (k), (*l*). Pub. L. 104–193, §854(c)(2)(B), redesignated subsec. (*l*) as (k). Former subsec. (k) redesignated (j).

1994—Subsec. (*l*). Pub. L. 103–225 added subsec. (*l*).

1993—Subsec. (k). Pub. L. 103–66 added subsec. (k).

1991—Subsec. (b)(3)(C). Pub. L. 102–237 inserted a closing parenthesis after ''402(g)(1)(A)''.

1990—Subsec. (a). Pub. L. 101–624, §1731, designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 101–624, §1756(1), inserted ''or a project conducted under paragraph (3)'' after ''eligible households'' in second sentence of subpar. (A).

Pub. L. 101–624, §1755, designated existing provisions as subpar. (A) and added subpar. (B).

Pub. L. 101–624, §1754, substituted ''1995'' for ''1990''.

Subsec. (b)(3). Pub. L. 101–624, §1756(2), added par. (3).

Subsec. (f). Pub. L. 101–624, §1729(b), struck out par. (1) designation preceding text.

Subsec. (h). Pub. L. 101–624, §1757, added subsec. (h).

Subsec. (i). Pub. L. 101–624, §1758, added subsec. (i).

Subsec. (j). Pub. L. 101–624, §1759, added subsec. (j).

1988—Subsec. (f). Pub. L. 100–435, §504, added subsec. (f).

Subsec. (g). Pub. L. 100–435, §505, added subsec. (g).

1985—Subsec. (b)(1). Pub. L. 99–198, §1540(a), substituted ''October 1, 1990'' for ''December 31, 1985''.

Pub. L. 99–182 substituted ''December 31, 1985'' for ''December 13, 1985''.

Pub. L. 99–157 substituted ''December 13, 1985'' for ''November 15, 1985''.

Pub. L. 99–114 substituted ''through November 15, 1985'' for ''until October 1, 1985''.

Subsecs. (d) to (f). Pub. L. 99–198, §1540(b), (c), struck out subsec. (d) which had authorized the Secretary to conduct statewide pilot projects respecting the processing of applications for certain recipients, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1982—Subsec. (d). Pub. L. 97–253, §§152(c), 190(d), redesignated subsec. (f) as (d), and struck out former subsec. (d), which provided that notwithstanding any other provision of law, the Secretary has required, in consultation with the Secretary of the Treasury, to con-

duct a study, through the use of Federal income tax data, of the feasibility, alternative methods of implementation, and the effects of a program to recover food stamp benefits from members of eligible households in which the adjusted gross income of members of such households for a calendar year (as defined by the Internal Revenue Code of 1954) exceeded twice the income poverty guidelines set forth in section 2014(c) of this title, and that such study had to be conducted in rural and urban areas only on a voluntary basis by food stamp recipients, and that the Secretary was required, no later than twelve months and eighteen months from September 29, 1977, to report the results of the study to the Committees on Agriculture and Ways and Means of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Finance of the Senate, together with such recommendations as the Secretary deemed appropriate.

Subsec. (e). Pub. L. 97–253, §§152(c), 190(d), redesignated subsec. (g) as (e) and struck out former subsec. (e) which provided for a study of the Consumer Price Index and other alternative consumer price or cost-of-living indices.

Subsec. (f). Pub. L. 97–253, §190(d), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsecs. (g), (h). Pub. L. 97–253, §§181, 182, 190(d), added subsecs. (g) and (h) and redesignated them as (e) and (f), respectively.

1981—Subsec. (b)(1). Pub. L. 97–98, §1328, substituted ''may conduct'' for ''is authorized to conduct'', ''age sixty-five or over and any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act or to aid to families with dependent children under part A of title IV of the Social Security Act'' for ''either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act'', and ''October 1, 1985'' for ''October 1, 1981'' and inserted ''or the average value of allotments by household size'' after ''value of allotments'', '', other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households,'' after ''no project'', ''and operating as of October 1, 1981,'' after ''under this paragraph'' and ''all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act'' before ''shall be continued''.

Subsec. (c). Pub. L. 97–98, §1329, inserted provision authorizing the Secretary to implement pilot programs to test various means of measuring on a continual basis the nutritional status of low income people in order to develop minimum common criteria and methods for systematic nutrition monitoring that could be applied on a nationwide basis and directing the Secretary to report on the progress of these pilot programs on an annual basis commencing on July 1, 1982, to designated Congressional committees.

Subsec. (f). Pub. L. 97–98, §1330, added subsec. (f).

1980—Subsec. (b)(1). Pub. L. 96–249, §130, inserted provisions requiring that any pilot or experimental project implemented under this paragraph involving the payment of the value of allotments in the form of cash to eligible households be continued until October 1, 1981, if the State so requests.

Subsec. (b)(2). Pub. L. 96–249, §§131, 132(a), inserted ''(ten days in at least one pilot project area designated by the Secretary)'' after ''thirty days'' and substituted ''interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot project based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation'' for ''an interim report no later than October 1, 1979, and shall issue a final report describing the results of such pilot projects no later than October 1, 1980''.

Subsec. (e). Pub. L. 96–249, §133, added subsec. (e).

1978—Subsec. (b)(2). Pub. L. 95–400 required issuance of an interim report no later than Oct. 1, 1979, and substituted requirement for issuance of a final report no later than Oct. 1, 1980, for prior requirement of a final report no later than eighteen months following Sept. 29, 1977.

1977—Pub. L. 95–113 substituted provisions relating to research, demonstrations, and evaluations for provisions relating to the purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(2)(C)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(2)(C)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(d) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by sections 1729(b), 1731, and 1755 to 1759 of Pub. L. 101–624 effective Nov. 28, 1990, and amendment by section 1754 of Pub. L. 101–624 effective Oct. 1, 1990, see section 1781(a), (b)(1) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, except that such amendment to become effective and implemented on Oct. 1, 1989, if final order is issued under section 902(b) of Title 2, The Congress, for fiscal year 1989 making reductions and sequestrations specified in the report required under section 901(a)(3)(A) of Title 2, see section 701(a), (c)(2) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into

account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 132(b) of Pub. L. 96–249 provided that: ''The provisions of section 17(b)(2) of the Food Stamp Act of 1977 [subsec. (b)(2) of this section] for the sharing of administrative costs, as added by subsection (a) of this section, shall be effective on the date of enactment of this Act [May 26, 1980].''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided that the amendment made by that section is effective Oct. 1, 1977.

STUDY OF USE OF FOOD STAMPS TO PURCHASE VITAMINS AND MINERALS

Section 855 of Pub. L. 104–193 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the National Academy of Sciences and the Center for Disease Control and Prevention, shall conduct a study on the use of food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to purchase vitamins and minerals.

''(b) ANALYSIS.—The study shall include—

''(1) an analysis of scientific findings on the efficacy of and need for vitamins and minerals, including—

''(A) the adequacy of vitamin and mineral intakes in low-income populations, as shown by research and surveys conducted prior to the study; and

''(B) the potential value of nutritional supplements in filling nutrient gaps that may exist in the United States population as a whole or in vulnerable subgroups in the population;

''(2) the impact of nutritional improvements (including vitamin or mineral supplementation) on the health status and health care costs of women of childbearing age, pregnant or lactating women, and the elderly;

''(3) the cost of commercially available vitamin and mineral supplements;

''(4) the purchasing habits of low-income populations with regard to vitamins and minerals;

''(5) the impact of using food stamps to purchase vitamins and minerals on the food purchases of low-income households; and

''(6) the economic impact on the production of agricultural commodities of using food stamps to purchase vitamins and minerals.

''(c) REPORT.—Not later than December 15, 1998, the Secretary shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''

DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT

Section 912 of Pub. L. 102–237 provided that: ''The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2020, 2027, 2035 of this title.

§ 2027. Appropriations and allotments

(a) Authorization of allotments; monthly reports of expenditures to Congressional committees; restriction on use of funds; nutrition education improvements

(1) To carry out this chapter, there are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2002. Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 2026 of this title, subject to paragraph (3).

(2) No funds authorized to be appropriated under this chapter or any other Act of Congress shall be used by any person, firm, corporation, group, or organization at any time, directly or indirectly, to interfere with or impede the implementation of any provision of this chapter or any rule, regulation, or project thereunder, except that this limitation shall not apply to the provision of legal and related assistance in connection with any proceeding or action before any State or Federal agency or court. The President shall ensure that this paragraph is complied with by such order or other means as the President deems appropriate.

(3)(A) Of the amounts made available under the second sentence of paragraph (1), not more than $2,000,000 in any fiscal year may be used by the Secretary to make 2-year competitive grants that will—

(i) enhance interagency cooperation in nutrition education activities; and

(ii) develop cost effective ways to inform people eligible for food stamps about nutrition, resource management, and community nutrition education programs, such as the expanded food and nutrition education program.

(B) The Secretary shall make awards under this paragraph to one or more State cooperative extension services (as defined in section 3103(5) of this title) who shall administer the grants in coordination with other State or local agencies serving low-income people.

(C) Each project shall include an evaluation component and shall develop an implementation plan for replication in other States.

(D) The Secretary shall report to the appropriate committees of Congress on the results of the projects and shall disseminate the results through the cooperative extension service system and to State human services and health department offices, local food stamp program offices, and other entities serving low-income households.

(b) Limitation of value of allotments; reduction of allotments

In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. Notwithstanding any other provision of this chapter, if in any fiscal year the Secretary finds that the requirements of participating States will exceed the appropriation, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

(c) Manner of reducing allotments

In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, deter-

mined under sections 2014(d) and 2014(e) of this title, to the income standards of eligibility, for households of equal size, determined under section 2014(c) of this title. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

(d) Requisite action by Secretary to reduce allotments; statement to Congressional committees

Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

(e) Disposition of funds collected pursuant to claims

Funds collected from claims against households or State agencies, including claims collected pursuant to sections 2016(f), 2020(g) and (h), and subsections (b) and (c) of section 2022 of this title, claims resulting from resolution of audit findings, and claims collected from households receiving overissuances, shall be credited to the food stamp program appropriation account for the fiscal year in which the collection occurs. Funds provided to State agencies under section 2025(c) of this title shall be paid from the appropriation account for the fiscal year in which the funds are provided.

(f) Transfer of funds

No funds appropriated to carry out this chapter may be transferred to the Office of the Inspector General, or the Office of the General Counsel, of the Department of Agriculture.

(Pub. L. 88–525, § 18, as added Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 979; amended Pub. L. 96–58, § 1, Aug. 14, 1979, 93 Stat. 389; Pub. L. 96–249, title I, § 134, title II, § 201, May 26, 1980, 94 Stat. 368, 370; Pub. L. 97–18, § 1, June 30, 1981, 95 Stat. 102; Pub. L. 97–98, title XIII, §§ 1331, 1332, Dec. 22, 1981, 95 Stat. 1291; Pub. L. 97–253, title I, §§ 180(b)(2), 183, Sept. 8, 1982, 96 Stat. 784, 785; Pub. L. 99–198, title XV, §§ 1535(c)(2), 1541, 1542(a), Dec. 23, 1985, 99 Stat. 1585, 1589; Pub. L. 101–624, title XVII, §§ 1760, 1761, Nov. 28, 1990, 104 Stat. 3803, 3804; Pub. L. 104–127, title IV, § 401(e), Apr. 4, 1996, 110 Stat. 1026; Pub. L. 104–193, title VIII, § 853, Aug. 22, 1996, 110 Stat. 2339; Pub. L. 105–362, title I, § 101(b), Nov. 10, 1998, 112 Stat. 3281.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–362 struck out at end ''The Secretary shall, by the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year.''

1996—Subsec. (a)(1). Pub. L. 104–193 substituted ''1996 through 2002'' for ''1991 through 1997'' in first sentence.

Pub. L. 104–127 substituted ''1991 through 1997'' for ''1991 through 1995'' in first sentence.

1990—Subsec. (a)(1). Pub. L. 101–624, §§ 1760(1)(A), 1761(1), substituted ''To carry out this chapter, there are authorized to be appropriated such sums as are necessary for each of the fiscal years 1991 through 1995.'' for former first two sentences which related to authorizations of appropriation for fiscal years ending September 30, 1978 through September 30, 1990, and inserted '', subject to paragraph (3)''.

Pub. L. 101–624, § 1760(1)(B), substituted ''supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year'' for ''reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section''.

Subsec. (a)(3). Pub. L. 101–624, § 1761(2), added par. (3).

Subsec. (b). Pub. L. 101–624, § 1760(2), struck out ''amount authorized in subsection (a)(1) of this section'' after ''exceed the appropriation''.

1985—Subsec. (a)(1). Pub. L. 99–198, § 1541(1), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1986, 1987, 1988, 1989, and 1990.

Subsec. (b). Pub. L. 99–198, § 1541(2), substituted ''the appropriation amount authorized in subsection (a)(1) of this section,'' for ''the limitation set herein,''.

Subsec. (e). Pub. L. 99–198, § 1535(c)(2), substituted reference to subsections (b) and (c) of section 2022 of this title for reference to 2022(b) of this title.

Subsec. (f). Pub. L. 99–198, § 1542(a), added subsec. (f).

1982—Subsec. (a)(1). Pub. L. 97–253, § 183, inserted provisions for appropriations for the fiscal years ending on September 30, 1983–1985, inclusive.

Subsec. (e). Pub. L. 97–253, § 180(b)(2), struck out reference to section 2025(g) of this title in first sentence.

1981—Subsec. (a)(1). Pub. L. 97–98, § 1331, struck out ''and'' after ''September 30, 1980;'' and inserted ''; and not in excess of $11,300,000,000 for the fiscal year ending September 30, 1982''.

Pub. L. 97–18 substituted ''$11,480,000,000'' for ''$9,739,276,000'' in appropriation authorization for the fiscal year ending Sept. 30, 1981.

Subsec. (e). Pub. L. 97–98, § 1332, added subsec. (e).

1980—Subsec. (a). Pub. L. 96–249 designated existing provisions as par. (1) and substituted ''$9,491,000,000'' for ''$6,188,600,000'' and ''$9,739,276,000'' for ''$6,235,900,000'', and added par. (2).

1979—Subsec. (a). Pub. L. 96–58, § 1(1), (2), substituted ''$6,778,900,000'' for ''$6,158,900,000'' in provisions authorizing appropriations for the fiscal year ending Sept. 30, 1979, struck out provisions directing that sums appropriated under this chapter would continue to remain available until expended, and inserted provisions requiring the Secretary to submit monthly reports to Senate and House Committees relating to monthly expenditures and stating whether or not there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsec. (b) of this section.

Subsec. (b). Pub. L. 96–58, § 1(3), substituted ''Notwithstanding any other provision of this chapter, if'' for ''If'' at beginning of second sentence.

Subsecs. (c), (d). Pub. L. 96–58, §1(4), added subsecs. (c) and (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by sections 1760(1)(A) and 1761 of Pub. L. 101–624 effective Oct. 1, 1990, and amendment by section 1760(1)(B), (2) of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1542(b) of Pub. L. 99–198 provided that: ''The amendment made by this section [amending this section] shall become effective on October 1, 1986.''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 180(b)(2) of Pub. L. 97–253 effective Oct. 1, 1982, see section 193(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by section 183 of Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title, see section 192(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–98 effective upon such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as a note under section 2012 of this title.

EFFECTIVE DATE

Section 1301 of Pub L. 95–113 provided that this section is effective Oct. 1, 1977.

AVAILABILITY OF AMOUNTS IF SEQUESTRATION ORDER ISSUED FOR FISCAL YEAR 1989

Amounts available to carry out food stamp program under this section to be reduced if sequestration order is issued under section 902(b) of Title 2, The Congress, see section 702(c)(1) of Pub. L. 100–435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2013, 2025, 2030 of this title.

§ 2028. Puerto Rico block grant

(a) Appropriations; payment

(1)(A) From the sums appropriated under this chapter, the Secretary shall, subject to the provisions of this section, pay to the Commonwealth of Puerto Rico $1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002, to finance 100 percent of the expenditures for food assistance provided to needy persons and 50 percent of the administrative expenses related to the provision of the assistance.

(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) of this section and 50 per centum of the related administrative expenses.

(2) The Secretary shall, subject to the provisions of subsection (b) of this section, pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv) of this section, reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

(b) Plan for provision of assistance; approval; noncompliance

(1)(A) In order to receive payments under this chapter for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) of this section for the following fiscal year which—

(i) designates the agency or agencies directly responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A) of this section; and

(v) includes such other information as the Secretary may require.

(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) of this section for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a) of this section, in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there

is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A) of this section, and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) of this section for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(C)(i) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) of the section in the administration of a plan approved under subsection (b)(1)(B) of this section, the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) of this section until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a) of this section, in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A) of this section, at which time such withheld payments shall be paid.

(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A) of this section, the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(c) Review; technical assistance

(1) The Secretary shall provide for the review of the programs for the provision of the assistance described in subsection (a)(1)(A) of this section for which payments are made under this chapter.

(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A) of this section.

(d) Penalty for violations

Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.

(Pub. L. 88–525, § 19, as added Pub. L. 97–35, title I, § 116(a)(2), Aug. 13, 1981, 95 Stat. 364; amended Pub. L. 97–253, title I, § 184(a), Sept. 8, 1982, 96 Stat. 785; Pub. L. 98–204, § 1, Dec. 2, 1983, 97 Stat. 1385; Pub. L. 99–114, § 2, Oct. 1, 1985, 99 Stat. 488; Pub. L. 99–157, § 3, Nov. 15, 1985, 99 Stat. 818; Pub. L. 99–182, § 3, Dec. 13, 1985, 99 Stat. 1173; Pub. L. 99–198, title XV, § 1543, Dec. 23, 1985, 99 Stat. 1589; Pub. L. 101–624, title XVII, § 1762(b), Nov. 28, 1990, 104 Stat. 3804; Pub. L. 102–237, title IX, § 941(9), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 103–66, title XIII, § 13917, Aug. 10, 1993, 107 Stat. 674; Pub. L. 104–127, title IV, § 401(f), Apr. 4, 1996, 110 Stat. 1026.)

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–127 substituted ''$1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002'' for ''$974,000,000 for fiscal year 1991, $1,013,000,000 for fiscal year 1992, $1,051,000,000 for fiscal year 1993, $1,097,000,000 for fiscal year 1994, and $1,143,000,000 for fiscal year 1995''.

1993—Subsec. (a)(1)(A). Pub. L. 103–66 substituted ''$1,097,000,000'' for ''$1,091,000,000'' and ''$1,143,000,000'' for ''$1,133,000,000''.

1991—Subsec. (b)(1)(A)(i). Pub. L. 102–237 struck out a period after ''directly''.

1990—Subsec. (a)(1)(A). Pub. L. 101–624 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''From the sums appropriated under this chapter the Secretary shall, subject to the provisions of this subsection and subsection (b) of this section, pay to the Commonwealth of Puerto Rico not to exceed $825,000,000 for the fiscal year ending September 30, 1986, $852,750,000 for the fiscal year ending September 30, 1987, $879,750,000 for the fiscal year ending September 30, 1988, $908,250,000 for the fiscal year ending September 30, 1989, and $936,750,000 for the fiscal year ending September 30, 1990, to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.''

1985—Subsec. (a)(1)(A). Pub. L. 99–198, § 1543(1), (2), substituted ''for the fiscal year ending September 30, 1986, $852,750,000 for the fiscal year ending September 30, 1987, $879,750,000 for the fiscal year ending September 30, 1988, $908,250,000 for the fiscal year ending September 30, 1989, and $936,750,000 for the fiscal year ending September 30, 1990,'' for ''for each fiscal year'' and struck out ''noncash'' after ''100 per centum of the expenditures for''.

Pub. L. 99–114, Pub. L. 99–157, and Pub. L. 99–182, made identical amendments which temporarily struck out ''noncash'' after ''100 per centum of the expenditures for'', for specified periods of time. See Effective and Termination Dates of 1985 Amendments note below.

Subsec. (b)(1)(A)(i). Pub. L. 99–198, § 1543(3), substituted ''the agency or agencies directly.'' for ''a single agency which shall be''.

1983—Subsec. (a)(1)(A). Pub. L. 98–204 temporarily struck out ''noncash'' after ''100 per centum of the expenditures for''. See Effective and Termination Dates of 1983 Amendment note below.

1982—Subsec. (a)(1)(A). Pub. L. 97–253 substituted ''the expenditures for noncash food assistance'' for ''the expenditures for food assistance''.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENTS

Section 3 of Pub. L. 99–182 provided that the amendment made by that section is effective for the period beginning Dec. 14, 1985, and ending Dec. 31, 1985.

Section 3 of Pub. L. 99–157 provided that the amendment made by that section is effective for the period beginning Nov. 16, 1985, and ending Dec. 13, 1985.

Section 2 of Pub. L. 99–114 provided that the amendment made by that section is effective for the period beginning Oct. 1, 1985, and ending Nov. 15, 1985.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Oct. 1, 1990, see section 1781(b)(1) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENT

Section 1 of Pub. L. 98–204 provided that the amendment made by that section is effective for the period beginning Jan. 1, 1984, and ending Sept. 30, 1985.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Section 184(b) of Pub. L. 97–253, as amended by Pub. L. 98–107, §101(b), Oct. 1, 1983, 97 Stat. 734, provided that: ''The amendment made by subsection (a) [amending this section] shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) [subsec. (b) of this section] by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983, or for the first three months of the fiscal year ending September 30, 1984.''

EFFECTIVE DATE

Section 116(a) of Pub. L. 97–35 provided that this section is effective July 1, 1982.

NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO

Section 1762(a) of Pub. L. 101–624 provided that: ''It is the policy of Congress that citizens of the United States who reside in the Commonwealth of Puerto Rico should be safeguarded against hunger and treated on an equitable and fair basis with other citizens under Federal nutritional programs.''

NUTRITIONAL NEEDS OF PUERTO RICANS; STUDY AND REPORT TO CONGRESS

Section 1762(c), (d) of Pub. L. 101–624 provided that:

''(c) STUDY OF NUTRITIONAL NEEDS OF PUERTO RICANS.—The Comptroller General of the United States shall conduct a study of—

''(1) the nutritional needs of the citizens of the Commonwealth of Puerto Rico, including—

''(A) the adequacy of the nutritional level of the diets of members of households receiving assistance under the nutrition assistance program and other households not currently receiving the assistance;

''(B) the incidence of inadequate nutrition among children and the elderly residing in the Commonwealth;

''(C) the nutritional impact of restoring the level of nutritional assistance provided to households in the Commonwealth to the level of the assistance provided to other households in the United States; and

''(D) such other factors as the Comptroller General considers appropriate; and

''(2) the potential alternative means of providing nutritional assistance in the Commonwealth of Puerto Rico, including—

''(A) the impact of restoring the Commonwealth to the food stamp program;

''(B) increasing the benefits provided under the nutrition assistance program to the aggregate value of food stamp coupons that would be distributed to households in the Commonwealth if the Commonwealth were to participate in the food stamp program; and

''(C) the usefulness of adjustments to standards of eligibility and other factors appropriate to the circumstances of the Commonwealth comparable to those adjustments made under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for Alaska, Hawaii, Guam, and the Virgin Islands of the United States.

''(d) REPORT OF FINDINGS.—Not later than August 1, 1992, the Comptroller General shall submit a final report on the findings of the study required under subsection (c) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''

STUDY OF FOOD ASSISTANCE PROGRAM IN PUERTO RICO; REPORT TO CONGRESS BY MARCH 1, 1985

Section 2 of Pub. L. 98–204 provided that: ''The Secretary of Agriculture shall conduct a study of the food assistance program in Puerto Rico carried out under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) which shall include (1) an assessment of its impact on the adequacy of the nutritional level of the diets of households receiving food assistance in the form of cash rather than in a noncash form, (2) an assessment of the expenditure levels for food of such households, and (3) any other factors the Secretary considers appropriate. The Secretary shall submit a final report of the findings of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than March 1, 1985.''

AMOUNT PAYABLE TO THE COMMONWEALTH OF PUERTO RICO FOR FISCAL YEAR 1982; PLANS TO BE SUBMITTED TO THE SECRETARY FOR GRANTS FOR FISCAL YEARS 1982 AND 1983

Section 116(b) of Pub. L. 97–35 provided that: ''Notwithstanding the provisions of section 19 of the Food Stamp Act of 1977 [this section], as added by this section—

''(1) the amount payable to the Commonwealth of Puerto Rico under section 19 for fiscal year 1982 shall be $206,500,000, and the Secretary of Agriculture is authorized to grant such waivers of the requirements imposed by that section with respect to that fiscal year as the Secretary determines appropriate to carry out the purposes of that section; and

''(2) in order to receive the amounts payable under this subsection or section 19 for fiscal years 1982 and 1983, the Commonwealth shall submit, for the Secretary's approval, the plan required by the provisions of subsection (b) of section 19 by April 1, 1982.''

§ 2029. Workfare

(a) Program plan; guidelines; compliance

(1) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with

guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the food stamp program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 2017(a) of this title, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.].

(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

(B) A political subdivision may comply with the requirements of this section by operating any workfare program which the Secretary determines meets the provisions and protections provided under this section.

(b) Exempt household members

A household member shall be exempt from workfare requirements imposed under this section if such member is—

(1) exempt from section 2015(d)(1) of this title as the result of clause (B), (C), (D), (E), or (F) of section 2015(d)(2) of this title;

(2) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least 20 hours a week in a work activity required under title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) mentally or physically unfit;

(4) under sixteen years of age;

(5) sixty years of age or older; or

(6) a parent or other caretaker of a child in a household in which another member is subject to the requirements of this section or is employed fulltime.

(c) Valuation or duration of work

No operating agency shall require any participating member to work in any workfare position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work, when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.

(d) Nature, conditions, and costs of work

The operating agency shall—

(1) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the workfare program;

(2) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours; and

(3) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to participation in the program but not to exceed $25 in the aggregate per month.

(e) Job search period

The operating agency may allow a job search period, prior to making workfare assignments, of up to thirty days following a determination of eligibility.

(f) Disqualification

An individual or a household may become ineligible under section 2015(d)(1) of this title to participate in the food stamp program for failing to comply with this section.

(g) Payment of administrative expenses

(1) The Secretary shall pay to each operating agency 50 per centum of all administrative expenses incurred by such agency in operating a workfare program, including reimbursements to participants for work-related expenses as described in subsection (d)(3) of this section.

(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

(B) For purposes of subparagraph (A), the term ''funds saved from employment related to a workfare program operated under this section'' means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

(i) while such members are participating for the first time in a workfare program operated under this section; or

(ii) in the thirty-day period beginning on the date such first participation is terminated.

(3) The Secretary may suspend or cancel some or all of these payments, or may withdraw approval from a political subdivision to operate a workfare program, upon a finding that the subdivision has failed to comply with the workfare requirements.

(Pub. L. 88–525, § 20, as added Pub. L. 97–98, title XIII, § 1333, Dec. 22, 1981, 95 Stat. 1291; amended Pub. L. 97–253, title I, §§ 185–188, Sept. 8, 1982, 96 Stat. 786; Pub. L. 99–198, title XV, § 1517(d), Dec. 23, 1985, 99 Stat. 1577; Pub. L. 102–237, title IX, § 941(10), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 104–193, title I, § 109(e), title VIII, § 815(b)(2), Aug. 22, 1996, 110 Stat. 2170, 2317.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (a)(1), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Act is classified generally to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public

Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (a)(2)(B). Pub. L. 104–193, §109(e)(1), substituted ''operating any'' for ''operating—

''(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

''(ii) any other''.

Subsec. (b). Pub. L. 104–193, §109(e)(2), struck out ''(1)'' before ''A household member shall be exempt'', redesignated subpars. (A) to (F) as pars. (1) to (6), respectively, in par. (2), substituted ''a work activity'' for ''a work training program'', and struck out former par. (2) which read as follows:

''(2)(A) Subject to subparagraphs (B) and (C), in the case of a household that is exempt from work requirements imposed under this chapter as the result of participation in a community work experience program established under section 409 of the Social Security Act (42 U.S.C. 609), the maximum number of hours in a month for which all members of such household may be required to participate in such program shall equal the result obtained by dividing—

''(i) the amount of assistance paid to such household for such month under title IV of such Act, together with the value of the food stamp allotment of such household for such month; by

''(ii) the higher of the Federal or State minimum wage in effect for such month.

''(B) In no event may any such member be required to participate in such program more than 120 hours per month.

''(C) For the purpose of subparagraph (A)(i), the value of the food stamp allotment of a household for a month shall be determined in accordance with regulations governing the issuance of an allotment to a household that contains more members than the number of members in an assistance unit established under title IV of such Act.''

Subsec. (f). Pub. L. 104–193, §815(b)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: ''In the event that any person fails to comply with the requirements of this section, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding workfare obligations prior to the end of the two-month disqualification period.''

1991—Subsec. (g)(2). Pub. L. 102–237 realigned the margins of subpars. (A) and (B) and cls. (i) and (ii) of subpar. (B).

1985—Subsec. (b). Pub. L. 99–198 in amending subsec. (b) generally, designated existing provisions of subsec. (b) as par. (1), reorganized and expanded provisions of par. (1) as thus designated, lowered minimum age for exempted household members from eighteen years to sixteen years, and added par. (2).

1982—Subsec. (a). Pub. L. 97–253, §185, redesignated existing provisions, formerly undesignated, as par. (1), and added par. (2).

Subsec. (b)(4). Pub. L. 97–253, §186, substituted ''at the option of the operating agency, subject to and currently actively and satisfactorily participating'' for ''subject to and currently involved''.

Subsec. (c). Pub. L. 97–253, §187, substituted '', when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week'' for ''either exceeds twenty hours a week or would, together with any other hours worked in any other compensated capacity by such member on a regular or predictable part-time basis, exceed thirty hours a week''.

Subsec. (g)(2), (3). Pub. L. 97–253, §188, added par. (2) and redesignated former par. (2) as (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(e) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by sections 185 to 187 of Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by section 188 of Pub. L. 97–253 effective Oct. 1, 1982, see section 193(b) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE

Section effective on earlier of Sept. 8, 1982, or date effective pursuant to section 1338 of Pub. L. 97–98, set out as an Effective Date of 1981 Amendment note under section 2012 of this title, which made the section effective on such date as Secretary of Agriculture may prescribe, taking into account need for orderly implementation, see section 192(b) of Pub. L. 97–253 set out as an Effective Date of 1982 Amendment note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2015, 2025, 2026 of this title.

§ 2030. Washington Family Independence Demonstration Project

(a) In general

Upon written application of the State of Washington (in this section referred to as the ''State'') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the ''Project'') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project

In an application submitted under subsection (a) of this section, the State shall provide the following:

(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

(2) All of the following terms and conditions shall be in effect under the Project:

(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987,

shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.

(F) Food assistance shall be provided under the Project—

(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

(iii) until—

(I) the participant's cash assistance under the Project is terminated;

(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

(G)(i) Paragraphs (1)(B), (8), (10), and (19)[1] of section 2020(e) of this title shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly persons, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

(I) restrict the number of individuals who may be represented by such person; and

(II) otherwise establish criteria and verification standards for representation under this clause.

(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

(B) the portion of the administrative costs for which the State would have received reimbursement under—

(i) subsections (a) and (g) of section 2025 of this title (without regard to the first

[1] See References in Text note below.

proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

(ii) section 2025(h) of this title if the individuals who participated in the Project had participated in an employment and training program under section 2015(d)(4) of this title;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State or a subsequent change in the benefit levels approved by the State legislature.

(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

(B) The Project may be terminated 180 days after—

(i) the State gives notice to the Secretary that it intends to terminate the Project; or

(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

(c) Funding

If an application submitted under subsection (a) of this section by the State complies with the requirements specified in subsection (b) of this section, then the Secretary shall—

(1) approve such application; and

(2) from funds appropriated under this chapter, pay the State for—

(A) the actual cost of the food assistance provided under the Project; and

(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, that was paid under subsections (a), (g), and (h) of section 2025 of this title.

(d) Project application

(1) Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

(A) such application shall also be treated as an application to participate in the food stamp program; and

(B) section 2020(e)(9) of this title shall apply with respect to such application.

(2) Coupons provided under the food stamp program with respect to an individual who—

(A) is participating in such program; and

(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

(3) For households eligible to participate in the food stamp program that contain some members who participate in the Project and other members who do not participate in the Project, those members who do not participate in the Project shall receive a separate benefit in food coupons under the food stamp program that is not less than the amount of food stamp benefits that such members would have received were the Project not implemented.

(e) Waiver

The Secretary shall (with respect to the Project) waive compliance with any requirement contained in this chapter (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

(f) Construction

For purposes of any other Federal, State or local law—

(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

(g) Project audits

The Comptroller General of the United States may—

(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4) of this section; and

(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

(h) Evaluation

With funds appropriated under section 2027(a)(1) of this title, the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.

(Pub. L. 88–525, §21, as added Pub. L. 100–203, title I, §1509, Dec. 22, 1987, 101 Stat. 1330–29; amended Pub. L. 100–481, §1, Oct. 11, 1988, 102 Stat. 2336; Pub. L. 104–316, title I, §104(a), Oct. 19, 1996, 110 Stat. 3829.)

REFERENCES IN TEXT

Paragraph (19) of section 2020(e) of this title, referred to in subsec. (b)(2)(G)(i), was redesignated paragraph

(18) of section 2020(e) of this title by Pub. L. 104–193, title VIII, § 835(1)(D)(i), Aug. 22, 1996, 110 Stat. 2330.

The Social Security Act, referred to in subsec. (b)(2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–316 substituted ''may'' for ''shall'' in introductory provisions.

1988—Subsec. (d)(3). Pub. L. 100–481 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2 of Pub. L. 100–481 provided that: ''The amendment made by this Act [amending this section] shall become effective on July 1, 1988.''

§ 2031. Food stamp portion of Minnesota Family Investment Plan

(a) In general

(1) Subject to paragraph (2), upon written application of the State of Minnesota that complies with this section and sections 6 to 11, 13, 130, and 132 of article 5 of 282 of the 1989 Laws of Minnesota, and after approval of such application by the Secretary in accordance with subsections (b) and (d) of this section, the State may implement a family investment demonstration project (hereinafter in this section referred to as the ''Project'') in parts of the State to determine whether the Project more effectively helps families to become self-supporting and enhances their ability to care for their children than do the food stamp program and programs under parts A and F[1] of title IV of the Social Security Act [42 U.S.C. 601 et seq.]. The State may provide cash payments under the Project, subject to paragraph (2), that replace assistance otherwise available under the food stamp program and under part A of title IV of the Social Security Act.

(2) The Project may be implemented only in accordance with this section and only if the Secretary of Health and Human Services approves an application submitted by the State permitting the State to include in the Project families who are eligible to receive benefits under part A of title IV of the Social Security Act.

(b) Required terms and conditions of Project

The application submitted by the State under subsection (a) of this section shall provide an assurance that the Project shall satisfy all of the following requirements:

(1) Only families may be eligible to receive assistance and services through the Project.

(2) Participating families, families eligible for or participating in the program authorized under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] or the food stamp program that are assigned to and found eligible for the Project, and families required to submit an application for the Project that are found eligible for the Project shall be ineligible to receive benefits under the food stamp program.

(3)(A) Subject to the provisions of this paragraph and any reduction imposed under subsection (c)(3) of this section, the value of assistance provided to participating families shall not be less than the aggregate value of the assistance such families could receive under the food stamp program and part A of title IV of the Social Security Act if such families did not participate in the Project.

(B) For purposes of satisfying the requirement specified in subparagraph (A)—

(i) payments for child care expenses under the Project shall be considered part of the value of assistance provided to participating families with earnings;

(ii) payments for child care expenses for families without earnings shall not be considered part of the value of assistance provided to participating families or the aggregate value of assistance that such families could have received under the food stamp program and part A of title IV of the Social Security Act; and

(iii) any child support payments not assigned to the State under the provisions of part A of title IV of the Social Security Act, less $50 per month, shall be considered part of the aggregate value of assistance participating families would receive if such families did not participate in the Project;

(C) For purposes of satisfying the requirement specified in subparagraph (A), the State shall—

(i) identify the sets of characteristics indicative of families that might receive less assistance under the Project;

(ii) establish a mechanism to determine, for each participating family that has a set of characteristics identified under clause (i) whether such family could receive more assistance, in the aggregate, under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the project;

(iii) increase the amount of assistance provided under the Project to any family that could receive more assistance, in the aggregate, under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the Project, so that the assistance provided under the Project to such family is not less than the aggregate amount of assistance such family could receive under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the Project; and

(iv) increase the amount of assistance paid to participating families, if the State or locality imposes a sales tax on food, by the amount needed to compensate for the tax.

This subparagraph shall not be construed to require the State to make the determination under clause (ii) for families that do not have a set of characteristics identified under clause (i).

(D)(i) The State shall designate standardized amounts of assistance provided as food assist-

[1] See References in Text note below.

ance under the Project and notify monthly each participating family of such designated amount.

(ii) The amount of food assistance so designated shall be at least the value of coupons such family could have received under the food stamp program if the Project had not been implemented. The provisions of this subparagraph shall not require that the State make individual determinations as to the amount of assistance under the Project designated as food assistance.

(iii) The State shall periodically allow participating families the option to receive such food assistance in the form of coupons.

(E)(i) Individuals ineligible for the Project who are members of a household including a participating family shall have their eligibility for the food stamp program determined and have their benefits calculated and issued following the standards established under the food stamp program, except as provided differently in this subparagraph.

(ii) The State agency shall determine such individuals' eligibility for benefits under the food stamp program and the amount of such benefits without regard to the participating family.

(iii) In computing such individuals' income for purposes of determining eligibility (under section 2014(c)(1) of this title) and benefits, the State agency shall apply the maximum excess shelter expense deduction specified under section 2014(e) of this title.

(iv) Such individuals' monthly allotment shall be the higher of $10 or 75 percent of the amount calculated following the standards of the food stamp program and the foregoing requirements of this subparagraph, rounded to the nearest lower whole dollar.

(4) The Project shall include education, employment, and training services equivalent to those offered under the employment and training program described in section 2015(d)(4) of this title to families similar to participating families elsewhere in the State.

(5) The State may select families for participation in the Project through submission and approval of an application for participation in the Project or by assigning to the Project families that are determined eligible for or are participating in the program authorized by part A of title IV of the Social Security Act or the food stamp program.

(6) Whenever selection for participation in the Project is accomplished through submission and approval of an application for the Project—

(A) the State shall promptly determine eligibility for the Project, and issue assistance to eligible families, retroactive to the date of application, not later than thirty days following the family's filing of an application;

(B) in the case of families determined ineligible for the Project upon application, the application for the Project shall be deemed an application for the food stamp program, and benefits under the food stamp program shall be issued to those found eligible following the standards established under the food stamp program;

(C) expedited benefits shall be provided under terms no more restrictive than under paragraph (9) of section 2020(e) of this title and the laws of Minnesota and shall include expedited issuance of designated food assistance provided through the Project or expedited benefits through the food stamp program;

(D) each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to receive financial assistance shall receive and shall be permitted to file an application form on the same day such contact is first made;

(E) provision shall be made for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly individuals, physically or mentally handicapped individuals, and individuals otherwise unable to appear in person solely because of transportation difficulties and similar hardships;

(F) a family may be represented by another person if the other person has clearly been designated as the representative of such family for that purpose and the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

(i) restrict the number of families who may be represented by such person; and

(ii) otherwise establish criteria and verification standards for representation under this subparagraph; and

(G) the State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing assistance under the Project to, families that do not reside in permanent dwellings or who have no fixed mailing address.

(7) Whenever selection for participation in the Project is accomplished by assigning families that are determined eligible for or participating in the program authorized by part A of title IV of the Social Security Act or the food stamp program—

(A) the State shall provide eligible families assistance under the Project no later than benefits would have been provided following the standards established under the food stamp program; and

(B) the State shall ensure that assistance under the Project is provided so that there is no interruption in benefits for families participating in the program under part A of title IV of the Social Security Act or the food stamp program.

(8) Paragraphs (1)(B) and (8) of section 2020(e) of this title shall apply with respect to applicants and participating families in the same manner as such paragraphs apply with respect to applicants and participants in the food stamp program.

(9) Assistance provided under the Project shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for the same period.

(10)(A) The State shall provide each family or family member whose participation in the

Project ends and each family whose participation is terminated with notice of the existence of the food stamp program and the person or agency to contact for more information.

(B)(i) Following the standards specified in subparagraph (C), the State shall ensure that benefits under the food stamp program are provided to participating families in case the Project is terminated or to participating families or family members that are determined ineligible for the Project because of income, resources, or change in household composition, if such families or individuals are determined eligible for the food stamp program. Food coupons shall be issued to eligible families and individuals described in this clause retroactive to the date of termination from the Project; and

(ii) If sections 256.031 through 256.036 of the Minnesota Statutes, 1989 Supplement, or Minnesota Laws 1989, chapter 282, article 5, section 130, are amended to reduce or eliminate benefits provided under those sections or restrict the rights of Project applicants or participating families, the State shall exclude from the Project applicants or participating families or individuals affected by such amendments and follow the standards specified in subparagraph (C), except that the State shall continue to pay from State funds an amount equal to the food assistance portion to such families and individuals until the State determines eligibility or ineligibility for the food stamp program or the family or individual has failed to supply the needed additional information within ten days. Food coupons shall be provided to families and individuals excluded from the Project under this clause who are determined eligible for the food stamp program retroactive to the date of the determination of eligibility. The Secretary shall pay to the State the value of the food coupons for which such families and individuals would have been eligible in the absence of food assistance payments under this clause from the date of termination from the Project to the date food coupons are provided.

(C) Each family whose Project participation is terminated shall be screened for potential eligibility for the food stamp program and if the screening indicates potential eligibility, the family or family member shall be given a specific request to supply all additional information needed to determine such eligibility and assistance in completing a signed food stamp program application including provision of any relevant information obtained by the State for purpose of the Project. If the family or family member supplies such additional information within ten days after receiving the request, the State shall, within five days after the State receives such information, determine whether the family or family member is eligible for the food stamp program. Each family or family member who is determined through the screening or otherwise to be ineligible for the food stamp program shall be notified of that determination.

(11) Section 2020(e)(10) of this title shall apply with respect to applicant and participating families in the same manner as such paragraph applies with respect to applicants and participants in the food stamp program, except that families shall be given notice of any action for which a hearing is available in a manner consistent with the notice requirements of the regulations implementing sections 402(a)(4) and 482(h)[1] of the Social Security Act [42 U.S.C. 602(a)(4)].

(12) For each fiscal year, the Secretary shall not be liable for any costs related to carrying out the Project in excess of those that the Secretary would have been liable for had the Project not been implemented, except for costs for evaluating the Project, but shall adjust for the full amount of the federal share of increases or decreases in costs that result from changes in economic, demographic, and other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by this chapter, or changes in amounts of Federal funds available to States and localities under the food stamp program.

(13) The State shall carry out the food stamp program throughout the State while the State carries out the Project.

(14)(A) Except as provided in subparagraph (B), the State will carry out the Project during a five-year period beginning on the date the first family receives assistance under the Project.

(B) The Project may be terminated—

(i) by the State one hundred and eighty days after the State gives notice to the Secretary that it intends to terminate the Project;

(ii) by the Secretary one hundred and eighty days after the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section; or

(iii) whenever the State and the Secretary jointly agree to terminate the Project.

(15) Not more than six thousand families may participate in the Project simultaneously.

(c) Additional terms and conditions of Project

The Project shall be subject to the following additional terms and conditions:

(1) The State may require any parent in a participating family to participate in education, employment, or training requirements unless the individual is a parent in a family with one parent who—

(A) is ill, incapacitated, or sixty years of age or older;

(B) is needed in the home because of the illness or incapacity of another family member;

(C) is the parent of a child under one year of age and is personally providing care for the child;

(D) is the parent of a child under six years of age and is employed or participating in education or employment and training services for twenty or more hours a week;

(E) works thirty or more hours a week or, if the number of hours worked cannot be verified, earns at least the Federal minimum hourly wage rate multiplied by thirty per week; or

(F) is in the second or third trimester of pregnancy.

(2) The State shall not require any parent of a child under six years of age in a participating family with only one parent to be employed or participate in education or employment and training services for more than twenty hours a week.

(3) For any period during which an individual required to participate in education, employment, or training requirements fails to comply without good cause with a requirement imposed by the State under paragraph (1), the amount of assistance to the family under the Project may be reduced by an amount not more than 10 percent of the assistance the family would be eligible for with no income other than that from the Project.

(d) Funding

(1) If an application submitted under subsection (a) of this section complies with the requirements specified in subsection (b) of this section, then the Secretary shall—

(A) approve such application; and

(B) subject to subsection (b)(12) of this section from the funds appropriated under this chapter provide grant awards and pay the State each calendar quarter for—

(i) the cost of food assistance provided under the Project equal to the amount that would have otherwise been issued in the form of coupons under the food stamp program had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and

(ii) the administrative costs incurred by the State to provide food assistance under the Project that are authorized under subsections (a), (g), (h)(2), and (h)(3) of section 2025 of this title equal to the amount that otherwise would have been paid under such subsections had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State: *Provided*, That payments made under subsection (g) of section 2025 of this title shall equal payments that would have been made if the Project had not been implemented.

(2) The Secretary shall periodically adjust payments made to the State under paragraph (1) to reflect—

(A) the cost of coupons issued to individuals ineligible for the Project specified in subsection (b)(3)(E) of this section in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and

(B) the cost of coupons issued to families exercising the option specified in subsection (b)(3)(D)(iii) of this section in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State.

(3) Payments under paragraph (1)(B) shall include adjustments, as estimated under a methodology satisfactory to the Secretary after negotiations with the State, for increases or decreases in the costs of providing food assistance and associated administrative costs that result from changes in economic, demographic, or other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by this chapter, and changes in or additional amounts of Federal funds available to States and localities under the food stamp program.

(e) Waiver

With respect to the Project, the Secretary shall waive compliance with any requirement contained in this chapter (other than this section) that, if applied, would prevent the State from carrying out the Project or effectively achieving its purpose.

(f) Project audits

The Comptroller General of the United States shall—

(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (d) of this section; and

(2) submit to the Secretary, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

(g) Construction

(1) For purposes of any Federal, State, or local law other than part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] or this chapter—

(A) cash assistance provided under the Project that is designated as food assistance by the State shall be treated in the same manner as coupon allotments under the food stamp program are treated; and

(B) participating families shall be treated in the same manner as participants in the food stamp program are treated.

(2) Nothing in this section shall—

(A) allow payments made to the State under the Project to be less than the amounts the State and eligible households within the State would have received if the Project had not been implemented; or

(B) require the Secretary to incur costs as a result of the Project in excess of costs that would have been incurred if the Project had not been implemented, except for costs for evaluation.

(h) Quality control

Participating families shall be excluded from any sample taken for purposes of making any determination under section 2025(c) of this title. For purposes of establishing the total value of allotments under section 2025(c)(1)(C) of this title, food coupons and the amount of federal liability for food assistance provided under the Project as limited by subsection (b)(12) of this section shall be treated as allotments issued under the food stamp program. Payments for ad-

ministrative costs incurred by the State shall be included for purposes of establishing the adjustment under section 2025(c)(1)(A) of this title.

(i) Evaluation

(1) The State shall develop and implement a plan for an independent evaluation designed to provide reliable information on Project impacts and implementation. The evaluation will include treatment and control groups and will include random assignment of families to treatment and control groups in an urban setting. The evaluation plan shall satisfy the evaluation concerns of the Secretary of Agriculture such as effects on benefits to participants, costs of the Project, payment accuracy, administrative consequences, any reduction in welfare dependency, any reduction in total assistance payments, and the consequences of cash payments on household expenditures, and food consumption. The evaluation plan shall take into consideration the evaluation requirements and administrative obligations of the State. The evaluation will measure the effects of the Project in regard to goals of increasing family income, prevention of long-term dependency, movement toward self-support, and simplification of the welfare system.

(2) The State shall pay 50 percent of the cost of developing and implementing such plan and the Federal Government shall pay the remainder.

(j) Definitions

For purposes of this section, the following definitions apply:

(1) The term ''family'' means the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver. Family also includes a pregnant woman in the third trimester of pregnancy with no children.

(2) The term ''contract'' means a plan to help a family pursue self-sufficiency, based on the State's assessment of the family's needs and abilities and developed with a parental caregiver.

(3) The term ''caregiver'' means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for the Project, ''caregiver'' also means any of the following individuals who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of ''great'' or ''great-great'' or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

(4) The term ''State'' means the State of Minnesota.

(Pub. L. 88–525, § 22, as added Pub. L. 101–202, Dec. 6, 1989, 103 Stat. 1796; amended Pub. L. 102–237, title IX, § 941(11), Dec. 13, 1991, 105 Stat. 1893.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a), (b)(2), (3)(A), (B)(ii), (iii), (C)(ii), (iii), (5), (7), and (g)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Part F of title IV of the Act was classified generally to part F (§ 681 et seq.) of subchapter IV of chapter 7 of Title 42, prior to repeal by Pub. L. 104–193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 482 of the Social Security Act, referred to in subsec. (b)(11), was classified to section 682 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 104–193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167.

AMENDMENTS

1991—Pub. L. 102–237, § 941(11)(A), inserted section catchline.

Subsec. (d)(2)(B). Pub. L. 102–237, § 941(11)(B), substituted ''subsection (b)(3)(D)(iii)'' for ''paragraph (b)(3)(D)(iii)''.

Subsec. (h). Pub. L. 102–237, § 941(11)(C), substituted ''subsection (b)(12)'' for ''subsection b(12)''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 2032. Automated data processing and information retrieval systems

(a) Standards and procedures for reviews

(1) Initial reviews

(A) In general

Not later than 1 year after November 28, 1990, the Secretary shall complete a review of regulations and standards (in effect on November 28, 1990) for the approval of an automated data processing and information retrieval system maintained by a State (hereinafter in this section referred to as a ''system'') to determine the extent to which the regulations and standards contribute to a more effective and efficient program.

(B) Revision of regulations

The Secretary shall revise regulations (in effect on November 28, 1990) to take into account the findings of the review conducted under subparagraph (A).

(C) Incorporation of existing systems

The regulations shall require States to incorporate all or part of systems in use elsewhere, unless a State documents that the design and operation of an alternative system would be less costly. The Secretary shall establish standards to define the extent of modification of the systems for which payments will be made under either section 2025(a) or 2025(g) of this title.

(D) Implementation

Proposed systems shall meet standards established by the Secretary for timely implementation of proper changes.

(E) Cost effectiveness

Criteria for the approval of a system under section 2025(g) of this title shall include the cost effectiveness of the proposed system. On

implementation of the approved system, a State shall document the actual cost and benefits of the system.

(2) Operational reviews

The Secretary shall conduct such reviews as are necessary to ensure that systems—

(A) comply with conditions of initial funding approvals; and

(B) adequately support program delivery in compliance with this chapter and regulations issued under this chapter.

(b) Standards for approval of systems

(1) In general

After conducting the review required under subsection (a) of this section, the Secretary shall establish standards for approval of systems.

(2) Implementation

A State shall implement the standards established by the Secretary within a reasonable period of time, as determined by the Secretary.

(3) Periodic compliance reviews

The Secretary shall conduct appropriate periodic reviews of systems to ensure compliance with the standards established by the Secretary.

(c) Report

Not later than October 1, 1993, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which State agencies have developed and are operating effective systems that support food stamp program delivery in compliance with this chapter and regulations issued under this chapter.

(Pub. L. 88–525, § 23, as added Pub. L. 101–624, title XVII, § 1763(a), Nov. 28, 1990, 104 Stat. 3805.)

CODIFICATION

November 28, 1990, referred to in subsec. (a)(1)(B), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 101–624, which enacted this section, to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2020 of this title.

§ 2033. Territory of American Samoa

Effective October 1, 1995, from amounts made available to carry out this chapter, the Secretary shall pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 1469d(c) of title 48.

(Pub. L. 88–525, § 24, as added Pub. L. 104–127, title IV, § 401(g), Apr. 4, 1996, 110 Stat. 1027.)

§ 2034. Assistance for community food projects

(a) "Community food projects" defined

In this section, the term ''community food project'' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

(1) meet the food needs of low-income people;

(2) increase the self-reliance of communities in providing for their own food needs; and

(3) promote comprehensive responses to local food, farm, and nutrition issues.

(b) Authority to provide assistance

(1) In general

From amounts made available to carry out this chapter, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

(2) Limitation on grants

The total amount of funds provided as grants under this section may not exceed—

(A) $1,000,000 for fiscal year 1996; and

(B) $2,500,000 for each of fiscal years 1997 through 2002.

(c) Eligible entities

To be eligible for a grant under subsection (b) of this section, a private nonprofit entity must—

(1) have experience in the area of—

(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

(B) job training and business development activities for food-related activities in low-income communities;

(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

(d) Preference for certain projects

In selecting community food projects to receive assistance under subsection (b) of this section, the Secretary shall give a preference to projects designed to—

(1) develop linkages between 2 or more sectors of the food system;

(2) support the development of entrepreneurial projects;

(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

(4) encourage long-term planning activities and multi-system, interagency approaches.

(e) Matching funds requirements

(1) Requirements

The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) of this section may not exceed 50 percent of the cost of the project during the term of the grant.

(2) Calculation

In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in

kind, fairly evaluated, including facilities, equipment, or services.

(3) Sources

An entity may provide for the non-Federal share through State government, local government, or private sources.

(f) Term of grant

(1) Single grant

A community food project may be supported by only a single grant under subsection (b) of this section.

(2) Term

The term of a grant under subsection (b) of this section may not exceed 3 years.

(g) Technical assistance and related information

(1) Technical assistance

In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

(2) Sharing information

(A) In general

The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

(B) Other interested parties

The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

(h) Evaluation

(1) In general

The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

(2) Report

Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.

(Pub. L. 88–525, § 25, as added Pub. L. 104–127, title IV, § 401(h), Apr. 4, 1996, 110 Stat. 1027.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3315 of this title.

§ 2035. Simplified Food Stamp Program

(a) "Federal costs" defined

In this section, the term ''Federal costs'' does not include any Federal costs incurred under section 2026 of this title.

(b) Election

Subject to subsection (d) of this section, a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a ''Program''), statewide or in a political subdivision of the State, in accordance with this section.

(c) Operation of Program

If a State elects to carry out a Program, within the State or a political subdivision of the State—

(1) a household in which no members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may not participate in the Program;

(2) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program;

(3) if approved by the Secretary, a household in which 1 or more members but not all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be eligible to participate in the Program; and

(4) subject to subsection (f) of this section, benefits under the Program shall be determined under rules and procedures established by the State under—

(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) the food stamp program; or

(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program.

(d) Approval of Program

(1) State plan

A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

(2) Approval of plan

The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

(A) complies with this section; and

(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

(e) Increased Federal costs

(1) Determination

(A) In general

The Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this chapter.

(B) No excluded households

In making a determination under subparagraph (A), the Secretary shall not require the State agency to collect or report any information on households not included in the Program.

(C) Alternative accounting periods

The Secretary may approve the request of a State agency to apply alternative accounting periods to determine if Federal costs do not exceed the Federal costs had the State agency not elected to carry out the Program.

(2) Notification

If the Secretary determines that the Program has increased Federal costs under this chapter for any fiscal year or any portion of

any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

(3) Enforcement

(A) Corrective action

Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this chapter.

(B) Termination

If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

(f) Rules and procedures

(1) In general

In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

(2) Standardized deductions

In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 2014(e) of this title. In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

(3) Requirements

In operating a Program, a State or political subdivision shall comply with the requirements of—

(A) subsections (a) through (g) of section 2016 of this title;

(B) section 2017(a) of this title (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

(C) subsection[1] (b) and (d) of section 2017 of this title;

(D) subsections (a), (c), (d), and (n) of section 2020 of this title;

(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 2020(e) of this title;

(F) section 2020(e)(10) of this title (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(G) section 2025 of this title.

(4) Limitation on eligibility

Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.

(Pub. L. 88–525, § 26, as added Pub. L. 104–193, title VIII, § 854(a), Aug. 22, 1996, 110 Stat. 2340.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c) and (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2020, 2026 of this title.

§ 2036. Availability of commodities for emergency food assistance program

(a) Purchase of commodities

From amounts made available to carry out this chapter, for each of fiscal years 1997 through 2002, the Secretary shall purchase $100,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 612c of this title and distribute the commodities to States for distribution in accordance with section 7515 of this title.

(b) Basis for commodity purchases

In purchasing commodities under subsection (a) of this section, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) preferences and needs of States and distributing agencies; and

(3) preferences of recipients.

(Pub. L. 88–525, § 27, as added Pub. L. 104–193, title VIII, § 871(g), Aug. 22, 1996, 110 Stat. 2346.)

CHAPTER 52—FARM LABOR CONTRACTOR REGISTRATION

§§ 2041 to 2055. Repealed. Pub. L. 97–470, title V, § 523, Jan. 14, 1983, 96 Stat. 2600

Subject matter of former sections 2041 to 2055 of this title is covered by Migrant and Seasonal Agricultural Worker Protection Act, chapter 20 (sections 1801 et seq.) of Title 29, Labor, as follows:

Former Sections	*Title 29 Sections*
2041	1801
2042(a)	1802(9)
2042(b)	1802(7)
2042(b)(1)	1803(a)((3)(C)
2042(b)(2)	1803(a)(1)
2042(b)(3)	1803(a)(3)(I)
2042(b)(4)	1803(a)(3)(D)
2042(b)(5)	1802(8)(B)(ii), (10)(B)(iii)
2042(b)(6)	1812 open. par.
2042(b)(7)	1803(a)(3)(A), (I)
2042(b)(8), (9)	1803(a)(3)(E), (F)
2042(b)10)	1803(a)(3)(G)(i)
2042(c)	1802(7)
2042(d), (e), (f)	1802(3), (11), (12)
2042(g)	1802(8)(A)
2043(a)	1811(a), (c)
2043(b)	See 1811(b)

[1] So in original. Probably should be ''subsections''.

Former Sections	*Title 29 Sections*
2043(c)	1842
2043(d)	1811(d)
2044(a)(1)	1812(1)
2044(a)(2)	See 1841(b)(1)(C), (3), (c)(2)
2044(a)(3)	1812(4)
2044(a)(4)	1812(2), (3)
2044(a)(5)	1812(5)
2044(b)(1)	1813(a)(1)
2044(b)(2)	1821(f), 1831(e)
2044(b)(3), (4)	1822(c), 1832(c)
2044(b)(4)	1822(c), 1832(c)
2044(b)(5)	See 1841(b)(1)(C), (3), (c)(2)
2044(b)(6)	1816(a)
2044(b)(7)	1813(a)(5)
2044(b)(8)	1841(b)(2)(C), (D), (3)
2044(b)(9)	See 1811(b)
2044(b)(10)	1813(a)(3)
2044(b)(11)	1813(a)(2)
2044(b)(12)	See 1812(2), (3)
2044(c)	1814(a), (b)(1)
2044(d)	1812(2), (3), 1815(1), 1842
2045(a)	1811(c), (d)
2045(b)	1821(a), (g), 1831(a), (f)
2045(b)(1)	1821(a)(1), 1831(a)(1)(A)
2045(b)(2)	1821(a)(3), 1831(a)(1)(C)
2045(b)(3)	1821(a)(5), 1831(a)(1)(E)
2045(b)(4)	1821(a)(2), 1831(a)(1)(B)
2045(b)(5)	1821(a)(5), 1831(a)(1)(E)
2045(b)(6)	1821(a)(4), 1831(a)(1)(D)
2045(b)(7)	1821(a)(6), 1831(a)(1)(F)
2045(b)(8)	1821(a)(7), 1831(a)(1)(G)
2045(c)	1821(b), 1831(b)
2045(d)	1821(c)
2045(e)	1821(d), (e), (g), 1831(c), (d), (f)
2045(f)	1816(a)
2045(g)	1822(a), 1832(a)
2045(h)	1822(b), 1832(b)
2046	1862(a), (b)
2047	1863(a)
2048(a)	1851(a)
2048(b)(1), (2)	1853(a)(1), (b)(1)
2048(b)(3)–(5)	1853(c)–(e)
2048(c)	1851(b)
2049	See 1861
2050	1813(c)
2050a(a)	1854(a)
2050a(b)	1854(b), (c)(1), (3)
2050a(c)	1852(a)
2050a(d)	1852(b)
2050b	1855
2050c	See 1821, 1831
2051	1871
2052	Omitted
2053	1861
2054	1856
2055	Omitted

Section 2041, Pub. L. 88–582, §2, Sept. 7, 1964, 78 Stat. 920; Pub. L. 93–518, §11(d), Dec. 7, 1974, 88 Stat. 1656, declared congressional policy for enactment of Farm Labor Contractor Registration Act of 1963.

Section 2042, Pub. L. 88–582, §3, Sept. 7, 1964, 78 Stat. 920; Pub. L. 93–518, §§2, 3, Dec. 7, 1974, 88 Stat. 1652, 1653; Pub. L. 94–259, §2, Apr. 5, 1976, 90 Stat. 314; Pub. L. 94–561, §6, Oct. 19, 1976, 90 Stat. 2644; Pub. L. 95–562, §4, Oct. 25, 1978, 92 Stat. 2382, defined terms used in Farm Labor Contractor Registration Act of 1963.

Section 2043, Pub. L. 88–582, §4, Sept. 7, 1964, 78 Stat. 921; Pub. L. 93–518, §4, Dec. 7, 1974, 88 Stat. 1653, related to certificates of registration, regular employees of farm contractors, and period of denial of Federal Employment Service.

Section 2044, Pub. L. 88–582, §5, Sept. 7, 1964, 78 Stat. 921; Pub. L. 93–518, §§5–8, Dec. 7, 1974, 88 Stat. 1653–1655, provided for issuance of certificates of registration, covering in: subsec. (a), persons qualified; subsec. (b), refusal to issue certificates, suspension, revocation, and refusal to renew; subsec. (c), transfer or assignment of certificates, period of effectiveness, and renewal; and subsec. (d), change of address notice, public central registry, and documentation of vehicles for transportation and real property for housing of migrant workers.

Section 2045, Pub. L. 88–582, §6, Sept. 7, 1964, 78 Stat. 922; Pub. L. 93–518, §§9, 10, 11(a)–(c), Dec. 7, 1974, 88 Stat. 1655, 1656, related to obligations and prohibitions.

Section 2046, Pub. L. 88–582, §7, Sept. 7, 1964, 78 Stat. 923; Pub. L. 93–518, §12, Dec. 7, 1974, 88 Stat. 1656, provided for authorization to obtain information, hearings or investigations, subpenas, oaths or affirmations, evidence, application of sections 49 and 50 of title 15, identity confidentiality, and purpose of enforcement.

Section 2047, Pub. L. 88–582, §8, Sept. 7, 1964, 78 Stat. 923, authorized Secretary to enter into agreements with Federal and State agencies.

Section 2048, Pub. L. 88–582, §9, Sept. 7, 1964, 78 Stat. 924; Pub. L. 93–518, §13, Dec. 7, 1974, 88 Stat. 1656, related to penalties, covering in: subsec. (a), criminal penalties for violation of chapter, preparation of an annual report, and inclusion of enforcement activities; subsec. (b), civil penalties for violation of chapter or regulations, separate violations, assessment procedures, notice and hearing, agency and judicial review, substantial evidence, actions for recovery of assessments, finality of orders, and payment of collections into the Treasury; and subsec. (c), criminal penalties for section 2045(f) violations, including regulations, respecting failure to obtain, suspension, or revocation of certificates of registration.

Section 2049, Pub. L. 88–582, §10, Sept. 7, 1964, 78 Stat. 924, provided for applicability of Administrative Procedure Act.

Section 2050, Pub. L. 88–582, §11, Sept. 7, 1964, 78 Stat. 924, provided for judicial review of agency determinations and finality of judgment.

Section 2050a, Pub. L. 88–582, §12, as added Pub. L. 93–518, §14(a), Dec. 7, 1974, 88 Stat. 1657, provided, for civil relief, covering in: subsec. (a), Federal court jurisdiction; subsec. (b), representation of complainant, damages, and appeals; subsec. (c), injunctions; and subsec. (d), Solicitor of Labor representation of Secretary, and direction and control of Attorney General.

Section 2050b, Pub. L. 88–582, §13, as added Pub. L. 93–518, §14(a), Dec. 7, 1974, 88 Stat. 1658, provided for discrimination prohibition, limitations, investigations, appropriate civil relief, and back pay or damages.

Section 2050c, Pub. L. 88–582, §14, as added Pub. L. 93–518, §14(a), Dec. 7, 1974, 88 Stat. 1658, related to recordkeeping.

Section 2051, Pub. L. 88–582, §15, formerly §12, Sept. 7, 1964, 78 Stat. 924, renumbered Pub. L. 93–518, §14(a), Dec. 7, 1974, 88 Stat. 1657, required compliance with State laws and regulations.

Section 2052, Pub. L. 88–582, §16, formerly §13, Sept. 7, 1964, 78 Stat. 924, renumbered Pub. L. 93–518, §14(a), Dec. 7, 1974, 88 Stat. 1657, provided for separability of provisions.

Section 2053, Pub. L. 88–582, §17, formerly §14, Sept. 7, 1964, 78 Stat. 924, renumbered and amended Pub. L. 93–518, §§14(a), 16, Dec. 7, 1974, 88 Stat. 1657, 1659, authorized issuance of rules and regulations.

Section 2054, Pub. L. 88–582, §18, as added Pub. L. 93–518, §15, Dec. 7, 1974, 88 Stat. 1658, related to waiver of rights.

Section 2055, Pub. L. 88–582, §19, as added Pub. L. 93–518, §15, Dec. 7, 1974, 88 Stat. 1659, provided for authorization of appropriations.

Effective Date of Repeal

Repeal effective 90 days from Jan. 14, 1983, see section 524 of Pub. L. 97–470, set out as an Effective Date note under section 1801 of Title 29, Labor.

Effective Date

Section 523 of Pub. L. 97–470 repealed section 15 of Pub. L. 88–582, Sept. 7, 1964, 78 Stat. 924, which had prescribed Jan. 1, 1965, as the effective date for this chapter.

Short Title of 1974 Amendment

Section 1(a) of Pub. L. 93–518, Dec. 7, 1974, 88 Stat. 1652, which had enacted sections 2050a to 2050c, 2054, and 2055 and amended sections 2041 to 2046, 2048, and 2053 of this title, had provided for citation of such amendments as the ''Farm Labor Contractor Registration Act Amendments of 1974''.

Short Title

Section 523 of Pub. L. 97–470 repealed section 1 of Pub. L. 88–582, Sept. 7, 1964, 78 Stat. 920, which had provided for citation of this chapter as the ''Farm Labor Contractor Registration Act of 1963''.

CHAPTER 53—COTTON RESEARCH AND PROMOTION

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2118. Authorization of appropriations.
2119. Repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 2101. Congressional declaration of policy

Cotton is the basic natural fiber of the Nation. It is produced by many individual cottongrowers throughout the various cotton-producing States of the Nation and also outside the United States. Cotton moves in the channels of interstate and foreign commerce and such cotton which does not move in such channels directly burdens or affects interstate commerce in cotton and cotton products. The efficient production of cotton and the maintenance and expansion of existing markets and the development of new or improved markets and uses is vital to the welfare of cottongrowers and those concerned with marketing, using, and processing cotton as well as the general economy of the Nation. The great inroads on the market and uses for cotton which have been made by manmade fibers have been largely the result of extensive research and promotion which have not been effectively matched by cotton research and promotion. The production and marketing of cotton by numerous individual farmers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary to the maintenance and improvement of the competitive position of, and markets for, cotton. Without an effective and coordinated method for assuring cooperative and collective action in providing for, and financing such programs, individual cotton farmers are unable adequately to provide or obtain the research and promotion necessary to maintain and improve markets for cotton.

It has long been found to be in the public interest to have, or endeavor to have, a reasonable balance between the supply of and demand for cotton grown in this country. To serve this public interest the Congress has provided for the comprehensive exercise of regulatory authority in regulating the handling of such cotton supplemented by price-support programs with the objective of adjusting supply to demand in the interest of benefiting producers and all others concerned with the production and handling of cotton as well as the general economy of the country. In order for the objective of such programs to be effectuated to the fullest degree, it is necessary that the existing regulation of marketing be supplemented by providing as part of the overall governmental program for effectuating this objective, means of increasing the demand for cotton with the view of eventually reducing or eliminating the need for limiting marketings and supporting the price of cotton.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential in the public interest through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development, financing through adequate assessments on all cotton marketed in the United States and on imports of cotton, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton.

(Pub. L. 89–502, § 2, July 13, 1966, 80 Stat. 279; Pub. L. 101–624, title XIX, § 1991, Nov. 28, 1990, 104 Stat. 3909.)

AMENDMENTS

1990—Pub. L. 101–624, in first undesignated par., inserted ''and also outside the United States'', struck out ''in large part'' before ''in the channels of interstate'', ''All cotton produced in the United States is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in cotton and cotton products.'' before ''The efficient production'', and ''In the years since World War II, United States cotton and the products thereof have been confronted with intensive competition, both at home and abroad, from foreign-grown cotton and from other fibers, primarily manmade fibers.'' after ''economy of the Nation.'', and substituted ''The great inroads on the market and uses for'' for ''The great inroads on the market and uses for United States'' and, in third undesignated par., substituted ''marketed'' for ''harvested'' and inserted ''and on imports of cotton''.

EFFECTIVE DATE

Section 20 of Pub. L. 89–502 provided that: ''This Act [enacting this chapter] shall take effect upon enactment [July 13, 1966]''.

SHORT TITLE OF 1990 AMENDMENT

Section 1990 of Pub. L. 101–624 provided that: ''This subtitle [subtitle G (§§ 1990–1998) of title XIX of Pub. L. 101–624, amending this section and sections 2106 to 2110 and 2116 of this title, and enacting provisions set out below] may be cited as the 'Cotton Research and Promotion Act Amendments of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 89–502 provided: ''That this Act [enacting this chapter] shall be known as the 'Cotton Research and Promotion Act'.''

REPORTS ON IMPLEMENTATION AND ENFORCEMENT OF COTTON RESEARCH AND PROMOTION PROGRAM

Section 1998 of title XIX of Pub. L. 101–624, as amended by Pub. L. 102–237, title VIII, § 808(b), Dec. 13, 1991, 105 Stat. 1883, provided that:

''(a) IN GENERAL.—Not later than 1 year after the date on which imports are subject to assessments under this subtitle [see Short Title of 1990 Amendment note above]—

''(1) the Secretary of Agriculture shall prepare a report concerning the implementation and enforcement of the cotton research and promotion program, and any problems that may have arisen in the implementation and enforcement of such program; and

''(2) the Customs Service shall, if on such date it has any role in the implementation or enforcement of such assessments, prepare a report concerning such implementation and enforcement as it relates to imports.

''(b) COMPTROLLER GENERAL REPORT.—Not prior to the date that occurs 3 years after the date on which imports are subject to assessments under this subtitle, the Comptroller General shall prepare a report concerning the administration of the cotton research and promotion program as it relates to such imports. Such report shall be submitted not later than 6 months after such date, and include an analysis of—

''(1) the growth in the United States market for cotton and cotton products, with particular attention provided to the period of time subsequent to the imposition of assessments on such imports;

''(2) the extent to which import restrictions, such as quotas, on imports of cotton and cotton-containing products have permitted or prevented importers from benefiting from any such growth in the United States market; and

''(3) the relevant United States international obligations applicable under trade agreements that relate to the assessments on imports of cotton and cotton products under this subtitle.

''(c) SUBMISSION.—The reports required under subsections (a) and (b) shall be submitted to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate not later than the applicable dates referred to in such subsections.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.''

§ 2102. Orders of Secretary to cotton handlers

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the harvesting, marketing, ginning, or other handling of cotton, hereinafter referred to as handlers. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 89–502, § 3, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2116 of this title.

§ 2103. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any cotton producer organization certified pursuant to section 2113 of this title or by any other interested person or persons, including the Secretary.

(Pub. L. 89–502, § 4, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2104, 2107, 2113 of this title.

§ 2104. Finding and issuance of orders

After notice and opportunity for hearing as provided in section 2103 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 89–502, § 5, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2107 of this title.

§ 2105. Permissive terms and conditions in orders

Orders issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2106 of this title, no others.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising and sales promotion of cotton and its products and for the disbursement of necessary funds for such purposes: *Provided*, *however*, That any such plan or project shall be directed toward increasing the general demand for cotton or its products but no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cotton products of other persons: *And provided further*, That no such advertising or sales promotion programs shall make use of false or unwarranted claims in behalf of cotton or its products or false or unwarranted statements with respect to the quality, value, or use of any competing product.

(b) Providing for establishing and carrying on research and development projects and studies with respect to the production, ginning, processing, distribution, or utilization of cotton and its products, to the end that the marketing and utilization of cotton may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(c) Providing that handlers or any class of handlers maintain and make available for inspection such books and records as may be required by the order and for the filing of reports by such handlers at the times, in the manner, and having the content prescribed by the order,

to the end that information and data shall be made available to the Cotton Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any order or regulation issued pursuant to this chapter: *Provided, however*, That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers subject to an order, which statements do not identify the information furnished by any person, or (2) the publication by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 89–502, § 6, July 13, 1966, 80 Stat. 280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2106, 2116 of this title.

§ 2106. Required terms and conditions in orders

Orders issued pursuant to this chapter shall contain the following terms and conditions:

(a) Providing for the establishment and selection by the Secretary, of a Cotton Board, and defining its powers and duties, which shall include only the powers:

(1) To administer such order in accordance with its terms and provisions;

(2) To make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting the assessment;

(3) To receive, investigate, and report to the Secretary complaints of violations of such order; and

(4) To recommend to the Secretary amendments to such order.

(b) Providing that the Cotton Board shall be composed of (1) representatives of cotton producers selected by the Secretary, from nominations submitted by eligible producer organizations within a cotton-producing State, as certified pursuant to section 2113 of this title, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States, and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this chapter. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing importers, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

(c) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Cotton Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

(e)(1) Providing that—

(A) the producer or other person for whom the cotton is being handled shall pay to the handler of such cotton designated by the Cotton Board pursuant to regulations issued under the order;

(B) such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment prescribed by the order, on the basis of bales of cotton handled or imported. The assessment shall cover such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary.

(2) The order shall provide for reimbursing the Secretary—

(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 2107 of this title; and

(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.

There shall also be included in the order a provision for reimbursing any agency of the Federal Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

(3) To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers or classes of handlers or importers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection.

(4) The rate of assessment prescribed by the order shall be $1 per bale of cotton handled, supplemented by an additional per bale amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary. The rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment per bale of cotton handled, and the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner. The Secretary shall establish procedures to ensure that the upland cotton content of imported products is not subject to more than one assessment under this chapter.

(5) No authority under this chapter may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this chapter.

(6) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy. The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(7) The provisions of this subsection and subsection (b) of this section shall not apply to cottonseed and the products derived from cottonseed whether domestically produced or imported.

(8) The provisions of this subsection relating to importers and assessments on imports of cotton shall be effective only if approved in a referendum as provided in section 2107(b) or 2107(c) of this title.

(f) Providing that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for the development and carrying out of the activities authorized under the order pursuant to sections 2105(a) and (b) of this title and for the payment of the costs thereof with funds collected pursuant to the order, with an organization or association whose governing body consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 2113 of this title, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States, subject to adjustments to reflect lack of participation in the program by reason of refunds under section 2110 of this title. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Cotton Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(Pub. L. 89–502, §7, July 13, 1966, 80 Stat. 281; Pub. L. 94–366, §§2, 3, July 14, 1976, 90 Stat. 991, 992; Pub. L. 101–624, title XIX, §1992, Nov. 28, 1990, 104 Stat. 3909; Pub. L. 102–237, title VIII, §808(a)(1), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (e)(4). Pub. L. 102–237 made technical amendment to reference to this chapter to correct error in corresponding reference in original act.

1990—Subsec. (a)(2). Pub. L. 101–624, §1992(1), substituted ''person'' for ''handler'' and struck out ''producer'' before ''assessment''.

Subsec. (b). Pub. L. 101–624, §1992(2), inserted ''(1)'', and substituted '', and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this chapter. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing importers, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.'' for '': *Provided, however*, That each cotton-producing State shall be entitled to at least one representative on the Cotton Board. The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.''

Subsec. (e). Pub. L. 101–624, §1992(3), amended subsec. (e) generally, substituting present provisions for provisions relating to a producer-paid assessment at a rate of $1 per bale, with a possible per-bale supplement not to exceed 1 per centum of the value of the cotton, along with other provisions relating to use of assessment funds, referendums and procedures concerning any supplemental assessments, and judicial action to collect assessments.

1976—Subsec. (b). Pub. L. 94–366, §3, inserted provisions which authorized Secretary to appoint consumer advisors up to 15 per centum of the membership of the Cotton Board, and authorized reimbursing such advisors for expenses incurred in attending the Board meetings.

Subsec. (e). Pub. L. 94–366, § 2, inserted provisions authorizing reimbursement of the Secretary up to $200,000 for expenses incurred in conducting a referendum pursuant to section 2107 of this title and for administrative costs incurred by him for supervisory work up to five employee years after an order or an amendment to an order has been issued and made effective, inserted provisions authorizing assessment of a bale of cotton more than once if called for by a provision in this subsection, and inserted provisions authorizing Secretary to amend the rate order to supplement the rate in each marketing year by an additional per bale amount not to exceed 1 per centum of the value of the cotton as determined by the Cotton Board and the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 2113, 2116 of this title.

§ 2107. Referenda

(a) Referendum and cotton producer approval of orders

The Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum.

(b) Referendum on proposed amendment to order implementing provisions of 1990 amendments to this chapter

(1) Notwithstanding the provisions of sections 2103 and 2104 of this title, not later than 150 days after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990 [November 28, 1990], and after notice and opportunity for public comment, the Secretary shall issue a proposed amendment to the order implementing the provisions of such Act, which shall become effective as provided in paragraph (2).

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall, within a period not to exceed 8 months after November 28, 1990, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, and persons who are importers of cotton and who, during a 12-month period ending not later than 90 days prior to the conduct of the referendum under this section imported a quantity of cotton in excess of the de minimis quantity (if any) established by the Secretary under section 2116(c)(2) of this title, for the purpose of ascertaining if a majority of those voting approve the proposed amendment to the order issued by the Secretary under paragraph (1). The Secretary shall announce the results of the referendum within 30 days after the date of such referendum. If the amendment is approved in the referendum, within a period not to exceed 90 days from the date of announcement of the results of such referendum, the Secretary shall publish the amendment to the order and regulations implementing the amendment provided for in this subsection.

(c) Future referendums every five years or by request of cotton producers and importers

(1) Notwithstanding the provisions of sections 2103 and 2104 of this title, once every five years after the date of the referendum provided for under subsection (b) of this section, the Secretary shall conduct a review to ascertain whether a referendum is needed to determine whether producers and importers favor continuation of the amendment to the order provided for in the Cotton Research and Promotion Act Amendments of 1990 if such amendment is then in effect or, if such an amendment is not in effect, whether they favor approval of such amendment. The Secretary shall make a public announcement of the results of the review within 60 days after each fifth anniversary date of the referendum provided for under subsection (b) of this section. If the Secretary determines to provide for such a referendum, the Secretary shall conduct the referendum within 12 months after a public announcement of the determination to conduct the referendum.

(2) If the Secretary does not provide for such a referendum on the Secretary's own initiative, the Secretary shall conduct such a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that, in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton. Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service, or county extension agent, or by mailing such a request to the Secretary, as prescribed in regulations. The sign-up period shall be for a period not to exceed 90 days, shall commence 60 days after the Secretary makes a public announcement of a determination not to provide for a referendum on the Secretary's own initiative, and shall be publicized by the Secretary and the Cotton Board immediately after such public announcement. The referendum shall be held within 12 months after the end of the sign-up period, if requested by the requisite number of persons.

(3) The amendment to the order provided for in this subsection shall not be effective if it is disapproved by a majority of cotton producers and importers of cotton voting in the referendum.

(Pub. L. 89–502, § 8, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1993, Nov. 28, 1990, 104 Stat. 3911; Pub. L. 102–237, title VIII, § 808(a)(2), Dec. 13, 1991, 105 Stat. 1883.)

REFERENCES IN TEXT

The Cotton Research and Promotion Act Amendments of 1990, referred to in subsecs. (b)(1) and (c)(1), is subtitle G [§§ 1990–1998] of title XIX of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3909, which amended sections 2101, 2106 to 2110, and 2116 of this title and enacted provisions set out as notes under section 2101 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2101 of this title and Tables.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 made technical amendment to reference to section 2116(c)(2) of this title to correct error in corresponding reference in original act.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2106, 2109, 2110 of this title.

§ 2108. Suspension and termination of orders

(a) Discretionary suspension or termination by Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) Suspension or termination resulting from referendum with cotton producers and importers

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a number of producers and importers (if subject to the order) equivalent to at least 10 percent of those persons voting in the most recent referendum, to determine whether cotton producers and importers subject to the order favor the termination or suspension of the order, except that in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton (if subject to the order). The Secretary shall suspend or terminate the order at the end of the marketing year, as defined in the order, whenever the Secretary determines suspension or termination of the order is approved by a majority of producers and importers (subject to the order) voting in the referendum who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.

(c) Suspension or termination of any order not deemed order within meaning of this chapter

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 89–502, § 9, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1994, Nov. 28, 1990, 104 Stat. 3912.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cotton producers voting in the referendum approving the order, to determine whether cotton producers favor the termination or suspension of the order, and he shall suspend or terminate such order at the end of the marketing year, as defined in the order, whenever he determines that suspension or termination of the order is approved or favored by a majority of the producers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cotton, and who produced more than 50 per centum of the volume of the cotton produced by the cotton producers voting in the referendum.''

§ 2109. Provisions applicable to amendments

(a) Provisions applicable to amendments to orders

Except as provided in subsection (b) of this section, the provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(b) Approval of amendments by cotton producers and importers

No amendment to an order issued under this chapter shall be effective unless the Secretary determines that—

(1) with respect to an amendment referred to in subsection (b) or (c) of section 2107 of this title, the amendment is approved by producers and importers of cotton as provided in such section; or

(2) with respect to any other amendment, that the amendment is approved by a majority of cotton producers and importers subject to the order voting in the referendum.

(c) Disapproval of any amendment to order not deemed to invalidate such order

The disapproval of any amendment to an order issued under this chapter shall not be deemed to invalidate such order.

(Pub. L. 89–502, § 10, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1995, Nov. 28, 1990, 104 Stat. 3912; Pub. L. 102–237, title VIII, § 808(a)(3), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102–237 substituted ''subsection (b) or (c) of section 2107'' for ''section 2107(b) or 2107(c)''.

1990—Pub. L. 101–624 amended section generally. Prior to amendment, section read as follows: ''The provisions of this chapter applicable to orders shall be applicable to amendments to orders.''

§ 2110. Refund of producer assessments

(a) Notwithstanding any other section of this chapter and except as provided in subsection (b) of this section, any cotton producer against whose cotton any assessment is made and collected from him under the authority of this chapter and who is not in favor of supporting the research and promotion program as provided for herein shall have the right to demand and receive from the Cotton Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

(b) The right of a producer to demand a refund under subsection (a) of this section shall terminate if the proposed amendment of the order implementing the Cotton Research and Promotion

Amendments Act of 1990 is approved in the referendum provided for under section 2107 of this title. Such right shall terminate 30 days after the date the Secretary announces the results of such referendum if such proposed amendment is approved. Such right shall be reinstated if the amendment should be disapproved in any subsequent referendum.

(Pub. L. 89–502, § 11, July 13, 1966, 80 Stat. 283; Pub. L. 101–624, title XIX, § 1996, Nov. 28, 1990, 104 Stat. 3912; Pub. L. 102–237, title VIII, § 808(a)(4), Dec. 13, 1991, 105 Stat. 1883.)

REFERENCES IN TEXT

The Cotton Research and Promotion Amendments Act of 1990, referred to in subsec. (b), probably means the Cotton Research and Promotion Act Amendments of 1990, subtitle G [§§ 1990–1998] of title XIX of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3909, which amended sections 2101, 2106 to 2110, and 2116 of this title and enacted provisions set out as notes under section 2101 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2101 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 inserted ''of this chapter'' after ''any other section'' and struck out ''of this chapter,'' before ''any cotton producer''.

1990—Pub. L. 101–624 designated existing provisions as subsec. (a), substituted ''Notwithstanding any other section and except as provided in subsection (b) of this section,'' for ''Notwithstanding any other provision'', and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2106, 2116 of this title.

§ 2111. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2112(a) of this title.

(Pub. L. 89–502, § 12, July 13, 1966, 80 Stat. 284.)

§ 2112. Enforcement of orders; penalty for willful violation

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter.

(b) Any handler who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(Pub. L. 89–502, § 13, July 13, 1966, 80 Stat. 284.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2111 of this title.

§ 2113. Certification of cotton producer organizations

The eligibility of each cotton producer organization to represent cotton producers of a cotton producing State to request the issuance of an order under section 2103 of this title, and to participate in the making of nominations under section 2106(b) of this title shall be certified by the Secretary and shall be based in addition to other available information upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Geographic territory within the State covered by the organization's active membership;

(b) Nature and size of the organization's active membership in the State, proportion of total of such active membership accounted for by farmers, a map showing the cotton-producing counties in such State in which the organization has members, the volume of cotton produced in each such county, the number of cotton producers in each such county, and the size of the organization's active cotton producer membership in each such county;

(c) The extent to which the cotton producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of this chapter:

Provided, *however*, That the primary consideration in determining the eligibility of an organization shall be whether its cotton farmer membership consists of a sufficiently large number of the cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. The Secretary shall certify any cotton producer organization

which he finds to be eligible under this section, and his determination as to eligibility shall be final.

(Pub. L. 89–502, § 14, July 13, 1966, 80 Stat. 284.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2103, 2106 of this title.

§ 2114. Rules and regulations

The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 89–502, § 15, July 13, 1966, 80 Stat. 285.)

§ 2115. Investigations by Secretary; subpenas; oaths and affirmations; judicial aid

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether a handler or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or of any order, or rule or regulation issued under this chapter. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 89–502, § 16, July 13, 1966, 80 Stat. 285; Pub. L. 91–452, title II, § 206(a), Oct. 15, 1970, 84 Stat. 929.)

AMENDMENTS

1970—Pub. L. 91–452 struck out designation ''(a)'' preceding first sentence and struck out subsec. (b) which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 2116. Definitions

As used in this chapter:

(a) The term ''Secretary'' means the Secretary of Agriculture.

(b) The term ''person'' means any individual, partnership, corporation, association, or any other entity.

(c) The term ''cotton'' means (1) all upland cotton harvested in the United States, and, except as used in section 2106(e) of this title, includes cottonseed of such cotton and the products derived from such cotton and its seed and (2) imports of upland cotton including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary). The term ''cotton'' shall not, however, include any entry of imported cotton by an importer that has a value or weight less than any de minimis figure as established in accordance with regulations issued by the Secretary. Any de minimis figure as established under this paragraph shall be such as to minimize the burden in administering the assessment provision but still provide for the maximum participation of imports of cotton in the assessment provisions of this chapter.

(d) The term ''handler'' means any person who handles cotton or cottonseed or, for the purposes of sections 2102, 2105(c), and 2112 of this title, any person who imports cotton, including de minimis amounts of cotton described in subsection (c) of this section, in the manner specified in the order or in the rules and regulations issued thereunder.

(e) The term ''United States'' means the 50 States of the United States of America.

(f) The term ''cotton-producing State'' means any State in which the average annual production of cotton during the five years 1960–1964 was twenty thousand bales or more, except that any State producing cotton whose production during such period was less than such amount shall under regulations prescribed by the Secretary be combined with another State or States producing cotton in such manner that such average annual production of such combination of States totaled twenty thousand bales or more, and the term ''cotton-producing State'' shall include any such combination of States.

(g) The term ''marketing'' includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan.

(h)(1) The term ''importer'' means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States.

(2) The term ''import'' means any such entry.

(Pub. L. 89–502, § 17, July 13, 1966, 80 Stat. 286; Pub. L. 101–624, title XIX, § 1997, Nov. 28, 1990, 104 Stat. 3913.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–624, § 1997(1), designated existing provisions as cl. (1) and added cl. (2).

Subsec. (d). Pub. L. 101–624, § 1997(2), inserted ''or, for the purposes of sections 2102, 2105(c), and 2112 of this title, any person who imports cotton, including de minimis amounts of cotton described in subsection (c) of this section,'' after ''cottonseed''.

Subsec. (h). Pub. L. 101–624, § 1997(3), added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2107 of this title.

§ 2117. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 89–502, § 18, July 13, 1966, 80 Stat. 286.)

§ 2118. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for the payment of the expenses or expenditures of the Cotton Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 89–502, § 19, July 13, 1966, 80 Stat. 287.)

§ 2119. Repealed. Pub. L. 94–366, § 1, July 14, 1976, 90 Stat. 991

Section, Pub. L. 91–524, title VI, § 610, Nov. 30, 1970, 84 Stat. 1378; Pub. L. 93–86, § 1(23), Aug. 10, 1973, 87 Stat. 235, related to cotton development programs of the Commodity Credit Corporation, and funding for such programs.

EFFECTIVE DATE OF REPEAL

Section 1 of Pub. L. 94–366 provided that this section is repealed effective Oct. 1, 1977.

CHAPTER 54—TRANSPORTATION, SALE, AND HANDLING OF CERTAIN ANIMALS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 1374.

§ 2131. Congressional statement of policy

The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this chapter, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

(Pub. L. 89–544, § 1(b), formerly § 1, Aug. 24, 1966, 80 Stat. 350; Pub. L. 91–579, § 2, Dec. 24, 1970, 84 Stat. 1560; renumbered and amended Pub. L. 94–279, § 2, Apr. 22, 1976, 90 Stat. 417.)

AMENDMENTS

1976—Pub. L. 94–279 restated and expanded objectives of this chapter to include regulation of animals and activities in, or substantially affecting, interstate or foreign commerce in order to prevent and eliminate burdens on such commerce and to assure the humane treatment of animals during transportation.

1970—Pub. L. 91–579 restated objectives to include all animals as defined instead of only cats and dogs and expanded coverage to regulate animals intended for use for exhibition purposes or for use as pets.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–198, title XVII, § 1759, Dec. 23, 1985, 99 Stat. 1650, provided that: ''This subtitle [subtitle F (§§ 1751–1759), enacting section 2157 of this title, amending sections 2132, 2143 to 2146, and 2149 of this title, and enacting provisions set out as notes under this section] shall take effect 1 year after the date of the enactment of this Act [Dec. 23, 1985].''

EFFECTIVE DATE OF 1970 AMENDMENT

Section 23 of Pub. L. 91–579 provided that: ''The amendments made by this Act [enacting section 2155 of this title, amending this section and sections 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2149, and 2150 of this title, repealing section 2148 of this title, and enacting provisions set out as notes under this section] shall take effect one year after the date of enactment of this Act [Dec. 24, 1970], except for the amendments to sections 16, 17, 19, and 20 of the Act of August 24, 1966 [sections 2146, 2147, 2149, and 2150 of this title], which shall become effective thirty days after the date of enactment of this Act [Dec. 24, 1970]''.

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–279 provided: ''That this Act [enacting section 2156 of this title, amending this section, sections 2132, 2134, 2136, 2139 to 2146, 2149, 2153 to 2155 of this title, and section 3001 of Title 39, Postal Service, repealing section 2150 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Animal Welfare Act Amendments of 1976'.''

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–579 provided: ''That this Act [enacting section 2155 of this title, amending this section and sections 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2149, and 2150 of this title, repealing section 2148 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Animal Welfare Act of 1970'.''

SHORT TITLE

Section 1(a) of Pub. L. 89–544, as added by section 2 of Pub. L. 94–279, provided: ''That this Act [enacting this chapter] may be cited as the 'Animal Welfare Act'.''

CONGRESSIONAL FINDINGS FOR 1985 AMENDMENT

Pub. L. 99–198, title XVII, subtitle F (§§ 1751–1759), § 1751, Dec. 23, 1985, 99 Stat. 1645, provided that: ''For the purposes of this subtitle [see Effective Date of 1985 Amendment note above], the Congress finds that—

''(1) the use of animals is instrumental in certain research and education for advancing knowledge of cures and treatment for diseases and injuries which afflict both humans and animals;

''(2) methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;

''(3) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and

''(4) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress.''

EXTENDED DEFINITION OF ''ANIMAL''

Pub. L. 99–198, title XVII, 1756(b), Dec. 23, 1985, 99 Stat. 1650, provided that: ''For purposes of this Act [see

Tables for classification], the term 'animal' shall have the same meaning as defined in section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g))."

§ 2132. Definitions

When used in this chapter—

(a) The term "person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;

(b) The term "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture;

(c) The term "commerce" means trade, traffic, transportation, or other commerce—

(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

(d) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;

(e) The term "research facility" means any school (except an elementary or secondary school), institution, or organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided*, That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary, any such exemption does not vitiate the purpose of this chapter;

(f) The term "dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than $500 gross income from the sale of other animals during any calendar year;

(g) The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;

(h) The term "exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and country fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary;

(i) The term "intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce;

(j) The term "carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire;

(k) The term "Federal agency" means an Executive agency as such term is defined in section 105 of title 5, and with respect to any research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

(*l*) The term "Federal award for the conduct of research, experimentation, or testing, involving the use of animals" means any mechanism (including a grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research.[1]

(m) The term "quorum" means a majority of the Committee members;

(n) The term "Committee" means the Institutional Animal Committee established under section 2143(b) of this title; and

(*o*) The term "Federal research facility" means each department, agency, or instrumentality of the United States which uses live animals for research or experimentation.

(Pub. L. 89–544, §2, Aug. 24, 1966, 80 Stat. 350; Pub. L. 91–579, §3, Dec. 24, 1970, 84 Stat. 1560;

[1] So in original. The period probably should be a semicolon.

Pub. L. 94–279, §§3, 4, Apr. 22, 1976, 90 Stat. 417, 418; Pub. L. 99–198, title XVII, §1756(a), Dec. 23, 1985, 99 Stat. 1650.)

AMENDMENTS

1985—Subsecs. (k) to (*o*). Pub. L. 99–198 added subsecs. (k) to (*o*).

1976—Subsec. (c). Pub. L. 94–279, §3(1), made changes in phraseology, restructured subsection and expanded definition of ''commerce'' by making it applicable to any activity affecting interstate commerce.

Subsec. (d). Pub. L. 94–279, §3(1), substituted definition of ''State'' for definition of ''affecting commerce''.

Subsec. (e). Pub. L. 94–279, §3(2), substituted ''in commerce'' for ''affecting commerce''.

Subsec. (f). Pub. L. 94–279, §3(2), (3), made changes in phraseology, restructured subsection and expanded definition of ''dealer'' to include persons who negotiate the purchase or sale of protected animals.

Subsec. (g). Pub. L. 94–279, §3(4), expanded definition of ''animal'' to include dogs used for hunting, security, or breeding purposes.

Subsecs. (i), (j). Pub. L. 94–279, §4, added subsecs. (i) and (j).

1970—Subsec. (b). Pub. L. 91–579, §3(1), inserted ''of the United States or his representative who shall be an employee of the United States Department of Agriculture'' after ''Secretary of Agriculture''.

Subsec. (c). Pub. L. 91–579, §3(2), substituted ''trade, traffic, commerce, transportation among the several States, or between any State'' for ''commerce between any State''.

Subsec. (d). Pub. L. 91–579, §3(3), substituted definition of ''affecting commerce'' for definition of ''dog''.

Subsec. (e). Pub. L. 91–579, §3(3), struck out definition of ''cat'' and substituted for it a definition of ''research facility'' formerly set out in subsec. (f), and, in such definition as transferred from former subsec. (f), extended the term's meaning to include those using ''animals'' rather than only dogs and cats and allowed exemptions of schools, organizations, institutions, or persons which do not use live dogs or cats, with such exemption to be inapplicable in the case of schools, organizations, institutions, and persons in biomedical research using a substantial number of live animals.

Subsec. (f). Pub. L. 91–579, §3(3), substituted definition of ''dealer'' formerly contained in subsec. (g) for definition of ''research facility'' and in such definition of ''dealer'' as thus transferred inserted provisions extending meaning to include live or dead animals rather than only dogs and cats, adding teaching and exhibition purposes or uses as pets, and exempting retail pet stores unless such stores sell animals to a research facility, an exhibitor, or a dealer. Definition of ''research facility'' transferred to subsec. (e) and amended.

Subsec. (g). Pub. L. 91–579, §3(3), substituted definition of ''animal'' formerly contained in subsec. (h) for definition of ''dealer'' and in such definition of ''animal'' as thus transferred inserted stipulation ''live or dead'' to the species already covered, and inserted provisions to include such warm-blooded animals as may be determined by the Secretary but to exclude specific animals used for research, food and fiber, and the improvement of animal breeding, nutrition, management, or production efficiency. Definition of ''dealer'' transferred to subsec. (f) and amended.

Subsec. (h). Pub. L. 91–579, §3(3), substituted definition of ''exhibitor'' for definition of ''animal''. Definition of ''animal'' transferred to subsec. (g) and amended.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2133. Licensing of dealers and exhibitors

The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to 2153 of this title: *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 2143 of this title: *Provided, however*, That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this chapter. The Secretary is further authorized to license, as dealers or exhibitors, persons who do not qualify as dealers or exhibitors within the meaning of this chapter upon such persons' complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this chapter and the regulations promulgated by the Secretary hereunder.

(Pub. L. 89–544, §3, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, §4, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91–579 inserted references to exhibitors and retail pet stores.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2136, 2137, 2138, 2139, 2155 of this title.

§ 2134. Valid license for dealers and exhibitors required

No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, in commerce, to or from another dealer or exhibitor under this chapter any animals, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

(Pub. L. 89–544, §4, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, §5, Dec. 24, 1970, 84 Stat. 1561; Pub. L. 94–279, §5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 substituted ''in commerce'' for ''affecting commerce'' in two places.

1970—Pub. L. 91–579 inserted references to exhibitors, offers to sell, and offers to transport, and substituted references to animals for references to dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2135. Time period for disposal of dogs or cats by dealers or exhibitors

No dealer or exhibitor shall sell or otherwise dispose of any dog or cat within a period of five business days after the acquisition of such animal or within such other period as may be specified by the Secretary: *Provided*, That operators of auction sales subject to section 2142 of this title shall not be required to comply with the provisions of this section.

(Pub. L. 89–544, § 5, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 6, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91–579 inserted references to exhibitors and inserted proviso that operators of auction sales subject to section 2142 of this title shall not be required to comply with the provisions of this section.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2136. Registration of research facilities, handlers, carriers and unlicensed exhibitors

Every research facility, every intermediate handler, every carrier, and every exhibitor not licensed under section 2133 of this title shall register with the Secretary in accordance with such rules and regulations as he may prescribe.

(Pub. L. 89–544, § 6, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 7, Dec. 24, 1970, 84 Stat. 1561; Pub. L. 94–279, § 6, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 inserted ‘‘, every intermediate handler, every carrier,’’ after ‘‘research facility’’.

1970—Pub. L. 91–579 inserted reference to exhibitors not licensed under section 2133 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2137. Purchase of dogs or cats by research facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors

It shall be unlawful for any research facility to purchase any dog or cat from any person except an operator of an auction sale subject to section 2142 of this title or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this chapter unless such person is exempted from obtaining such license under section 2133 of this title.

(Pub. L. 89–544, § 7, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 8, Dec. 24, 1970, 84 Stat. 1561.)

AMENDMENTS

1970—Pub. L. 91–579 added licensed exhibitors and operators of auction sales subject to section 2142 of this title to the enumeration of persons from whom research facilities may purchase dogs or cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2138. Purchase of dogs or cats by United States Government facilities prohibited except from authorized operators of auction sales and licensed dealers or exhibitors

No department, agency, or instrumentality of the United States which uses animals for research or experimentation or exhibition shall purchase or otherwise acquire any dog or cat for such purposes from any person except an operator of an auction sale subject to section 2142 of this title or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this chapter unless such person is exempted from obtaining such license under section 2133 of this title.

(Pub. L. 89–544, § 8, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 9, Dec. 24, 1970, 84 Stat. 1562.)

AMENDMENTS

1970—Pub. L. 91–579 inserted reference to instrumentalities of the United States which use animals for exhibition and added operators of auction sales subject to section 2142 of this title and licensed exhibitors to the enumeration of persons from whom United States Government facilities may acquire dogs or cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2139. Principal-agent relationship established

When construing or enforcing the provisions of this chapter, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 2133 of this title, or an operator of an auction sale subject to section 2142 of this title, or an intermediate handler, or a carrier, within the scope of his employment or office, shall be deemed the act, omission, or failure of such research facility, dealer, exhibitor, licensee, operator of an auction sale, intermediate handler, or carrier, as well as of such person.

(Pub. L. 89–544, § 9, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 10, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94–279, § 7, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 inserted ‘‘or an intermediate handler, or a carrier,’’ after ‘‘section 2142 of this title,’’ and substituted ‘‘operator of an auction sale, intermediate handler, or carrier, as well as of such person.’’ for ‘‘or an operator of an auction sale as well as of such person.’’ after ‘‘research facility, dealer, exhibitor, licensee,’’.

1970—Pub. L. 91–579 inserted references to persons acting for or employed by exhibitors, persons licensed as exhibitors, and operators of auction sales subject to section 2142 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2140. Recordkeeping by dealers, exhibitors, research facilities, intermediate handlers, and carriers

Dealers and exhibitors shall make and retain for such reasonable period of time as the Sec-

retary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this chapter. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe. Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

(Pub. L. 89–544, § 10, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 11, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94–279, § 8, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 struck out '', upon forms supplied by the Secretary'' after ''ownership of animals as the Secretary may prescribe'' and inserted provisions dealing with the records required to be maintained by intermediate handlers and carriers relating to the transportation, receiving, handling and delivery of animals.

1970—Pub. L. 91–579 extended recordkeeping requirements to include exhibitors and to include animals, as defined, rather than only dogs and cats, except that research facilities shall continue to keep required records only for live dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2143, 2146, 2154 of this title.

§ 2141. Marking and identification of animals

All animals delivered for transportation, transported, purchased, or sold, in commerce, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided*, That only live dogs and cats need be so marked or identified by a research facility.

(Pub. L. 89–544, § 11, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 12, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94–279, § 5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 substituted ''in commerce'' for ''affecting commerce''.

1970—Pub. L. 91–579 applied marking and identification requirements to dealers and exhibitors for animals, as defined, instead of only to dogs and cats when movements are affecting commerce, but limited such requirements for research facilities to only live dogs and cats.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2142. Humane standards and recordkeeping requirements at auction sales

The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, in commerce, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, in commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 2153 of this title.

(Pub. L. 89–544, § 12, Aug. 24, 1966, 80 Stat. 351; Pub. L. 91–579, § 13, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94–279, § 5, Apr. 22, 1976, 90 Stat. 418.)

AMENDMENTS

1976—Pub. L. 94–279 substituted ''in commerce'' for ''affecting commerce'' in two places.

1970—Pub. L. 91–579 extended requirements for recordkeeping and humane standards to exhibitors and operators of auction sales, with such requirements to apply to animals as defined instead of only to cats and dogs when transactions in auction sales are affecting commerce, and required operators of auction sales to obtain a license when he sells cats or dogs and such transactions are affecting commerce, upon payment of fee prescribed by the Secretary.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2135, 2137, 2138, 2139, 2146, 2147, 2149, 2155 of this title.

§ 2143. Standards and certification process for humane handling, care, treatment, and transportation of animals

(a) Promulgation of standards, rules, regulations, and orders; requirements; research facilities; State authority

(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

(2) The standards described in paragraph (1) shall include minimum requirements—

(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

(B) for exercise of dogs, as determined by an attending veterinarian in accordance with general standards promulgated by the Secretary, and for a physical environment ade-

quate to promote the psychological well-being of primates.

(3) In addition to the requirements under paragraph (2), the standards described in paragraph (1) shall, with respect to animals in research facilities, include requirements—

(A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia;

(B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal;

(C) in any practice which could cause pain to animals—

(i) that a doctor of veterinary medicine is consulted in the planning of such procedures;

(ii) for the use of tranquilizers, analgesics, and anesthetics;

(iii) for pre-surgical and post-surgical care by laboratory workers, in accordance with established veterinary medical and nursing procedures;

(iv) against the use of paralytics without anesthesia; and

(v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time;

(D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in cases of—

(i) scientific necessity; or

(ii) other special circumstances as determined by the Secretary; and

(E) that exceptions to such standards may be made only when specified by research protocol and that any such exception shall be detailed and explained in a report outlined under paragraph (7) and filed with the Institutional Animal Committee.

(4) The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

(5) In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated.

(6)(A) Nothing in this chapter—

(i) except as provided in paragraphs[1] (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility as determined by such research facility;

(ii) except as provided[2] subparagraphs (A) and (C)(ii) through (v) of paragraph (3) and paragraph (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the performance of actual research or experimentation by a research facility as determined by such research facility; and

(iii) shall authorize the Secretary, during inspection, to interrupt the conduct of actual research or experimentation.

(B) No rule, regulation, order, or part of this chapter shall be construed to require a research facility to disclose publicly or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

(7)(A) The Secretary shall require each research facility to show upon inspection, and to report at least annually, that the provisions of this chapter are being followed and that professionally acceptable standards governing the care, treatment, and use of animals are being followed by the research facility during actual research or experimentation.

(B) In complying with subparagraph (A), such research facilities shall provide—

(i) information on procedures likely to produce pain or distress in any animal and assurances demonstrating that the principal investigator considered alternatives to those procedures;

(ii) assurances satisfactory to the Secretary that such facility is adhering to the standards described in this section; and

(iii) an explanation for any deviation from the standards promulgated under this section.

(8) Paragraph (1) shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).

(b) Research facility Committee; establishment, membership, functions, etc.

(1) The Secretary shall require that each research facility establish at least one Committee. Each Committee shall be appointed by the chief executive officer of each such research facility and shall be composed of not fewer than three members. Such members shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility and shall represent society's concerns regarding the welfare of animal subjects used at such facility. Of the members of the Committee—

(A) at least one member shall be a doctor of veterinary medicine;

(B) at least one member—

[1] So in original. Probably should be ''paragraph''.

[2] So in original. Probably should be followed by ''in''.

(i) shall not be affiliated in any way with such facility other than as a member of the Committee;

(ii) shall not be a member of the immediate family of a person who is affiliated with such facility; and

(iii) is intended to provide representation for general community interests in the proper care and treatment of animals; and

(C) in those cases where the Committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

(2) A quorum shall be required for all formal actions of the Committee, including inspections under paragraph (3).

(3) The Committee shall inspect at least semiannually all animal study areas and animal facilities of such research facility and review as part of the inspection—

(A) practices involving pain to animals, and

(B) the condition of animals,

to ensure compliance with the provisions of this chapter to minimize pain and distress to animals. Exceptions to the requirement of inspection of such study areas may be made by the Secretary if animals are studied in their natural environment and the study area is prohibitive to easy access.

(4)(A) The Committee shall file an inspection certification report of each inspection at the research facility. Such report shall—

(i) be signed by a majority of the Committee members involved in the inspection;

(ii) include reports of any violation of the standards promulgated, or assurances required, by the Secretary, including any deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions, and any corrections made thereafter;

(iii) include any minority views of the Committee; and

(iv) include any other information pertinent to the activities of the Committee.

(B) Such report shall remain on file for at least three years at the research facility and shall be available for inspection by the Animal and Plant Health Inspection Service and any funding Federal agency.

(C) In order to give the research facility an opportunity to correct any deficiencies or deviations discovered by reason of paragraph (3), the Committee shall notify the administrative representative of the research facility of any deficiencies or deviations from the provisions of this chapter. If, after notification and an opportunity for correction, such deficiencies or deviations remain uncorrected, the Committee shall notify (in writing) the Animal and Plant Health Inspection Service and the funding Federal agency of such deficiencies or deviations.

(5) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of Agriculture inspectors shall forward any Committee inspection records which include reports of uncorrected deficiencies or deviations to the Animal and Plant Health Inspection Service and any funding Federal agency of the project with respect to which such uncorrected deficiencies and deviations occurred.

(c) Federal research facilities; establishment, composition, and responsibilities of Federal Committee

In the case of Federal research facilities, a Federal Committee shall be established and shall have the same composition and responsibilities provided in subsection (b) of this section, except that the Federal Committee shall report deficiencies or deviations to the head of the Federal agency conducting the research rather than to the Animal and Plant Health Inspection Service. The head of the Federal agency conducting the research shall be responsible for—

(1) all corrective action to be taken at the facility; and

(2) the granting of all exceptions to inspection protocol.

(d) Training of scientists, animal technicians, and other personnel involved with animal care and treatment at research facilities

Each research facility shall provide for the training of scientists, animal technicians, and other personnel involved with animal care and treatment in such facility as required by the Secretary. Such training shall include instruction on—

(1) the humane practice of animal maintenance and experimentation;

(2) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress;

(3) utilization of the information service at the National Agricultural Library, established under subsection (e) of this section; and

(4) methods whereby deficiencies in animal care and treatment should be reported.

(e) Establishment of information service at National Agricultural Library; service functions

The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information—

(1) pertinent to employee training;

(2) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and

(3) on improved methods of animal experimentation, including methods which could—

(A) reduce or replace animal use; and

(B) minimize pain and distress to animals, such as anesthetic and analgesic procedures.

(f)[3] Suspension or revocation of Federal support for research projects; prerequisites; appeal procedure

In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this chapter, de-

[3] So in original. Two subsecs. (f) have been enacted.

spite notification by the Secretary or such Federal agency to the research facility and an opportunity for correction, such agency shall suspend or revoke Federal support for the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of title 5.

(f)[3] Veterinary certificate; contents; exceptions

No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however*, That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 2140 of this title.

(g) Age of animals delivered to registered research facilities; power of Secretary to designate additional classes of animals and age limits

No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

(h) Prohibition of C.O.D. arrangements for transportation of animals in commerce; exceptions

No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.

(Pub. L. 89–544, §13, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, §14, Dec. 24, 1970, 84 Stat. 1562; Pub. L. 94–279, §§9, 10, Apr. 22, 1976, 90 Stat. 418, 419; Pub. L. 99–198, title XVII, §1752, Dec. 23, 1985, 99 Stat. 1645.)

AMENDMENTS

1985—Subsec. (a)(1) to (3). Pub. L. 99–198, §1752(a)(2), substituted pars. (1) to (3) for first two sentences of subsec. (a) which read as follows: ''The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Such standards shall include minimum requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, including the appropriate use of anesthetic, analgesic or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities, and separation by species when the Secretary finds such separation necessary for the humane handling, care, or treatment of animals.''

Subsec. (a)(4) to (8). Pub. L. 99–198, §1752(b), designated third and fourth sentences of subsec. (a) as par. (4), designated fifth sentence of subsec. (a) as par. (5), and substituted pars. (6) to (8) for last sentence of subsec. (a) which read as follows: ''Nothing in this chapter shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, guidelines, or performance of actual research or experimentation by a research facility as determined by such research facility: *Provided*, That the Secretary shall require, at least annually, every research facility to show that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation.''

Subsecs. (b) to (h). Pub. L. 99–198, §1752(a)(1), (c), added subsecs. (b) to (f) and redesignated existing subsecs. (b) to (d) as (f) to (h), respectively.

1976—Subsec. (a). Pub. L. 94–279, §9, designated existing provisions as subsec. (a) and inserted provisions authorizing Secretary to promulgate standards, rules and regulations relating to the transportation in commerce, handling, care, and treatment of animals covered under this chapter.

Subsecs. (b) to (d). Pub. L. 94–279, §10, added subsecs. (b) to (d).

1970—Pub. L. 91–579 added exhibitors to the enumeration of persons to be governed by promulgated standards, added handling to the enumeration of activities covered, expanded existing standard for adequate veterinary care to include the appropriate use of anesthetic, analgesic, or tranquilizing drugs by research facilities when the use of such drugs is considered proper in the opinion of the attending veterinarian at such research facility, directed the Secretary to consult outside consultants and experts in promulgating standards, and inserted requirement of an annual report.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2132, 2133, 2144, 2145, 2154, 2155 of this title.

§ 2144. Humane standards for animals by United States Government facilities

Any department, agency, or instrumentality of the United States having laboratory animal facilities shall comply with the standards and other requirements promulgated by the Secretary for a research facility under sections[1] 2143(a), (f), (g), and (h) of this title. Any department, agency, or instrumentality of the United States exhibiting animals shall comply with the standards promulgated by the Secretary under sections[1] 2143(a), (f), (g), and (h) of this title.

(Pub. L. 89–544, § 14, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, § 15, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94–279, § 19, Apr. 22, 1976, 90 Stat. 423; Pub. L. 99–198, title XVII, § 1758, Dec. 23, 1985, 99 Stat. 1650.)

AMENDMENTS

1985—Pub. L. 99–198 substituted ''sections 2143(a), (f), (g), and (h) of this title'' for ''section 2143 of this title'' in two places.

1976—Pub. L. 94–279 inserted ''and other requirements'' after ''standards'' in first sentence.

1970—Pub. L. 91–579 inserted provisions requiring facilities of the United States exhibiting animals to comply with standards promulgated by Secretary under section 2143 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2145. Consultation and cooperation with Federal, State, and local governmental bodies by Secretary of Agriculture

(a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 2143 of this title and in carrying out the purposes of this chapter. The Secretary shall consult with the Secretary of Health and Human Services prior to issuance of regulations. Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Surface Transportation Board, the Secretary of Transportation, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

(b) The Secretary is authorized to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this chapter and of any State, local, or municipal legislation or ordinance on the same subject.

(Pub. L. 89–544, § 15, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, § 16, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94–279, § 11, Apr. 22, 1976, 90 Stat. 419; Pub. L. 98–443, § 9(i), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 99–198, title XVII, § 1757, Dec. 23, 1985, 99 Stat. 1650; Pub. L. 104–88, title III, § 312, Dec. 29, 1995, 109 Stat. 948.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission'' in last sentence.

1985—Subsec. (a). Pub. L. 99–198 inserted provision requiring that the Secretary consult with the Secretary of Health and Human Services prior to the issuance of regulations.

1984—Subsec. (a). Pub. L. 98–443 substituted ''the Secretary of Transportation'' for ''the Civil Aeronautics Board''.

1976—Subsec. (a). Pub. L. 94–279 inserted '', or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals'' after ''exhibition'', and inserted provisions requiring the Secretary, prior to promulgating standards governing air transportation of animals in commerce, to consult with the specified Federal agencies concerned.

1970—Subsec. (a). Pub. L. 91–579, § 16(1), inserted reference to exhibition of animals.

Subsec. (b). Pub. L. 91–579, § 16(2), substituted ''carrying out'' for ''effectuating''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2146. Administration and enforcement by Secretary

(a) Investigations and inspections

The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or opera-

[1] So in original. Probably should be ''section''.

tor of an auction sale subject to section 2142 of this title, has violated or is violating any provision of this chapter or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 2140 of this title of any such dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale. The Secretary shall inspect each research facility at least once each year and, in the case of deficiencies or deviations from the standards promulgated under this chapter, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this chapter or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test, or experiment for which such animal has been utilized, (4) such animal is held by an operator of an auction sale, or (5) such animal is held by an intermediate handler or a carrier.

(b) Penalties for interfering with official duties

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than $5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of title 18.

(c) Procedures

For the efficient administration and enforcement of this chapter and the regulations and standards promulgated under this chapter, the provisions (including penalties) of sections 46, 48, 49 and 50 of title 15 (except paragraph (c) through (h) of section 46 and the last paragraph of section 49[1] of title 15), and the provisions of Title II of the Organized Crime Control Act of 1970, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this chapter in any part of the United States, including any territory, or possession thereof, the District of Columbia, or the Commonwealth of Puerto Rico. The powers conferred by said sections 49 and 50 of title 15 on the district courts of the United States may be exercised for the purposes of this chapter by any district court of the United States. The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 2149(c) of this title.

(Pub. L. 89–544, §16, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, §17, Dec. 24, 1970, 84 Stat. 1563; Pub. L. 94–279, §12, Apr. 22, 1976, 90 Stat. 420; Pub. L. 99–198, title XVII, §1753, Dec. 23, 1985, 99 Stat. 1649; Pub. L. 101–624, title XXV, §2503(1), Nov. 28, 1990, 104 Stat. 4066.)

REFERENCES IN TEXT

The last paragraph of section 49 of title 15, referred to in subsec. (c), which related to immunity of witnesses, was repealed by section 211 of Pub. L. 91–452, Oct. 15, 1970, title II, 84 Stat. 929. For provisions relating to immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Title II of the Organized Crime Control Act of 1970, referred to in subsec. (c), is title II of Pub. L. 91–452, Oct. 15, 1970, 84 Stat. 926, as amended, which created a general Federal immunity statute set out in section 6001 et seq. of Title 18, and repealed the individual immunity provisions formerly contained in various Federal regulatory schemes.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–624 inserted ''and the regulations and standards promulgated under this chapter'' after first reference to ''this chapter''.

1985—Subsec. (a). Pub. L. 99–198 inserted provision directing Secretary to inspect each research facility at least once each year and, in case of deficiencies or deviations from standards promulgated under this chapter, conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected.

1976—Subsec. (a). Pub. L. 94–279, §12(a), inserted ''intermediate handler, carrier,'' after ''dealer, exhibitor,'' and inserted ''or (5) such animal is held by an intermediate handler or a carrier'' after ''an auction sale''.

Subsec. (c). Pub. L. 94–279, §12(b), substituted ''section 2149(c)'' for ''sections 2149(b) and 2150(b)'' after ''except as provided in''.

1970—Pub. L. 91–579 designated existing provisions as subsec. (a), expanded coverage to include exhibitors and operators of auction sales for purposes of investigation, inserted provisions requiring that records, facilities, and animals be accessible to inspectors at all reasonable times at premises of dealers, research facilities, exhibitors, and operators of auction sales, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2155 of this title.

§ 2147. Inspection by legally constituted law enforcement agencies

The Secretary shall promulgate rules and regulations requiring dealers, exhibitors, research

[1] See References in Text note below.

facilities, and operators of auction sales subject to section 2142 of this title to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

(Pub. L. 89–544, § 17, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, § 18, Dec. 24, 1970, 84 Stat. 1564.)

AMENDMENTS

1970—Pub. L. 91–579 substituted ''promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 2142 of this title'' for ''issue rules and regulations requiring licensed dealers and research facilities''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2148. Repealed. Pub. L. 91–579, § 19, Dec. 24, 1970, 84 Stat. 1564

Section, Pub. L. 89–544, § 18, Aug. 24, 1966, 80 Stat. 352, prohibited any construction of the chapter which would authorize the Secretary to promulgate rules, regulations, or orders for the handling, care, treatment, or inspection of animals during actual research or experimentation. See section 2143 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

§ 2149. Violations by licensees

(a) Temporary license suspension; notice and hearing; revocation

If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, has violated or is violating any provision of this chapter, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(b) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, that violates any provision of this chapter, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than $2,500 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of $1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(c) Appeal of final order by aggrieved person; limitations; exclusive jurisdiction of United States Courts of Appeals

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

(d) Criminal penalties for violation; initial prosecution brought before United States magistrate judges; conduct of prosecution by attorneys of United States Department of Agriculture

Any dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, who knowingly violates any provision of this chapter shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than $2,500, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrate judges as provided in section 636 of title 28, and sections 3401 and 3402 of title 18, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

(Pub. L. 89–544, § 19, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91–579, § 20, Dec. 24, 1970, 84 Stat. 1564; Pub. L. 94–279, § 13, Apr. 22, 1976, 90 Stat. 420; Pub. L. 99–198, title XVII, § 1755, Dec. 23, 1985, 99 Stat. 1650; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–198, § 1755(a), substituted ''$2,500 for each such violation'' for ''$1,000 for each such

violation'' in first sentence and directed the substitution of ''$1,500 for each offense'' for ''$500 for each offense'' in sixth sentence, which was executed to the seventh sentence as the probable intent of Congress.

Subsec. (d). Pub. L. 99–198, §1755(b), substituted ''$2,500'' for ''$1,000''.

1976—Subsec. (a). Pub. L. 94–279 substituted provisions covering violations by licensees, temporary license suspension, notice and hearing, and license revocation for provisions relating to violations by dealers, exhibitors, operators of auction sales, cease and desist orders, license suspension, and civil penalties.

Subsec. (b). Pub. L. 94–279 substituted provisions covering civil penalties, notice and hearing, appeal, considerations in assessing penalties, compromising penalties, civil action by Attorney General for failure to pay penalty, district court jurisdiction, and failure to obey cease and desist orders for provisions relating to judicial review of final orders by the Secretary.

Subsec. (c). Pub. L. 94–279 substituted provisions covering appeal of final orders by aggrieved persons, limitations, and exclusive jurisdiction of the United States Courts of Appeals for provisions relating to criminal penalties.

Subsec. (d). Pub. L. 94–279 added subsec. (d).

1970—Pub. L. 91–579 added exhibitors and operators of auction sales to the enumeration of covered persons, added civil penalties for failure to obey a cease and desist order of the Secretary, and changed the procedure for judicial review.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (d) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2146, 2158, 2159 of this title.

§ 2150. Repealed. Pub. L. 94–279, § 14, Apr. 22, 1976, 90 Stat. 421

Section, Pub. L. 89–544, §20, Aug. 24, 1966, 80 Stat. 353; Pub. L. 91–579, §21, Dec. 24, 1970, 84 Stat. 1565, provided for issuance of cease and desist orders if Secretary had reason to believe that any research facility had violated any provision of this chapter, provided for a civil penalty, and provided appeal mechanism by which aggrieved person may have judicial review of such final order by Secretary. See section 2149 of this title.

§ 2151. Rules and regulations

The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter.

(Pub. L. 89–544, §21, Aug. 24, 1966, 80 Stat. 353.)

§ 2152. Separability

If any provision of this chapter or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this chapter and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Pub. L. 89–544, §22, Aug. 24, 1966, 80 Stat. 353.)

§ 2153. Fees and authorization of appropriations

The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide: *Provided*, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 2156 of this title an amount not to exceed $100,000 for the transition quarter ending September 30, 1976, and not to exceed $400,000 for each fiscal year thereafter.

(Pub. L. 89–544, §23, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94–279, §18, Apr. 22, 1976, 90 Stat. 423.)

AMENDMENTS

1976—Pub. L. 94–279 authorized appropriations for the enforcement of section 2156 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2142 of this title.

§ 2154. Effective dates

The regulations referred to in sections 2140 and 2143 of this title shall be prescribed by the Secretary as soon as reasonable but not later than six months from August 24, 1966. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions of this chapter and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this chapter and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 2143 of this title provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this chapter, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 2143 of this title, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after April 22, 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this chapter, as so amended, and the regulations thereunder, shall commence

upon the expiration of 90 days after April 22, 1976: *Provided*, *however*, That compliance by all persons with subsections (b), (c), and (d) of section 2143 and with section 2156 of this title, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective on April 22, 1976.

(Pub. L. 89–544, § 24, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94–279, § 15, Apr. 22, 1976, 90 Stat. 421.)

REFERENCES IN TEXT

The Animal Welfare Act Amendments of 1976, referred to in text, is Pub. L. 94–279, Apr. 22, 1976, 90 Stat. 417, which enacted section 2156 of this title, amended sections 2131, 2132, 2134, 2136, 2139 to 2146, 2149, 2153 to 2155 of this title, and section 3001 of Title 39, Postal Service, repealed section 2150 of this title, and enacted provisions set out as notes under section 2131 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 3121 of this title and Tables.

Subsections (b), (c), and (d) of section 2143 of this title, referred to in text, were redesignated subsecs. (f), (g), and (h), respectively, and new subsecs. (b), (c), and (d) of section 2143 were enacted, by Pub. L. 99–198, title XVII, § 1752(a)(1), (c), Dec. 23, 1985, 99 Stat. 1645, 1647.

AMENDMENTS

1976—Pub. L. 94–279 inserted provisions setting particular effective dates of compliance for intermediate handlers and carriers and for dealers, exhibitors, operators of auction sales, and research facilities with respect to the amendments made by the Animal Welfare Act Amendments of 1976.

§ 2155. Annual report to the President of the Senate and the Speaker of the House of Representatives

Not later than March of each year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

(1) the identification of all research facilities, exhibitors, and other persons and establishments licensed by the Secretary under section 2133 and section 2142 of this title;

(2) the nature and place of all investigations and inspections conducted by the Secretary under section 2146 of this title, and all reports received by the Secretary under section 2143 of this title;

(3) recommendations for legislation to improve the administration of this chapter or any provisions thereof;

(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation; and

(5) the information and recommendations described in section 1830 of title 15.

This report as well as any supporting documents, data, or findings shall not be released to any other persons, non-Federal agencies, or organizations unless and until it has been made public by an appropriate committee of the Senate or the House of Representatives.

(Pub. L. 89–544, § 25, as added Pub. L. 91–579, § 22, Dec. 24, 1970, 84 Stat. 1565; amended Pub. L. 94–279, § 16, Apr. 22, 1976, 90 Stat. 421; Pub. L. 104–66, title I, § 1012(a), Dec. 21, 1995, 109 Stat. 711.)

AMENDMENTS

1995—Par. (5). Pub. L. 104–66 added par. (5).
1976—Par. (4). Pub. L. 94–279 added par. (4).

EFFECTIVE DATE

Section effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91–579, set out as a note under section 2131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1830.

§ 2156. Animal fighting venture prohibition

(a) Sponsoring or exhibiting animal in any fighting venture

It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) Buying, selling, delivering, or transporting animals for participation in animal fighting venture

It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) Use of Postal Service or other interstate instrumentality for promoting or furthering animal fighting venture

It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

(d) Violation of State law

Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

(e) Penalties

Any person who violates subsection (a), (b), or (c) of this section shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both, for each such violation.

(f) Investigation of violations by Secretary; assistance by other Federal agencies; issuance of search warrant; forfeiture; costs recoverable in forfeiture or civil action

The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agen-

cies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate judge within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this subsection. Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

(g) Definitions

For purposes of this section—

(1) the term ''animal fighting venture'' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term ''animal fighting venture'' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term ''interstate or foreign commerce'' means—

(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

(B) any movement from a foreign country into any State;

(3) the term ''interstate instrumentality'' means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

(4) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term ''animal'' means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this chapter as a dealer, exhibitor, or otherwise.

(h) Conflict with State law

The provisions of this chapter shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this chapter or any rule, regulation, or standard hereunder.

(Pub. L. 89–544, §26(a)–(h)(1), as added Pub. L. 94–279, §17, Apr. 22, 1976, 90 Stat. 421; amended Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

Section consists of subsecs. (a) to (h)(1) of section 26 of Pub. L. 89–544, as added by Pub. L. 94–279. Subsec. (h)(2) of section 26 of Pub. L. 89–544, as added by Pub. L. 94–279, amended section 3001(a) of Title 39, Postal Service.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (f) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2153, 2154; title 39 section 3001.

§ 2157. Release of trade secrets

(a) Release of confidential information prohibited

It shall be unlawful for any member of an Institutional Animal Committee to release any confidential information of the research facility including any information that concerns or relates to—

(1) the trade secrets, processes, operations, style of work, or apparatus; or

(2) the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures,

of the research facility.

(b) Wrongful use of confidential information prohibited

It shall be unlawful for any member of such Committee—

(1) to use or attempt to use to his advantages; or

(2) to reveal to any other person,

any information which is entitled to protection as confidential information under subsection (a) of this section.

(c) Penalties

A violation of subsection (a) or (b) of this section is punishable by—

(1) removal from such Committee; and

(2)(A) a fine of not more than $1,000 and imprisonment of not more than one year; or

(B) if such violation is willful, a fine of not more than $10,000 and imprisonment of not more than three years.

(d) Recovery of damages by injured person; costs; attorney's fee

Any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including a reasonable attorney's fee.

(e) Other rights and remedies

Nothing in this section shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this section. Subsection (d) of this section shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of subsections (a) and (b) of this section.

(Pub. L. 89–544, § 27, as added Pub. L. 99–198, title XVII, § 1754, Dec. 23, 1985, 99 Stat. 1649.)

EFFECTIVE DATE

Section effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99–198, set out as an Effective Date of 1985 Amendment note under section 2131 of this title.

§ 2158. Protection of pets

(a) Holding period

(1) Requirement

In the case of each dog or cat acquired by an entity described in paragraph (2), such entity shall hold and care for such dog or cat for a period of not less than five days to enable such dog or cat to be recovered by its original owner or adopted by other individuals before such entity sells such dog or cat to a dealer.

(2) Entities described

An entity subject to paragraph (1) is—

(A) each State, county, or city owned and operated pound or shelter;

(B) each private entity established for the purpose of caring for animals, such as a humane society, or other organization that is under contract with a State, county, or city that operates as a pound or shelter and that releases animals on a voluntary basis; and

(C) each research facility licensed by the Department of Agriculture.

(b) Certification

(1) In general

A dealer may not sell, provide, or make available to any individual or entity a random source dog or cat unless such dealer provides the recipient with a valid certification that meets the requirements of paragraph (2) and indicates compliance with subsection (a) of this section.

(2) Requirements

A valid certification shall contain—

(A) the name, address, and Department of Agriculture license or registration number (if such number exists) of the dealer;

(B) the name, address, Department of Agriculture license or registration number (if such number exists), and the signature of the recipient of the dog or cat;

(C) a description of the dog or cat being provided that shall include—

(i) the species and breed or type of such;

(ii) the sex of such;

(iii) the date of birth (if known) of such;

(iv) the color and any distinctive marking of such; and

(v) any other information that the Secretary by regulation shall determine to be appropriate;

(D) the name and address of the person, pound, or shelter from which the dog or cat was purchased or otherwise acquired by the dealer, and an assurance that such person, pound, or shelter was notified that such dog or cat may be used for research or educational purposes;

(E) the date of the purchase or acquisition referred to in subparagraph (D);

(F) a statement by the pound or shelter (if the dealer acquired the dog or cat from such) that it satisfied the requirements of subsection (a) of this section; and

(G) any other information that the Secretary of Agriculture by regulation shall determine appropriate.

(3) Records

The original certification required under paragraph (1) shall accompany the shipment of a dog or cat to be sold, provided, or otherwise made available by the dealer, and shall be kept and maintained by the research facility for a period of at least one year for enforcement purposes. The dealer shall retain one copy of the certification provided under this paragraph for a period of at least one year for enforcement purposes.

(4) Transfers

In instances where one research facility transfers animals to another research facility a copy of the certificate must accompany such transfer.

(5) Modification

Certification requirements may be modified to reflect technological advances in identification techniques, such as microchip technology, if the Secretary determines that adequate information such as described in this section, will be collected, transferred, and maintained through such technology.

(c) Enforcement

(1) In general

Dealers who fail to act according to the requirements of this section or who include false information in the certification required under subsection (b) of this section, shall be subject to the penalties provided for under section 2149 of this title.

(2) Subsequent violations

Any dealer who violates this section more than one time shall be subject to a fine of $5,000 per dog or cat acquired or sold in violation of this section.

(3) Permanent revocations

Any dealer who violates this section three or more times shall have such dealers license permanently revoked.

(d) Regulation

Not later than 180 days after November 28, 1990, the Secretary shall promulgate regulations to carry out this section.

(Pub. L. 89–544, § 28, as added Pub. L. 101–624, title XXV, § 2503(2), Nov. 28, 1990, 104 Stat. 4066; amended Pub. L. 102–237, title X, § 1004, Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Subsec. (b)(2)(F). Pub. L. 102–237 substituted ''subsection (a)'' for ''subsection (b)''.

§ 2159. Authority to apply for injunctions

(a) Request

Whenever the Secretary has reason to believe that any dealer, carrier, exhibitor, or intermediate handler is dealing in stolen animals, or is placing the health of any animal in serious danger in violation of this chapter or the regulations or standards promulgated thereunder, the Secretary shall notify the Attorney General, who may apply to the United States district court in which such dealer, carrier, exhibitor, or intermediate handler resides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of this chapter or the regulations and standards prescribed under this chapter.

(b) Issuance

The court shall, upon a proper showing, issue a temporary restraining order or injunction under subsection (a) of this section without bond. Such injunction or order shall remain in effect until a complaint pursuant to section 2149 of this title is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective or is set aside on appellate review. Attorneys of the Department of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action brought under this section.

(Pub. L. 89–544, § 29, as added Pub. L. 101–624, title XXV, § 2503(2), Nov. 28, 1990, 104 Stat. 4067.)

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§ 2201. Establishment of Department

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, rural development, aquaculture, and human nutrition, in the most general and comprehensive sense of those terms, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

(R.S. § 520; Pub. L. 92–419, title VI, § 603(a), Aug. 30, 1972, 86 Stat. 675; Pub. L. 95–113, title XV, § 1502(a), Sept. 29, 1977, 91 Stat. 1021.)

CODIFICATION

R.S. § 520 derived from act May 15, 1862, ch. 72, § 1, 12 Stat. 387.

Section was formerly classified to section 511 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1977—Pub. L. 95–113 inserted references to aquaculture and human nutrition.

1972—Pub. L. 92–419 substituted ''agriculture and rural development'' and ''those terms'' for ''agriculture'' and ''that word'', respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–113, § 1, Nov. 21, 1997, 111 Stat. 2274, provided that: ''This Act [enacting section 2204g of this title, amending sections 1991 and 2276 of this title and section 9 of Title 13, Census, repealing section 142 of Title 13, and enacting provisions set out as a note under section 1991 of this title] may be cited as the 'Census of Agriculture Act of 1997'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–355, § 1, Sept. 24, 1980, 94 Stat. 1171, provided that: ''This Act [enacting sections 2204b and 2211b of this title, amending sections 1926, 2204, 2204a, 2663, and 2667 of this title, section 5314 of Title 5, Government Organization and Employees, and section 3122 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 2204b of this title] may be cited as the 'Rural Development Policy Act of 1980'.''

SHORT TITLE

Act Aug. 3, 1956, § 1, provided that: ''This Act [enacting sections 428a, 1040, 2228, 2229 and 2333 of this title, and sections 579b and 590h–4 of Title 16, Conservation, and amending sections 1004, 1392, 1516, and 1766 of this title, sections 590k and 590n of Title 16, and sections 114a and 114c of Title 21, Food and Drugs] may be cited as the 'Department of Agriculture Organic Act of 1956'.''

ESTABLISHMENT OF PERSONNEL CEILING FOR FISCAL YEARS 1982, 1983, AND 1984

Pub. L. 97–35, title I, § 125, Aug. 13, 1981, 95 Stat. 369, provided that: ''Notwithstanding any other provision of law, the total full-time equivalent staff year personnel ceiling for the United States Department of Agriculture shall not exceed one hundred and seventeen thousand staff years (including overtime) for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.''

TRANSFER OF FUNCTIONS FROM SECRETARY OF INTERIOR TO SECRETARY OF AGRICULTURE

Pub. L. 86–509, June 11, 1960, 74 Stat. 205, which enacted provisions of Reorganization Plan Numbered 1 of 1959, provided: ''That, except as otherwise provided in section 2 hereof, the following functions are hereby transferred to the Secretary of Agriculture:

''(a) The functions of the Secretary of the Interior under the Act of March 20, 1922, 42 Stat. 465, as amended (16 U.S.C. 485, 486), with respect to exchanges of non-Federal lands for national forest lands or timber.

''(b) The functions of the Secretary of the Interior under the Act of February 2, 1922 (42 Stat. 362), with respect to exchanges of lands in private ownership within or within six miles of the Deschutes National Forest for national forest lands, or for timber from any national forest, in the State of Oregon.

''(c) The functions of the Secretary of the Interior under the Act of June 7, 1924 (43 Stat. 643), except section 2 thereof, with respect to exchanges of privately owned lands for national forest timber in New Mexico.

''(d) The functions of the Secretary of the Interior under the Act of January 12, 1925 (43 Stat. 739), except section 2 thereof, with respect to exchanges of privately owned lands for national forest timber in New Mexico.

''(e) The functions of the Secretary of the Interior under the Act of April 21, 1926 (44 Stat. 303), except section 2 thereof, with respect to exchanges of privately owned lands for national forest lands or timber in New Mexico and Arizona.

''(f) The functions of the Secretary of the Interior under section 2 of the Act of May 26, 1926 (44 Stat. 655; 16 U.S.C. 38), with respect to exchanges of lands held in private or State ownership for national forest lands or timber in Montana.

''(g) The functions of the Secretary of the Interior under the Act of June 15, 1926 (44 Stat. 746), with respect to exchanges of State lands for national forest lands in New Mexico.

''(h) The functions of the Secretary of the Interior under the Act of December 7, 1942 (56 Stat. 1042), with

respect to exchange transactions in which lands under the jurisdiction of the Secretary of Agriculture are exchanged for State lands in Minnesota which are to be under the jurisdiction of the Secretary of Agriculture after their acquisition by the United States.

''(i) The function of the Secretary of the Interior (originally vested in the Commissioner of the General Land Office) under section 6 of the Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872), with respect to execution of quitclaim deeds for lands conveyed to the United States in connection with exchange transactions involving lands under the jurisdiction of the Secretary of Agriculture.

''(j) The functions of the Secretary of the Interior under section 2(b) of the Joint Resolution of August 8, 1947 (61 Stat. 921), with respect to appraisals and sales of certain lands within the Tongass National Forest.

''(k) The functions of the Secretary of the Interior under section 10 of the Act of March 1, 1911 (36 Stat. 962; 16 U.S.C. 519), with respect to sales of small tracts of acquired national forest lands found chiefly valuable for agriculture.

''(*l*) The functions of the Secretary of the Interior under section 402 of Reorganization Plan Numbered 3 of 1946 (60 Stat. 1099), section 3 of the Act of September 1, 1949 (63 Stat. 683; 30 U.S.C. 192c), the Act of June 30, 1950 (64 Stat. 311; 16 U.S.C. 508b), section 3 of the Act of June 28, 1952 (66 Stat. 285), or otherwise, with respect to the use and disposal from lands under the jurisdiction of the Secretary of Agriculture of those mineral materials which the Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under the Act of July 31, 1947 (61 Stat. 681), as amended by the Act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601 and the following).

''SEC. 2(a). In no case covered by subsections (a), (b), (e), (g), and (h) of section 1 hereof shall the exchange provide for the patenting of land by the United States without a reservation of minerals (1) unless the Secretary of Agriculture has obtained the advice of the Secretary of the Interior that the land is nonmineral in character, or (2) unless the Secretary of the Interior approves of the valuation and disposition of the minerals in the lands to be patented. A sale of land covered by subsection (j) of section 1 hereof shall be made by the Secretary of Agriculture without a reservation of minerals only after consultation with, and the approval of, the Secretary of the Interior as to the valuation and disposition of the minerals. No lands of the United States shall be exchanged in any case covered by subsection (f) of section 1 hereof unless the Secretary of Agriculture has obtained the advice of the Secretary of the Interior that such lands are nonmineral in character.

''(b) Nothing in this Act shall be construed to authorize the Secretary of Agriculture to determine or adjudicate the validity or invalidity of any mining claim or part thereof.

''(c) Nothing in subsection (1) of section 1 hereof shall be construed to authorize the Secretary of Agriculture to dispose of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur, or to dispose of any minerals which would be subject to disposal under the mining laws if said laws were applicable to the lands in which the minerals are situated.

''(d) Upon approval by the Secretary of Agriculture pursuant to the provisions of this Act of any exchange or sale, respectively, of national forest lands under the provisions of law referred to in subsections (a), (b), (e), (f), (g), and (j) of section 1, hereof, the Secretary of the Interior, upon the recommendation of the Secretary of Agriculture, shall issue the patent therefor.

''(e) All conveyances under the Act referred to in subsection (h) of section 1 hereof of national forest lands reserved from the public domain shall, upon recommendation of the Secretary of Agriculture, be made by the Secretary of the Interior.''

REORGANIZATION PLAN NO. 2 OF 1953

Eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, as amended Oct. 15, 1982, Pub. L. 97–325, § 8(d), 96 Stat. 1606; Oct. 13, 1994, Pub. L. 103–354, title II, § 218(e)(1), 108 Stat. 3213

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 25, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

DEPARTMENT OF AGRICULTURE

SECTION 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Subject to the exceptions specified in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions not now vested in him of all other officers, and of all agencies and employees, of the Department of Agriculture.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (5 U.S.C. 1001 et seq.) [5 U.S.C. 551 et seq. and 701 et seq.] in hearing examiners employed by the Department of Agriculture nor to the functions of (1) corporations of the Department of Agriculture, (2) the boards of directors and officers of such corporations, (3) the Advisory Board of the Commodity Credit Corporation, or (4) the Farm Credit Administration or any agency, officer, or entity of, under, or subject to the supervision of the said administration.

SEC. 2. ASSISTANT SECRETARIES OF AGRICULTURE

[Repealed. Pub. L. 103–354, title II, § 218(e)(1), Oct. 13, 1994, 108 Stat. 3213. Section authorized the appointment of two additional Assistant Secretaries of Agriculture. See section 6918 of this title.]

SEC. 3. ADMINISTRATIVE ASSISTANT SECRETARY

[Repealed. Pub. L. 97–325, § 8(d), Oct. 15, 1982, 96 Stat. 1606. Section authorized the appointment of an Administrative Assistant Secretary of Agriculture. See section 2212c of this title.

SEC. 4. DELEGATION OF FUNCTIONS

(a) The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

(b) To the extent that the carrying out of subsection (a) of this section involves the assignment of major functions or major groups of functions to major constituent organizational units of the Department of Agriculture, now or hereafter existing, or to the heads or other officers thereof, and to the extent deemed practicable by the Secretary, he shall give appropriate advance public notice of delegations of functions proposed to be made by him and shall afford appropriate opportunity for interested persons and groups to place before the Department of Agriculture their views with respect to such proposed delegations.

(c) In carrying out subsection (a) of this section the Secretary shall seek to simplify and make efficient the operation of the Department of Agriculture, to place the administration of farm programs close to the State and local levels, and to adapt the administration of the programs of the Department to regional, State, and local conditions.

SEC. 5. INCIDENTAL TRANSFERS

The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, and personnel affected by this reorganization plan and such transfers of unexpended balances (available or to be made avail-

able for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan; but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3125a of this title; title 20 section 196.

§ 2202. Executive Department; Secretary

The Department of Agriculture shall be an executive department, under the supervision and control of a Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of title 4 of the Revised Statutes, including all amendments thereto, shall be applicable to said department; and all laws and parts of laws relating to the Department of Agriculture in existence February 9, 1889, as far as the same are applicable and not in conflict with this section, and only so far, are continued in full force and effect.

(Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659.)

REFERENCES IN TEXT

Title 4 of the Revised Statutes, referred to in text, was entitled ''Provisions Applicable to All Executive Departments, and consisted of R.S. §§158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514, 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 512 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

ORDER OF SUCCESSION

For order of succession in case of absence, sickness, resignation, or death of Secretary, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3345 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Annual rate of basic compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

§ 2203. Seal

The Secretary of Agriculture is authorized and directed to procure a proper seal, with such suitable inscriptions and devices as he may approve, to be known as the official seal of the Department of Agriculture, and to be kept and used to verify official documents, under such rules and regulations as he may prescribe.

(Aug. 8, 1894, ch. 238, 28 Stat. 272.)

CODIFICATION

Section was formerly classified to section 513 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§ 2204. General duties of Secretary; advisory functions; research and development

(a) The Secretary of Agriculture shall procure and preserve all information concerning agriculture, rural development, aquaculture, and human nutrition which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

(b) The Secretary is authorized to initiate or expand research and development efforts related to solution of problems of rural water supply, rural sewage and solid waste management, rural housing, rural industrialization, and technology appropriate to small- and moderate-sized family farming operations, and any other problem that the Secretary may determine has an effect upon the economic development or the quality of life in rural areas.

(R.S. §526; Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659; Pub. L. 92–419, title VI, §603(b), Aug. 30, 1972, 86 Stat. 675; Pub. L. 94–273, §7(4), Apr. 21, 1976, 90 Stat. 378; Pub. L. 95–113, title XV, §1502(b), Sept. 29, 1977, 91 Stat. 1021; Pub. L. 96–355, §5, Sept. 24, 1980, 94 Stat. 1174.)

CODIFICATION

R.S. §526 derived from act May 15, 1862, ch. 72, §3, 12 Stat. 387.

Section was formerly classified to section 514 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–355 inserted provisions relating to technology appropriate to small- and moderate-sized family farming operations, and struck out provisions relating to the national rural development program and goals, and accompanying annual report.

1977—Subsec. (a). Pub. L. 95–113 inserted references to aquaculture and human nutrition.

1976—Subsec. (b). Pub. L. 94–273 substituted ''December'' for ''September''.

1972—Subsec. (a). Pub. L. 92–419, §603(b)(1)–(3), designated existing provisions as subsec. (a), provided for information concerning rural development, and prescribed advisory functions of the Secretary, respectively.

Subsec. (b). Pub. L. 92–419, §603(b)(4), added subsec. (b).

CHANGE OF NAME

Secretary of Agriculture substituted for Commissioner of Agriculture in text pursuant to sections 1 and

4 of act Feb. 9, 1889, which are classified to section 2202 of this title. See, also, section 2205 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Secretary of Agriculture administered through Bureau of Biological Survey relating to conservation of wildlife, game, and migratory birds transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, Government Organization and Employees.

Delegation of authority to Secretary with respect to nation's food program during war emergency, see Ex. Ord. No. 9280, set out as a note under section 452 of this title.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Agriculture, see Parts 1, 2, and 3 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

AVIATION INSPECTIONS

Pub. L. 103–354, title III, §306, Oct. 13, 1994, 108 Stat. 3241, provided that:

''(a) STUDY OF AIRCRAFT INSPECTIONS.—

''(1) INTENT OF STUDY.—The intent of the study required by this subsection is to examine the cost efficiencies of conducting inspections of aircraft and pilots by one Federal agency without reducing aircraft, passenger, or pilot safety standards or lowering mission preparedness.

''(2) STUDY REQUIRED.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of the inspection specifications and procedures by which aircraft and pilots contracted by the Department are certified to determine the cost efficiencies of eliminating duplicative Department inspection requirements and transferring some or all inspection requirements to the Federal Aviation Administration, while ensuring that neither aircraft, passenger, nor pilot safety is reduced and that mission preparedness is maintained.

''(3) SPECIAL CONSIDERATIONS.—In conducting the study, the Secretaries shall evaluate current inspection specifications and procedures mandated by the Department and the Forest Service, taking into consideration the unique requirements and risks of particular Department and Forest Service missions that may require special inspection specifications and procedures to ensure the safety of Department and Forest Service personnel and their contractees.

''(4) MAINTENANCE OF STANDARDS AND PREPAREDNESS.—In making recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures, the Secretaries shall ensure that the implementation of any such recommendations does not lower aircraft or pilot standards or preparedness for Department or Forest Service missions.

''(5) SUBMISSION OF RESULTS.—Not later than 180 days after the date of the enactment of this Act [Oct. 13, 1994], the Secretaries shall submit to Congress the results of the study, including any recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures and a cost-benefit analysis of such recommendations.

''(b) REVIEW OF RECENTLY ADOPTED AIRCRAFT POLICY.—

''(1) REVIEW REQUIRED.—The Secretaries shall review the policy initiated by the Secretary of Agriculture on July 1, 1994, to accept Federal Aviation Administration inspections on aircraft and pilots that provide 'airport to airport' service for the Forest Service. The policy is currently being cooperatively developed by the Department and the Federal Aviation Administration and is intended to reduce duplicative inspections and to reduce Government costs, while maintaining aircraft, passenger, and pilot safety standards, specifications and procedures currently required by the Department and the Forest Service.

''(2) EXPANSION OF POLICY.—As part of the review, the Secretaries shall examine the feasibility and desirability of applying this policy on a Government-wide basis.

''(3) SUBMISSION OF RESULTS.—Not later than one year after the date of the implementation of the policy, the Secretary of Agriculture shall submit to Congress the results of the review, including any recommendations that the Secretary considers appropriate.''

ORDER OF SUCCESSION

Order of succession upon death, absence, sickness, or resignation of Secretary of Agriculture, see Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under section 3345 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Purchase of seeds and plants for distribution, see section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title; title 13 section 9.

§ 2204a. Rural development; utilization of non-Federal offices; location of field units; interchange of personnel and facilities

The Secretary of Agriculture shall utilize to the maximum extent practicable State, regional, district, county, local, or other Department of Agriculture offices to enhance rural development, and shall to the maximum extent practicable provide directly, or, in the case of agencies outside of the Department of Agriculture, through arrangements with the heads of such agencies, for—

(1) the location of all field units of the Federal Government concerned with rural development in the appropriate Department of Agriculture offices covering the geographical areas most similar to those covered by such field units, and

(2) the interchange of personnel and facilities in each such office to the extent necessary or desirable to achieve the most efficient utilization of such personnel and facilities and provide the most effective assistance in the development of rural areas in accordance with State rural development plans.

(Pub. L. 92–419, title VI, §603(c), Aug. 30, 1972, 86 Stat. 675; Pub. L. 96–355, §4(5), Sept. 24, 1980, 94 Stat. 1174.)

AMENDMENTS

1980—Pub. L. 96–355 struck out designation for former par. (1) and, in such par., redesignated former subpars.

(A) and (B) as pars. (1) and (2), respectively, and struck out former par. (2) which related to contents of report submitted under section 2204(b) of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917 of this title.

§ 2204b. Rural development policy

(a) Coordination of nationwide rural development program using services of executive branch departments and agencies and State and local governments

The Secretary of Agriculture shall provide leadership within the executive branch for, and shall assume responsibility for coordinating, a nationwide rural development program using the services of executive branch departments and agencies, including, but not limited to, the agencies, bureaus, offices, and services of the Department of Agriculture, in coordination with rural development programs of State and local governments.

(b) Policy development; systematic review of Federal programs; access to information; development of process to receive and assess needs, goals, etc.; cooperative agreements to improve Federal programs affecting rural areas; public hearings and comments

(1) The Secretary shall conduct a systematic review of Federal programs affecting rural areas to (A) determine whether such areas are benefiting from such programs in an equitable proportion to the benefits received by urban areas and (B) identify any factors that may restrict accessibility to such programs in rural areas or limit participation in such programs.

(2) Subject to the Privacy Act of 1974 [5 U.S.C. 552a], the Secretary may secure directly from any Federal department or agency information necessary to carry out the Secretary's duties under this section. Upon request of the Secretary under this paragraph, the head of any such Federal department or agency shall furnish such information to the Secretary.

(3) The Secretary shall develop a process through which multistate, State, substate, and local rural development needs, goals, objectives, plans, and recommendations can be received and assessed on a continuing basis. Such process may include the use of those rural development experts, advisors, and consultants that the Secretary deems appropriate, as well as the establishment of temporary advisory committees under the terms of the Federal Advisory Committee Act.

(4) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—Notwithstanding chapter 63 of title 31, the Secretary may enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas, including the establishment and financing of interagency groups, if the Secretary determines that the objectives of the agreement will serve the mutual interest of the parties in rural development activities.

(B) COOPERATORS.—Each cooperator, including each Federal agency, to the extent that funds are otherwise available, may participate in any cooperative agreement or working group established pursuant to this paragraph by contributing funds or other resources to the Secretary to carry out the agreement or functions of the group.

(5) The Secretary may hold public hearings and receive comments on any matter that the Secretary determines may have a significant impact on rural development or the economic development of rural communities.

(c) Rural development strategy and annual updates; preparation and scope; purposes; time for updates; public hearings and suggestions and recommendations; transmittal to Congressional committees; analysis of budgetary considerations and factors; evaluation and recommendations regarding implementation and revisions

(1) The Secretary shall prepare a comprehensive rural development strategy based on the needs, goals, objectives, plans, and recommendations of local communities, substate areas, States, and multistate regions, which is designed to—

(A) maximize the effectiveness, increase the responsiveness, and improve the delivery of Federal programs to rural areas;

(B) increase the coordination of Federal programs with the development needs, objectives, and resources of local communities, substate areas, States, and multistate regions; and

(C) achieve the most effective combinations of Federal, State, and local resources to meet the needs of rural areas for orderly growth and development.

(2) The rural development strategy shall take into account the need to—

(A) improve the economic well-being of all rural residents and alleviate the problems of low income, elderly, minority, and otherwise disadvantaged rural residents;

(B) improve the business and employment opportunities, occupational training and employment services, health care services, educational opportunities, energy utilization and availability, housing, transportation, community services, community facilities, water supplies, sewage and solid waste management systems, credit availability, and accessibility to and delivery of private and public financial resources in the maintenance and creation of jobs in rural areas;

(C) improve State and local government management capabilities, institutions, and programs related to rural development and expand educational and training opportunities for State and local officials, particularly in small rural communities;

(D) strengthen the family farm system; and

(E) maintain and protect the environment and natural resources of rural areas.

(3) The rural development strategy developed under this subsection shall be for the fiscal year ending September 30, 1982, and updated for each fiscal year thereafter.

(4) The Secretary shall hold public hearings and receive such suggestions and recommendations as the Secretary deems appropriate during the preparation of the rural development strategy and the annual updates to the strategy.

(5) The rural development strategy and the annual updates to the strategy shall be transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry by January 31 of the calendar year immediately preceding the beginning of the appropriate fiscal year.

(6) The rural development strategy and each annual update of the strategy shall contain an analysis of the budget recommendations of the President for the fiscal year following the transmittal of the strategy or update of the strategy and of all the available budget projections of the President for subsequent fiscal years, and projections regarding the budget that are relevant or essential to the rural development policy and the rural development strategy developed under this subsection. Each annual update shall also contain a detailed statement of the findings and conclusions of the Secretary regarding the implementation during the preceding fiscal year of the rural development strategy, including any revisions of the strategy, any recommended legislation to improve the rural development effort of the Federal Government, and an evaluation of and recommendations regarding the rural development information system required under section 1926(a)(12) of this title.

(d) Strategy implementation; goals

The Secretary shall ensure the effective implementation of the rural development strategy and maximize coordination of Federal programs affecting rural areas through a systematic effort to—

(1) improve communication and encourage cooperation among Federal departments and agencies in the administration of rural development programs;

(2) eliminate conflicts, duplication, and gaps in program coverage, and resolve contradictions and inconsistencies in the objectives, administration, and effects of rural development programs;

(3) facilitate the sharing or common location of field offices of Federal agencies administering similar or complementary programs and unification of delivery systems, where feasible, to maximize convenience and accessibility of such agencies and programs to rural residents;

(4) facilitate and expedite joint funding of rural projects through Federal programs;

(5) correct administrative problems in Federal programs that delay or hinder the effective delivery of services, assistance, or benefits to rural areas; and

(6) simplify, standardize, and reduce the complexity of applications, reports, and other forms required under Federal rural development programs.

(Pub. L. 92–419, title VI, § 607, as added Pub. L. 96–355, § 2, Sept. 24, 1980, 94 Stat. 1171; amended Pub. L. 104–127, title VII, § 759A, Apr. 4, 1996, 110 Stat. 1138.)

REFERENCES IN TEXT

The Privacy Act of 1974, referred to in subsec. (b)(2), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–127 added par. (4) and struck out former par. (4) which read as follows: ''The Secretary may undertake cooperative efforts with other Federal departments and agencies to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas. The Secretary may request the heads of other Federal departments and agencies to participate in any working groups that the Secretary deems necessary to carry out the purposes of this section.''

EFFECTIVE DATE

Section 10 of Pub. L. 96–355 provided that: ''The provisions of this Act [enacting this section and section 2211b of this title, amending sections 1926, 2204, 2204a, 2204b–1, 2663, and 2667 of this title and section 5314 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under section 2201 of this title] shall become effective October 1, 1980.''

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

SIMPLIFIED, UNIFORM APPLICATION FOR ASSISTANCE FROM ALL FEDERAL RURAL DEVELOPMENT PROGRAMS

Section 762 of Pub. L. 104–127 provided that: ''Not later than 1 year after the date of enactment of this Act [Apr. 4, 1996], the Secretary of Agriculture shall develop a streamlined, simplified, and uniform application which shall be used in applying for assistance under all of the following:

''(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 [7 U.S.C. 2008j] and subtitle E [7 U.S.C. 2009 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

''(2) Subtitle G of title XVI and sections 2281 [42 U.S.C. 5177a], 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

''(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237:[;] 7 U.S.C. [former] 5930 note).

''(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

''(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 2661–2669 and 2204a(c)).

''(6) Sections 5 and 311 and title IV of the Rural Electrification Act of 1936 (7 U.S.C. [former] 905, [former] 940a, and 941–950b).''

EXECUTIVE ORDER NO. 12720

Ex. Ord. No. 12720, July 16, 1990, 55 F.R. 29337, as amended by Ex. Ord. No. 12783, Dec. 17, 1991, 56 F.R.

65977, which established the President's Council on Rural America, was revoked by Ex. Ord. No. 12869, § 4(c), Sept. 30, 1993, 58 F.R. 51751, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 926 of this title.

§ 2204b–1. Rural development

(a) Congressional commitment

The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

(b) Location of Federal facilities

Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain departmental policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7)[1] of this title.

(Pub. L. 91–524, title IX, § 901, Nov. 30, 1970, 84 Stat. 1383; Pub. L. 92–419, title VI, § 601, Aug. 30, 1972, 86 Stat. 674; Pub. L. 94–273, § 7(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 96–355, § 6, Sept. 24, 1980, 94 Stat. 1174.)

REFERENCES IN TEXT

Section 1926(a)(7) of this title, referred to in subsec. (b), was repealed and a new section 1926(a)(7) was added by Pub. L. 104–127, title VII, § 741(a)(2), Apr. 4, 1996, 110 Stat. 1123. As added, section 1926(a)(7) of this title defines ''rural areas'' but no longer contains provisions relating to a private business enterprise exception.

CODIFICATION

Section was formerly classified to section 3122 of Title 42, The Public Health and Welfare.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–355 struck out provisions respecting annual report to Congress by the President covering efforts, etc., made for locating all new facilities.

Subsec. (c). Pub. L. 96–355 struck out subsec. (c) which related to planning assistance and annual report to Congress respecting such assistance.

Subsec. (d). Pub. L. 96–355 struck out subsec. (d) which related to information and technical assistance and annual report to Congress respecting such assistance.

Subsec. (e). Pub. L. 96–355 struck out subsec. (e) which related to provision of government services and annual report to Congress respecting such services.

Subsec. (f). Pub. L. 96–355 struck out subsec. (f) which required report to Congress by July 1, 1971, relating to implementation of rural financial assistance requirements.

1976—Subsec. (b). Pub. L. 94–273 substituted ''December'' for ''September''.

Subsec. (d). Pub. L. 94–273 substituted ''December 1 of'' for ''September 1 of''.

1972—Subsec. (b). Pub. L. 92–419 struck out ''insofar as practicable,'' after ''maintain'' and substituted ''policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in section 1926(a)(7) of this title'', for ''policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of this title.

EXECUTIVE ORDER NO. 11797

Ex. Ord. No. 11797, July 31, 1974, 39 F.R. 27893, which delegated to the Secretary of Agriculture the President's authority to prepare and submit to Congress annual reports concerning the location of new Federal facilities in rural areas, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1609.

§ 2204c. Water management for rural areas

(a) In general

The Secretary of Agriculture is authorized, directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, Indian tribe, or university, to—

(1) conduct research and demonstration projects;

(2) provide technical assistance and extension services;

(3) make grants, loans, and loan guarantees; and

(4) provide other forms of assistance, for the purpose of helping rural areas make better and more efficient use of water resources and to alleviate problems arising in such areas from droughts or lack of water.

(b) Activities

The Secretary is authorized to provide assistance under this section for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmission, application, and activation.

(c) Cooperation

In implementing this section, the Secretary—

(1) should address the general, special, and unique problems of water management existing in rural areas;

(2) may take action independently or in cooperation with Federal, State, public, or private entities and agencies; and

(3) shall cooperate with—

(A) cooperatives, public or private organizations, confederations, authorities, or other entities (including such entities that may be organized under multiple State agreements or compacts and entities created under State law) to carry out projects authorized under this section; and

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

[1] See References in Text note below.

(d) Regulations

(1) The Secretary shall issue regulations to carry out this section.

(2) Such regulations shall—

(A) specify the terms and conditions that the entities described in subsections (a) and (c) of this section must meet in order to participate in programs carried out under this section;

(B) establish a procedure under which entities described in subsections (a) and (c) of this section may apply for assistance under this section; and

(C) foster cooperation between such entities and other Federal, State, or local agencies for the purposes of carrying out the provisions of this section.

(e) "University" defined

As used in this section, the term ''university'' means—

(1) a land grant university established under the Act of July 2, 1862 (known as the ''First Morrill Act''; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

(2) a land grant university established under the Act of August 30, 1890 (known as the ''Second Morrill Act''; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee Institute; and

(4) any other support research organization.

(f) Funding

(1) There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.

(2) The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) No waivers

Nothing in this section shall authorize the waiver of a cost-share requirement under a program established under any other provision of law.

(Pub. L. 100–387, title IV, § 401, Aug. 11, 1988, 102 Stat. 956.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (e)(1), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (e)(2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

§ 2204d. Encouragement of private contracting

(a) In general

For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this title.[1]

(b) Plan required

The Secretary shall develop and implement a plan that will result in increasing the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan, or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this title.[1]

(Pub. L. 101–624, title XXIII, § 2394, Nov. 28, 1990, 104 Stat. 4057.)

REFERENCES IN TEXT

This title, referred to in text, is title XXIII of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3979, known as the Rural Economic Development Act of 1990. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 1921 of this title and Tables.

§ 2204e. Office of Risk Assessment and Cost-Benefit Analysis

(a) Office of Risk Assessment and Cost-Benefit Analysis

The Secretary of Agriculture shall establish in the Department of Agriculture an Office of Risk Assessment and Cost-Benefit Analysis, which shall be under the direction of a Director appointed by the Secretary.

(b) Functions

The Director shall ensure that any regulatory analysis that is conducted under this section includes a risk assessment and cost-benefit analysis that is performed consistently and uses reasonably obtainable and sound scientific, technical, economic, and other data.

(1) In general

Effective six months after October 13, 1994, the Secretary of Agriculture shall publish in the Federal Register, for each proposed major regulation the primary purpose of which is to regulate issues of human health, human safety, or the environment that is promulgated by the Department after October 13, 1994, an analysis with as much specificity as practicable, of—

(A) the risk, including the effect of the risk, to human health, human safety, or the environment, and any combination thereof, addressed by the regulation, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive;

(B) the costs associated with the implementation of, and compliance with, the regulation;

(C) where appropriate and meaningful, a comparison of that risk relative to other similar risks regulated by the Department or other Federal Agency, resulting from comparable activities and exposure pathways (such comparisons should consider rel-

[1] See References in Text note below.

evant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks); and

(D) the quantitative and qualitative benefits of the regulation, including the reduction or prevention of risk expected from the regulation.

Where such a regulatory analysis is not practicable because of compelling circumstances, the Director shall provide an explanation in lieu of conducting an analysis under this section.

(2) Evaluation

The regulatory analysis referred to in paragraph (1) should also contain a statement that the Secretary of Agriculture evaluated—

(A) whether the regulation will advance the purpose of protecting against the risk referred to in paragraph (1)(A); and

(B) whether the regulation will produce benefits and reduce risks to human health, human safety, or the environment, and any combination thereof, in a cost-effective manner as a result of the implementation of and compliance with the regulation, by local, State, and Federal Government and other public and private entities, as estimated in paragraph (1)(B).

(3) Construction

This section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person. The Secretary of Agriculture shall perform the analyses required in this section in such a manner that does not delay the promulgation or implementation of regulations mandated by statute or judicial order.

(c) "Major regulation" defined

As used in this section, the term ''major regulation'' means any regulation that the Secretary of Agriculture estimates is likely to have an annual impact on the economy of the United States of $100,000,000 in 1994 dollars.

(Pub. L. 103–354, title III, §304, Oct. 13, 1994, 108 Stat. 3239.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 2204f. Fund for Rural America

(a) In general

There is established in the Treasury of the United States an account to be known as the Fund for Rural America (referred to in this section as the ''Account'') to provide funds for activities described in subsection (c) of this section.

(b) Funding

(1) In general

On October 1, 1998, and each October 1 thereafter through October 1, 2002, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $60,000,000 to the Account.

(2) Entitlement

The Secretary of Agriculture (referred to in this section as the ''Secretary'')—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(3) Purposes

Subject to subsection (d) of this section, of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

(A) for activities described in subsection (c)(1) of this section, not less than ⅓ and not more than ⅔ of the funds in the Account; and

(B) for activities described in subsection (c)(2) of this section, all funds in the Account not made available by the Secretary for activities described in subsection (c)(1) of this section.

(c) Activities

(1) Rural development

(A) In general

The Secretary may use the funds in the Account for a rural development activity—

(i) authorized under the Housing Act of 1949 [42 U.S.C. 1441 et seq.] for—

(I) direct loans to low-income borrowers under section 502 (42 U.S.C. 1472);

(II) loans for financial assistance for housing for domestic farm laborers under section 514 (42 U.S.C. 1484);

(III) financial assistance for housing for domestic farm laborers under section 516 (42 U.S.C. 1486);

(IV) payments for elderly who are not now receiving rental assistance under section 521 (42 U.S.C. 1490a);

(V) grants and contracts for mutual and self-help housing under section 523(b)(1)(A) (42 U.S.C. 1490c(b)(1)(A)); or

(VI) grants for rural housing preservation under section 533 (42 U.S.C. 1490m); or

(ii) conducted under any rural development program, including a program authorized under—

(I) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(II) subtitle G of title XVI [7 U.S.C. 5901 et seq.] and title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990;

(III) title V of the Rural Development Act of 1971 (7 U.S.C. 2661 et seq.); or

(IV) section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(B) Limitation on programs funded

The Secretary may not expend funds made available to carry out activities described in subparagraph (A) for any activity that did not receive appropriations for fiscal year 1995. Funds expended under this section for any program purpose shall be spent in ac-

cordance with and subject to the applicable program limitations, restrictions, and priorities found in the underlying program authority and this Act.

(C) Limitation on housing assistance

Not more than 20 percent of the funds made available to carry out activities described in subparagraph (A) shall be made available to carry out activities described in subparagraph (A)(i).

(D) Disclosure of allocation

For any fiscal year, the Secretary shall not disclose the allocation of funds under this section for any activity described in subparagraph (A) until the date that is 1 day after the date of enactment of legislation authorizing appropriations for the Department of Agriculture for any period in the fiscal year.

(2) Research

(A) In general

The Secretary may use the funds in the Account for research, extension, and education grants to—

(i) increase international competitiveness, efficiency, and farm profitability;

(ii) reduce economic and health risks;

(iii) conserve and enhance natural resources;

(iv) develop new crops, new crop uses, and new agricultural applications of biotechnology;

(v) enhance animal agricultural resources;

(vi) preserve plant and animal germplasm;

(vii) increase economic opportunities in farming and rural communities; and

(viii) expand locally-owned value-added processing.

(B) Eligible grantee

The Secretary may make a grant under this paragraph to—

(i) a Federal research agency;

(ii) a national laboratory;

(iii) a college or university or a research foundation maintained by a college or university;

(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer; or

(v) a State agricultural experiment station.

(C) Use of grant

(i) In general

A grant made under this paragraph may be used by a grantee for 1 or more of the following uses:

(I) Outcome-oriented research at the discovery end of the spectrum to provide breakthrough results.

(II) Exploratory and advanced development and technology with well-identified outcomes.

(III) A national, regional, or multi-State program oriented primarily toward extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

(ii) Smaller institutions

Of the amounts made available for activities described in this paragraph, not less than 15 percent shall be awarded to colleges, universities, or research foundations eligible for a grant under subparagraph (B)(iii) that rank in the lowest ⅓ of such colleges, universities, and foundations on the basis of Federal research funds received under a provision of law other than this section.

(D) Administration

(i) Priority

In administering this paragraph, the Secretary shall—

(I) establish criteria for allocating grants based on the priorities in subparagraph (A) and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 3123 of this title;

(II) seek and accept proposals for grants;

(III) determine the relevance and merit of proposals through a system of peer review and review by the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

(IV) award grants on the basis of merit, quality, and relevance to advancing the purposes of federally supported agricultural research, extension, and education provided in section 3101 of this title.

(ii) Competitive basis

A grant under this paragraph shall be awarded on a competitive basis.

(iii) Terms

A grant under this paragraph shall have a term that does not exceed 5 years.

(iv) Matching funds

As a condition of making a grant under this paragraph, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(I) for applied research that is commodity-specific; and

(II) not of national scope.

(v) Delegation

The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(vi) Availability of funds

Funds shall be available for obligation under this paragraph for a 2-year period.

(vii) Administrative costs

The Secretary may use not more than 4 percent of the funds made available for ac-

tivities described in this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(viii) Buildings

Funds made available for activities described in this paragraph shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) Limitations

Amounts in the Account may not be used for an activity described in subsection (c) of this section for a fiscal year if the program funding level for the fiscal year for the activity is less than 90 percent of the amount appropriated for the activity for fiscal year 1996, adjusted for inflation.

(Pub. L. 104–127, title VII, § 793, Apr. 4, 1996, 110 Stat. 1152; Pub. L. 105–185, title II, § 252, June 23, 1998, 112 Stat. 557; Pub. L. 105–277, div. A, § 101(a) [title VII, § 753(c)(1)], Oct. 21, 1998, 112 Stat. 2681, 2681–33.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (c)(1)(A)(i), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (c)(1)(A)(ii)(I), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (c)(1)(A)(ii)(II), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. Subtitle G of title XVI of the Act, known as the Alternative Agricultural Research and Commercialization Act of 1990, is classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title. Title XXIII of the Act [104 Stat. 3979] is known as the Rural Economic Development Act of 1990. For complete classification of the Food, Agriculture, Conservation, and Trade Act of 1990 to the Code, see Short Title of 1990 Amendments note set out under section 1421 of this title and Tables. For complete classification of the Rural Economic Development Act of 1990 to the Code, see Short Title of 1990 Amendment note set out under section 1921 of this title and Tables.

The Rural Development Act of 1971, referred to in subsec. (c)(1)(A)(ii)(III), probably means the Rural Development Act of 1972, which is Pub. L. 92–419, Aug. 30, 1972, 86 Stat. 657, as amended. Title V of the Act is title V of Pub. L. 92–419, as added by Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1322, as amended, which is classified generally to subchapter II (§ 2661 et seq.) of chapter 59 of this title. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (c)(1)(B), is Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 888, known as the Federal Agriculture Improvement and Reform Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 7201 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–185 added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''On January 1, 1997, October 1, 1998, and October 1, 1999, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $100,000,000 to the Account.''

Subsec. (c)(2)(B)(v). Pub. L. 105–277 added cl. (v).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective June 23, 1998, see section 101(a) [title VII, § 753(f)] of Pub. L. 105–277, set out as a note under section 343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450i of this title.

§ 2204g. Authority of Secretary of Agriculture to conduct census of agriculture

(a) Census of agriculture required

In 1998 and every fifth year thereafter, the Secretary of Agriculture shall take a census of agriculture.

(b) Methods

In connection with the census, the Secretary may conduct any survey or other information collection, and employ any sampling or other statistical method, that the Secretary determines is appropriate.

(c) Year of information

The information collected in each census taken under this section shall relate to the year immediately preceding the year in which the census is taken.

(d) Enforcement

(1) Fraud

A person over 18 years of age who willfully gives an answer that is false to a question, which is authorized by the Secretary to be submitted to the person in connection with a census under this section, shall be fined not more than $500.

(2) Refusal or neglect to answer questions

A person over 18 years of age who refuses or willfully neglects to answer a question, which is authorized by the Secretary to be submitted to the person in connection with a census under this section, shall be fined not more than $100.

(3) Social Security number

The failure or refusal of a person to disclose the person's Social Security number in response to a request made in connection with any census or other activity under this section shall not be a violation under this subsection.

(4) Religious information

Notwithstanding any other provision of this section, no person shall be compelled to disclose information relative to the religious beliefs of the person or to membership of the person in a religious body.

(e) Geographic coverage

A census under this section shall include—

(1) each of the several States of the United States;

(2) as determined appropriate by the Secretary, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and Guam; and

(3) with the concurrence of the Secretary and the Secretary of State, any other possession or area over which the United States exercises jurisdiction, control, or sovereignty.

(f) Cooperation with Secretary of Commerce

(1) Information provided to Secretary of Agriculture

On a written request by the Secretary of Agriculture, the Secretary of Commerce may provide to the Secretary of Agriculture any information collected under title 13 that the Secretary of Agriculture considers necessary for the taking of a census or survey under this section.

(2) Information provided to Secretary of Commerce

On a written request by the Secretary of Commerce, the Secretary of Agriculture may provide to the Secretary of Commerce any information collected in a census taken under this section that the Secretary of Commerce considers necessary for the taking of a census or survey under title 13.

(3) Confidentiality

Information obtained under this subsection may not be used for any purpose other than the statistical purposes for which the information is supplied. For purposes of sections 9 and 214 of title 13, any information provided under paragraph (2) shall be considered information furnished under the provisions of title 13.

(g) Regulations

A regulation necessary to carry out this section may be promulgated by—

(1) the Secretary of Agriculture, to the extent that a matter under the jurisdiction of the Secretary is involved; and

(2) the Secretary of Commerce, to the extent that a matter under the jurisdiction of the Secretary of Commerce is involved.

(Pub. L. 105–113, § 2, Nov. 21, 1997, 111 Stat. 2274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 2205. Duties of former Commissioner of Agriculture transferred to Secretary

The Secretary of Agriculture is authorized and directed to perform all the duties named in all Acts of Congress in force on February 8, 1889, to be performed by the Commissioner of Agriculture.

(Mar. 2, 1889, ch. 373, 25 Stat. 840; July 14, 1890, ch. 707, 26 Stat. 288.)

CODIFICATION

Section was formerly classified to section 515 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2206. Custody of property and records

The Secretary of Agriculture shall have charge, in the building and premises appropriated to the department, of the library, furniture, fixtures, records, and other property appertaining to it, or acquired for use in its business.

(R.S. § 525; Feb. 9, 1889, ch. 122, §§ 1, 4, 25 Stat. 659.)

CODIFICATION

R.S. § 525 derived from act May 15, 1862, ch. 72, § 3, 12 Stat. 387 and Res. Dec. 15, 1868, No. 1, 15 Stat. 343.

Section was formerly classified to section 516 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

''Secretary of Agriculture'' substituted in text for ''Commissioner of Agriculture'' pursuant to sections 1 and 4 of act Feb. 9, 1889, which are classified to section 2202 of this title. See, also, section 2205 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2206a. Conveyance of excess Federal personal property

Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) convey title to excess Federal personal property owned by the Department of Agriculture, with or without monetary compensation and for such purposes as are determined by the Secretary, to—

(A) any of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

(B) any Hispanic-serving institution (as defined in section 1059c(b)[1] of title 20); and

(C) any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University; and

(2) acquire from, exchange with, or dispose of personal property to other Federal departments and agencies without monetary compensation in furtherance of the purposes of this section.

(Pub. L. 104–127, title IX, § 923, Apr. 4, 1996, 110 Stat. 1195.)

REFERENCES IN TEXT

Section 1059c of title 20, referred to in par. (1)(B), was amended generally by Pub. L. 105–244, title III, § 303(e), Oct. 7, 1998, 112 Stat. 1639, and, as so amended, no longer relates to Hispanic-serving institutions.

Act of August 30, 1890 (7 U.S.C. 321 et seq.), referred to in par. (1)(C), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classifica-

[1] See References in Text note below.

tion of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

§ 2207. Reports

The Secretary of Agriculture shall annually make a general report in writing of his acts to the President, in which he may recommend the publication of papers forming parts of or accompanying his report. He shall also make special reports on particular subjects whenever required to do so by the President or either House of Congress, or when he shall think the subject in his charge requires it.

(R.S. §§528, 529; Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659; May 29, 1928, ch. 901, §1(101), 45 Stat. 993; Aug. 30, 1954, ch. 1076, §1(6), 68 Stat. 966.)

CODIFICATION

R.S. §§528 and 529 derived from the following acts: May 15, 1862, ch. 72, §3, 12 Stat. 387; Mar. 2, 1867, §1, 14 Stat. 440, 445.

Section was formerly classified to section 557 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1954—Act Aug. 30, 1954, struck out provision in first sentence which required that the annual report should contain an account of all moneys received and expended by the Secretary.

1928—Act May 29, 1928, struck out requirement that there be included a statement of expenditures from contingent appropriations.

CHANGE OF NAME

''Secretary of Agriculture'' substituted in text for ''Commissioner of Agriculture'' pursuant to sections 1 and 4 of act Feb. 9, 1889, which are classified to section 2202 of this title. See, also, section 2205 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

UNAVAILABILITY OF DEPARTMENT FUNDS TO PRODUCE PART 2 OF ANNUAL REPORT

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1048, provided in part: ''That hereafter, none of the funds available to the Department of Agriculture may be used to produce part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture).''

§ 2207a. Reports to Congress on obligation and expenditure

(a) Not later than 20 days after the end of each fiscal year, the Secretary of Agriculture shall submit to Congress a report on the amounts obligated and expended by the Department during that fiscal year for the procurement of advisory and assistance services.

(b) Each report submitted under subsection (a) of this section shall include a list with the following information:

(1) All contracts awarded for the procurement of advisory and assistance services during the fiscal year and the amount of each contract.

(2) The purpose of each contract.

(3) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(Pub. L. 101–161, title VI, §641, Nov. 21, 1989, 103 Stat. 986; Pub. L. 104–316, title I, §104(b), Oct. 19, 1996, 110 Stat. 3829.)

AMENDMENTS

1996—Pub. L. 104–316, in subsec. (a), struck out par. (1) designation before ''Not later than'', struck out subpar. (A) designation before ''submit to Congress'', struck out '', and (B) transmit a copy of such report to the Comptroller General of the United States'' after ''and assistance services'', redesignated par. (2) as subsec. (b) and in introductory provisions substituted ''subsection (a) of this section shall'' for ''paragraph (1) shall'', redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former subsec. (b) which read as follows: ''The Comptroller General of the United States shall review the reports submitted under subsection (a) of this section and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.''

§ 2208. Expenditure of appropriations; accounting

The Secretary of Agriculture shall direct and superintend the expenditure of all money appropriated to the Department and render accounts thereof.

(R.S. §3677; Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659.)

CODIFICATION

R.S. §3677 derived act May 15, 1882, ch. 72, §3, 12 Stat. 388.

Section was formerly classified to section 557a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

''Secretary of Agriculture'' substituted in text for ''Commissioner of Agriculture'' pursuant to sections 1 and 4 of act Feb. 9, 1889, which are classified to section 2202 of this title. See, also, section 2205 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

COMPLIANCE WITH BUY AMERICAN ACT

Pub. L. 105–86, title VII, §716, Nov. 18, 1997, 111 Stat. 2106, provided that:

''HEREAFTER: (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act [see Tables for classification] may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the 'Buy American Act').

''(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

''(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

''(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a no-

tice describing the statement made in paragraph (1) by the Congress.

''(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–180, title VII, §716, Aug. 6, 1996, 110 Stat. 1598.

Pub. L. 104–37, title VII, §716, Oct. 21, 1995, 109 Stat. 330.

Pub. L. 103–330, title VII, §719, Sept. 30, 1994, 108 Stat. 2468.

Pub. L. 103–111, title VII, §727, Oct. 21, 1993, 107 Stat. 1080.

§ 2209. Additional statement of expenditures

The Secretary of Agriculture shall furnish proper vouchers and accounts for the sums appropriated for the Department of Agriculture to the General Accounting Office.

(Mar. 3, 1885, ch. 338, §2, 23 Stat. 356; Aug. 11, 1916, ch. 313, 39 Stat. 492; June 10, 1921, ch. 18 §301, 42 Stat. 23; May 29, 1928, ch. 901, §1(88), 45 Stat. 992.)

CODIFICATION

Section was formerly classified to section 558 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

''General Accounting Office'' substituted in text for ''accounting officers of the Treasury'' on authority of act June 10, 1921.

AMENDMENTS

1928—Act May 29, 1928, struck out requirement that Secretary of Agriculture present to Congress a detailed statement of the expenditure of all appropriations for the Department for the preceding fiscal year.

1916—Act Aug. 11, 1916, amended section generally.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2209a. Advances to chiefs of field parties

On and after October 28, 1991, advances of money to chiefs of field parties from any appropriation for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

(Pub. L. 102–142, title VII, §706, Oct. 28, 1991, 105 Stat. 911.)

§ 2209b. Availability of appropriations

New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, integrated systems acquisition project, boll weevil program, up to 10 percent of the screwworm program, and up to $2,000,000 for costs associated with colocating regional offices; Food Safety and Inspection Service, field automation and information management project; funds appropriated for rental payments; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)) and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

(Pub. L. 106–78, title VII, §705, Oct. 22, 1999, 113 Stat. 1161.)

REFERENCES IN TEXT

This Act, referred to in text, is the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1135. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from the appropriation act cited as the credit to this section.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, §101(a) [title VII, §705], Oct. 21, 1998, 112 Stat. 2681, 2681–25.

Pub. L. 105–86, title VII, §705, Nov. 18, 1997, 111 Stat. 2104.

Pub. L. 104–180, title VII, §705, Aug. 6, 1996, 110 Stat. 1596.

Pub. L. 104–37, title VII, §705, Oct. 21, 1995, 109 Stat. 329.

Pub. L. 103–330, title VII, §705, Sept. 30, 1994, 108 Stat. 2466.

Pub. L. 103–111, title VII, §706, Oct. 21, 1993, 107 Stat. 1078.

Pub. L. 102–341, title VII, §706, Aug. 14, 1992, 106 Stat. 907.

Pub. L. 102–142, title VII, §708, Oct. 28, 1991, 105 Stat. 911.

Pub. L. 101–506, title VI, §608, Nov. 5, 1990, 104 Stat. 1346.

Pub. L. 101–161, title VI, §608, Nov. 21, 1989, 103 Stat. 982.

Pub. L. 100–460, title VI, §608, Oct. 1, 1988, 102 Stat. 2260.

Pub. L. 100–202, §101(k) [title VI, §608], Dec. 22, 1987, 101 Stat. 1329–322, 1329–354.

Pub. L. 99–500, §101(a) [title VI, §608], Oct. 18, 1986, 100 Stat. 1783, 1783–27, and Pub. L. 99–591, §101(a) [title VI, §608], Oct. 30, 1986, 100 Stat. 3341, 3341–27.

Pub. L. 99–190, §101(a) [H.R. 3037, title VI, §608], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, §101(a) [H.R. 5743, title VI, §608], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, §101(d) [H.R. 3223, title VI, §608], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title VI, §608, Dec. 18, 1982, 96 Stat. 1810.

Pub. L. 97–103, title VI, §608, Dec. 23, 1981, 95 Stat. 1488.

Pub. L. 96–528, title VI, §608, Dec. 15, 1980, 94 Stat. 3116.

Pub. L. 96–108, title VI, §607, Nov. 9, 1979, 93 Stat. 841.

Pub. L. 95–448, title VI, §607, Oct. 11, 1978, 92 Stat. 1092.

Pub. L. 95–97, title VI, §608, Aug. 12, 1977, 91 Stat. 828.

Pub. L. 94–351, title VI, §608, July 12, 1976, 90 Stat. 868.

Pub. L. 94–122, title VI, § 611, Oct. 21, 1975, 89 Stat. 667.

§ 2209c. Use of funds for one-year contracts to be performed in two fiscal years

On and after October 28, 1991, funds appropriated to the Department of Agriculture and the Food and Drug Administration may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

(Pub. L. 102–142, title VII, § 725, Oct. 28, 1991, 105 Stat. 913.)

§ 2209d. Statement of percentage and dollar amount of Federal funding

On and after October 28, 1991, the Department of Agriculture, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

(Pub. L. 102–142, title VII, § 733, Oct. 28, 1991, 105 Stat. 914.)

§ 2209e. Prohibition on payments to parties involved with prohibited drug-producing plants

On and after October 21, 1993, none of the funds available to the Department of Agriculture may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

(Pub. L. 103–111, title VII, § 704, Oct. 21, 1993, 107 Stat. 1078.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 102–341, title VII, § 704, Aug. 14, 1992, 106 Stat. 907.

Pub. L. 102–142, title VII, § 705, Oct. 28, 1991, 105 Stat. 911.

Pub. L. 101–506, title VI, § 605, Nov. 5, 1990, 104 Stat. 1346.

Pub. L. 101–161, title VI, § 605, Nov. 21, 1989, 103 Stat. 982.

Pub. L. 100–460, title VI, § 605, Oct. 1, 1988, 102 Stat. 2259.

Pub. L. 100–202, § 101(k) [title VI, § 605], Dec. 22, 1987, 101 Stat. 1329–322, 1329–353.

§ 2210. Deputy Secretary of Agriculture; appointment

There is established in the Department of Agriculture the position of Deputy Secretary of Agriculture, to be appointed by the President, by and with the advice and consent of the Senate.

(Mar. 26, 1934, ch. 89, title I, 48 Stat. 467; Pub. L. 94–561, § 1(c)(1), Oct. 19, 1976, 90 Stat. 2643.)

CODIFICATION

Provisions of this section which prescribed the basic compensation of the Under Secretary were omitted to conform to the provisions of act July 31, 1956. See section 5314 of Title 5, Government Organization and Employees.

Section was formerly classified to section 514a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Pub. L. 94–561 substituted ''Deputy Secretary of Agriculture'' for ''Under Secretary of Agriculture''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–561 effective Oct. 19, 1976, see section 5 of Pub. L. 94–561, set out as a note under section 5313 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953, Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

STATUS OF INCUMBENT UNDER SECRETARY OF AGRICULTURE

Section 1(d) of Pub. L. 94–561 provided that: ''The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act [Oct. 19, 1976], may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.''

§ 2211. Powers and duties of Deputy Secretary of Agriculture

The Deputy Secretary of Agriculture is authorized to exercise the functions and perform the duties of the first assistant of the Secretary of Agriculture within the meaning of section 3345 of title 5 and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

(June 5, 1939, ch. 181, 53 Stat. 809; Pub. L. 94–561, § 1(c)(2), Oct. 19, 1976, 90 Stat. 2643.)

CODIFICATION

''Section 3345 of title 5'' substituted in text for ''section 177 of the Revised Statutes of the United States (U.S.C., title 5, sec. 4)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 514b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Pub. L. 94–561 substituted ''Deputy Secretary of Agriculture'' for Under Secretary of Agriculture.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–561 effective Oct. 19, 1976, see section 5 of Pub. L. 94–561, set out as a note under section 5313 of Title 5, Government Organization and Employees.

§ 2211a. Omitted

CODIFICATION

Section, Pub. L. 95–501, title V, § 501(a), Oct. 21, 1978, 92 Stat. 1691, which related to establishment in Department of Agriculture of position of Under Secretary of Agriculture for International Affairs and Commodity Programs, was omitted in the complete revision of Pub. L. 95–501 by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668. See section 5691 of this title.

REDESIGNATION OF ASSISTANT SECRETARY OF AGRICULTURE FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

Section 501(c) of Pub. L. 95–501, which prohibited the use of the designation of ''Assistant Secretary of Agriculture for International Affairs and Commodity Programs'' after Oct. 21, 1978, was omitted in the complete revision of Pub. L. 95–501 by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3668.

§§ 2211b to 2212c. Repealed. Pub. L. 103–354, title II, §§ 218(e)(2)–(6), 231(f)(1), Oct. 13, 1994, 108 Stat. 3213, 3219

Section 2211b, Pub. L. 96–355, § 3(a), Sept. 24, 1980, 94 Stat. 1173, authorized appointment of an Under Secretary of Agriculture for Small Community and Rural Development.

Section 2212, acts Feb. 9, 1889, ch. 122, § 2, 25 Stat. 659; June 30, 1906, ch. 3913, 34 Stat. 670, authorized appointment of an Assistant Secretary of Agriculture.

Section 2212a, Pub. L. 92–419, title VI, § 604(a), Aug. 30, 1972, 86 Stat. 676, authorized appointment of an additional Assistant Secretary of Agriculture.

Section 2212b, Pub. L. 94–561, § 2, Oct. 19, 1976, 90 Stat. 2643, authorized appointment of an additional Assistant Secretary of Agriculture.

Section 2212c, Pub. L. 97–325, § 8(a), Oct. 15, 1982, 96 Stat. 1605, authorized appointment of an additional Assistant Secretary of Agriculture.

§ 2213. Omitted

CODIFICATION

Section, acts June 5, 1952, ch. 369, ch. XI, § 1101, 66 Stat. 121; 1953 Reorg. Plan No. 2, § 3, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633; June 28, 1955, ch. 189, § 12(c)(16), 69 Stat. 182; Aug. 14, 1964, Pub. L. 88–426, title III, § 307, 78 Stat. 432, related to the position of Assistant Secretary of Agriculture for Administration established by section 3 of Reorg. Plan No. 2 of 1953. Section 3 of Reorg. Plan No. 2 of 1953 was repealed by Pub. L. 97–325, § 8(d), Oct. 15, 1982, 96 Stat. 1606. See section 2212c of this title.

Section was formerly classified to section 517b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2214. General Counsel; appointment

(a) The President shall appoint on and after July 31, 1956, by and with the advice and consent of the Senate, a General Counsel of the Department of Agriculture.

(b) The existing office of General Counsel of the Department of Agriculture shall be abolished effective upon the appointment and qualification of the General Counsel provided for by subsection (a) of this section or April 1, 1957, whichever is earlier.

(July 31, 1956, ch. 804, title III, § 301, 70 Stat. 742.)

CODIFICATION

Section is based on that part of section 301 of act July 31, 1956, relating to the General Counsel of the Department of Agriculture. That part of such section 301 relating to the General Counsel of the Department of Health, Education, and Welfare [now Health and Human Services], is classified to section 3504 of Title 42, The Public Health and Welfare. That part of such section 301 relating to the General Counsel of the Post Office Department was enacted as section 307 of Title 39 by Pub. L. 86–682, Sept. 2, 1960, 74 Stat. 580. Such provisions were eliminated from Title 39 by the Postal Reorganization Act, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

Section was formerly classified to section 518a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

CROSS REFERENCES

Compensation of General Counsel, see section 5315 of Title 5, Government Organization and Employees.

§ 2215. Chief clerk

The Secretary of Agriculture shall appoint a chief clerk.

(R.S. § 523; Feb. 9, 1889, ch. 122, §§ 1, 4, 25 Stat. 659; Feb. 10, 1925, ch. 200, 43 Stat. 822.)

CODIFICATION

R.S. § 523 derived from act May 15, 1862, ch. 72, § 4, 12 Stat. 388.

Section was formerly classified to section 519 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

''Secretary of Agriculture'' substituted in text for ''Commissioner of Agriculture'' pursuant to sections 1 and 4 of act Feb. 9, 1889, which are classified to section 2202 of this title. See, also, section 2205 of this title.

§ 2216. Repealed. Pub. L. 92–310, title II, § 221(a), June 6, 1972, 86 Stat. 205

Section, R.S. § 524; acts Mar. 2, 1895, ch. 177, § 5, 28 Stat. 807; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759, related to the bond of the chief clerk of the Department of Agriculture.

Section was formerly classified to section 520 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2217. Oaths, affirmations, and affidavits taken by officers, agents, or employees of Department; use and effect

Such officers, agents, or employees of the Department of Agriculture of the United States as are designated by the Secretary of Agriculture for the purpose are authorized and empowered to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of any law committed to or which may be committed to the Secretary of Agriculture or the Department of Agriculture or any bureau or subdivision thereof for administration. Any such oath, affirmation, or affidavit administered or taken by or before such officer, agent, or employee when certified under his hand and authenticated by the seal of the Department of Agriculture may be offered or used in any court of the United States and shall have like force and effect as if administered or taken before a clerk of such court without further proof of the iden-

tity or authority of such officer, agent, or employee.

(Jan. 31, 1925, ch. 124, § 1, 43 Stat. 803.)

CODIFICATION

Section was formerly classified to section 521 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

DEPARTMENT OF THE INTERIOR PERSONNEL

Provisions of this section were made applicable to such officers, agents, or employees of Department of the Interior performing functions of former Bureau of Biological Survey as are designated by Secretary of the Interior for purposes named herein by 1939 Reorg. Plan No. II, § 4(g), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds. Bureau of Biological Survey was subsequently consolidated with Bureau of Fisheries into Fish and Wildlife Service in Department of the Interior by 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232, also set out in the Appendix to Title 5.

CROSS REFERENCES

Power to administer oaths, examine witnesses, or require production of books, etc., in performance of duties required of Bureau of Agricultural Economics, see section 420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2218 of this title.

§ 2218. Fee for administering or taking oaths, affirmations, and affidavits

No officer, agent, or employee of the Department of Agriculture shall demand or accept any fee or compensation whatsoever for administering or taking any oath, affirmation, or affidavit under the authority conferred by section 2217 of this title.

(Jan. 31, 1925, ch. 124, § 2, 43 Stat. 803.)

CODIFICATION

Section was formerly classified to section 522 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

DEPARTMENT OF THE INTERIOR PERSONNEL

Application to Department of the Interior employees, see note under section 2217 of this title.

§ 2219. Salaries; how paid

The Secretary of Agriculture is authorized and directed to pay the salary of each employee from the roll of the bureau, independent division, or office in which the employee is working, and no other.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1280.)

CODIFICATION

Section was formerly classified to section 528 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2220. Certain officials and employees of Department and others not subject to restriction on payment of compensation to Government officials and employees

The officials and the employees of the Department of Agriculture engaged in the activities described in section 450b of this title and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the provisions of section 209 of title 18; nor shall any official or employee engaged in the cooperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to such section.

(July 24, 1919, ch. 26, 41 Stat. 270; Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227.)

CODIFICATION

''Section 209 of title 18'' substituted in text for ''section 1914 of title 18'' on authority of section 2 of Pub. L. 87–849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 203 of Title 18, Crimes and Criminal Procedure.

Section was formerly classified to sections 67 and 564 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378. Thereafter, section was classified to section 450h of this title prior to its transfer to this section.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted ''section 1914 of title 18'' for reference to proviso in Act of March 3, 1917 (5 U.S.C. 66).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 743.

§ 2221. Details of persons from or to office of Secretary

Details may be made from or to the office of the Secretary when necessary and the services of the person whom it is proposed to detail are not required in that office.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1280.)

CODIFICATION

Section was formerly classified to section 530 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2222. Details of law clerks

Law clerks may be detailed by the Secretary of Agriculture for service in or out of Washington.

(Mar. 4, 1911, ch. 238, 36 Stat. 1236.)

CODIFICATION

Section was formerly classified to section 531 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2223. Details of employees from and to library and bureaus and offices

Employees of the library may be temporarily detailed by the Secretary of Agriculture for library service in the bureaus and offices of the department, and employees of the bureaus and offices of the department engaged in library work may also be temporarily detailed to the library.

(Mar. 4, 1911, ch. 238, 36 Stat. 1261.)

REFERENCES IN TEXT

The library, referred to in text, is the library of the Department of Agriculture, known as the National Agricultural Library.

CODIFICATION

Section was formerly classified to section 532 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2224. Details of employees from and to Division of Accounts and Disbursements and bureaus and offices; traveling expenses

Employees of the Division of Accounts and Disbursements may be detailed by the Secretary of Agriculture for accounting and disbursing work in any of the bureaus and offices of the department for duty in or out of the city of Washington, and employees of the bureaus and offices of the department may also be detailed to the Division of Accounts and Disbursements for duty in or out of the city of Washington, traveling expenses of employees so detailed to be paid from the appropriation of the bureau or office in connection with which such travel is performed.

(Aug. 10, 1912, ch. 284, 37 Stat. 294.)

REFERENCES IN TEXT

The Division of Accounts and Disbursements, referred to in text, was a division of the Department of Agriculture at the time of enactment of this section. The activities of that Division are now performed by the various departmental offices in the Department of Agriculture under the Assistant Secretary of Agriculture for Administration. In a similar consolidation of operations, but one carried out in a different department, the Division of Disbursement and certain other offices and agencies and their functions in the Treasury Department were consolidated into the Fiscal Service of the Treasury Department by 1940 Reorg. Plan No. III, §1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 533 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2224a. Utilization of employees of agencies for part-time and intermittent assistance to other agencies; exclusion of overtime resulting from natural disasters from staff year ceilings

On and after October 28, 1991, notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

(Pub. L. 102–142, title VII, §711, Oct. 28, 1991, 105 Stat. 912.)

§ 2225. Employment of temporary personnel

The Department of Agriculture may employ persons or organizations, on a temporary basis, by contract or otherwise: *Provided*, That no expenditures for such temporary employment shall be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, §706(a), 58 Stat. 742; Ex. Ord. No. 9577, June 29, 1945, 10 F.R. 4253.)

CODIFICATION

This section was enacted as a part of the Department of Agriculture Organic Act of 1944.

First sentence of section which related to the authority of the War Food Administrator to employ personnel was omitted on the authority of Ex. Ord. No. 9577, which terminated the War Food Administration.

The exception from ''the Classification Act of 1923, as amended'' was omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949 (63 Stat. 972, 973) repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exception contained in this section because of section 1106(b) that provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–544, §8(a), Sept. 6, 1966, 80 Stat. 632 (section 1 of which revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act.

Section was formerly classified to section 574 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Employment of personnel by the Agriculture Adjustment Agency, see section 610 of this title.

Temporary or intermittent employment of experts and consultants, see section 3109 of Title 5, Government Organization and Employees.

§ 2225a. Contracts for consulting services

On and after October 28, 1991, the expenditure of any appropriation for the Department of Agriculture for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

(Pub. L. 102–142, title VII, § 701, Oct. 28, 1991, 105 Stat. 911.)

§ 2225b. Personal service contracts for veterinarians

On and after October 28, 1991, provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

(Pub. L. 102–142, title VII, § 723, Oct. 28, 1991, 105 Stat. 913.)

§ 2226. Employment of persons for forest fire fighting, pest control, and handling of animals

Notwithstanding any other provisions of law, the Department is authorized on and after August 31, 1951, to employ or otherwise contract with persons at regular rates of pay for necessary hours of work for emergency forest fire fighting and pest control and for handling of animals, including dairy cattle, without regard to Sundays, Federal holidays, and the regular workweek.

(Aug. 31, 1951, ch. 374, title IV, § 407, 65 Stat. 246.)

CODIFICATION

Section was formerly classified to section 574a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2227. Traveling expenses

The Secretary of Agriculture is authorized to purchase from appropriations made for traveling expenses for employees of the Department of Agriculture, mileage and mileage books, at commercial rates, in the manner in which such mileage or mileage books are usually purchased.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1281.)

CODIFICATION

Section was formerly classified to section 538 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

REPEAL

Insofar as the provisions of this section relating to subsistence may conflict with those of sections 821 to 823, and 827 to 833 of former Title 5, which are now covered by sections 102, 105, 2105, 2106, 5701, 5705, 5707 and 5708 of Title 5, Government Organization and Employees, they were repealed by section 829 of former Title 5, which is now covered by section 5708 of Title 5.

§ 2228. Emergency subsistence for employees

The Department of Agriculture is authorized to furnish subsistence to employees without consideration as, or deduction from, the compensation of such employees where warranted by emergency condition connected with the work under such regulations as the Secretary of Agriculture may prescribe.

(Aug. 3, 1956, ch. 950, § 5, 70 Stat. 1033.)

CODIFICATION

Section was formerly classified to section 541d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2229. Travel and per diem expenses of temporary or seasonal employees

Under such regulations as may be prescribed by the Secretary of Agriculture, funds available to the Department of Agriculture may be used for the payment of transportation expenses and per diem in lieu of subsistence expenses, in accordance with subchapter I of chapter 57 of title 5, for travel between places of recruitment and duty, and while at places of duty, of persons appointed for temporary or seasonal services in inspection, classing or grading agricultural commodities.

(Aug. 3, 1956, ch. 950, § 12, 70 Stat. 1034.)

CODIFICATION

Section was formerly classified to section 541e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

''Subchapter I of chapter 57 of title 5'' substituted in text for ''the Travel Expense Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 2230. Employees in Alaska; subsistence, equipment, and supplies

The Secretary of Agriculture is authorized to furnish subsistence to employees of the United States Department of Agriculture in the Territory of Alaska, and to purchase personal equipment and supplies for them, and to make deductions to meet the cost thereof from any money appropriated for salary payments or otherwise due such employees.

(Feb. 16, 1931, ch. 200, 46 Stat. 1162.)

CODIFICATION

Section was formerly classified to section 543a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

REPEAL

Insofar as the provisions of this section relating to subsistence may conflict with those of sections 821 to 823, and 827 to 833 of former Title 5, which are now covered by sections 102, 105, 2105, 2106, 5701, 5705, 5707 and 5708 of Title 5, Government Organization and Employ-

ees, they were repealed by section 829 of former Title 5, which is now covered by section 5708 of Title 5.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 2231. Official expenses of employees stationed abroad

Employees of the Department of Agriculture stationed abroad may, with the approval of the Secretary of Agriculture, enter into leases for official quarters, for periods not exceeding one year, and may pay rent, telephone, subscriptions to publications, and other charges incident to the conduct of their offices and the discharge of their duties, in advance, in any foreign country where custom or practice requires payment in advance.

(Sept. 21, 1944, ch. 412, title VII, § 705(c), 58 Stat. 742.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 543b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 426.
July 12, 1943, ch. 215, 57 Stat. 393.
July 22, 1942, ch. 516, 56 Stat. 665.
July 1, 1941, ch. 267, 55 Stat. 409.
June 25, 1940, ch. 421, 54 Stat. 532.
June 30, 1939, ch. 253, title I, 53 Stat. 940.
June 16, 1938, ch. 464, title I, 52 Stat. 711.
June 29, 1937, ch. 404, 50 Stat. 395.

§ 2231a. Reimbursement of employees for costs of State licenses and certification fees

On and after October 28, 1991, notwithstanding any other provision of law, any appropriations or funds available to the agencies of the Department of Agriculture may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Department of Agriculture position and that are necessary to comply with State laws, regulations, and requirements.

(Pub. L. 102–142, title VII, § 738, Oct. 28, 1991, 105 Stat. 915.)

§ 2231b. First amendment rights of employees of the United States Department of Agriculture

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

(Pub. L. 103–354, title III, § 302, Oct. 13, 1994, 108 Stat. 3239.)

§ 2232. Stenographic reporting service

The Department of Agriculture is authorized to contract for stenographic reporting services.

(Sept. 21, 1944, ch. 412, title VII, § 705(b), 58 Stat. 742.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 520a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following Department of Agriculture Appropriation Acts, and were repealed by Pub. L. 89–554, § 8(a), Sept 6, 1966, 80 Stat. 632:

June 28, 1944, ch. 296, 58 Stat. 426.
July 12, 1943, ch. 215, 57 Stat. 392.
July 22, 1942, ch. 516, 56 Stat. 665.
July 1, 1941, ch. 267, 55 Stat. 408.
June 25, 1940, ch. 421, 54 Stat. 532.
June 30, 1939, ch. 253, title I, 53 Stat. 940.
June 16, 1938, ch. 464, title I, 52 Stat. 711.
June 29, 1937, ch. 404, 50 Stat. 395.
June 4, 1936, ch. 489, 49 Stat. 1421.
May 17, 1935, ch. 131, title I, § 1, 49 Stat. 248.
Mar. 26, 1934, ch. 89, 48 Stat. 468.
Mar. 3, 1933, ch. 203, 47 Stat. 1432.
July 7, 1932, ch. 443, 47 Stat. 610.
Feb. 23, 1931, ch. 278, 46 Stat. 1243.
May 27, 1930, ch. 341, 46 Stat. 393.
Feb. 16, 1929, ch. 227, 45 Stat. 1190.
May 16, 1928, ch. 572, 45 Stat. 540.
Jan. 18, 1927, ch. 39, 44 Stat. 977.
May 11, 1926, ch. 286, 44 Stat. 500.

§ 2233. Funds available for expenses of advisory committees

Funds available for carrying out the activities of the Department of Agriculture shall be available for expenses of advisory committees, including travel expenses in accordance with the provisions of section 5703 of title 5.

(Aug. 3, 1956, ch. 950, § 4, 70 Stat. 1033.)

CODIFICATION

''Section 5703 of title 5'' substituted in text for ''section 5 of the Administrative Expenses Act of 1946, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 541c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2234. Purchases for bureaus from appropriations for contingent expenses

The Secretary of Agriculture may purchase stationery, supplies, furniture, and miscellaneous materials from this appropriation for contingent expenses and transfer the same at actual

cost to the various bureaus, divisions, and offices of the Department of Agriculture in the city of Washington, reimbursement therefor to be made to such appropriation by said bureaus, divisions, and offices from their lump-fund appropriations by transfer settlements through the Treasury Department.

(Aug. 10, 1912, ch. 284, 37 Stat. 296.)

CODIFICATION

Section was formerly classified to section 542 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CROSS REFERENCES

Budgetary appropriations for Department of Agriculture, see section 101 et seq. of Title 31, Money and Finance.

General Accounting Office to exercise some of functions formerly exercised by Treasury Department, see section 701 et seq. of Title 31, Money and Finance.

§ 2235. Working capital fund established; use of central services by bureaus, etc., of the Department

A working capital fund of $400,000 is established without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of (1) central duplicating, photographic, and tabulating services, (2) a central motor-transport service for the maintenance, repair, and operation of motor-transport vehicles and other equipment, (3) a central supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, equipment, blank forms, and miscellaneous materials, for which stocks thereof, not to exceed $200,000 in value (except for the value of blank forms) at the close of any fiscal year, may be maintained sufficient to meet, in whole or in part, requirements of the bureaus and offices of the Department in the city of Washington and elsewhere, and (4) such other services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines may be performed more advantageously as central services; said fund to be credited with advances or reimbursements from applicable funds of bureaus, offices, and agencies for which services are performed on the basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation) and other expenses: *Provided*, That such advances shall not be available for any period beyond that provided by the Act appropriating the funds: *Provided further*, That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the bureaus, offices, and agencies of the department.

(July 12, 1943, ch. 215, 57 Stat. 393; Pub. L. 89–106, §7, Aug. 4, 1965, 79 Stat. 432; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

CODIFICATION

Section was formerly classified to section 542–1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1965—Pub. L. 89–106 substituted ''credited with advances or reimbursements'' for ''reimbursed'' and inserted ''That such advances shall not be available for any period beyond that provided by the Act appropriating the funds: *Provided further,*''.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2, redesignated Bureau of the Budget as Office of Management and Budget and offices of Director, Deputy Director, and Assistant Directors of Bureau of the Budget as Director, Deputy Director, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2, transferred records, property, personnel and funds of Bureau of the Budget to Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2236. Working capital fund for Agricultural Research Center; establishment

There is established a working capital fund of $300,000, to be available without fiscal year limitation, for expenses necessary for furnishing facilities and services by the Agricultural Research Center to Government agencies. Said fund shall be reimbursed from applicable appropriations or other funds to cover the charges for such facilities and services, including handling and related charges, for equipment rentals (including depreciation, maintenance, and repairs), for supplies, equipment and materials, stores of which may be maintained at the Center, and for building construction, alterations, and repairs, and applicable appropriations or other funds may also be charged their proportionate share of the necessary general expenses of the Center not covered by the annual appropriation.

(Sept. 6, 1950, ch. 896, Ch. VI, title I, §101, 64 Stat. 658.)

CODIFICATION

Section was formerly classified to section 542–2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§ 2237. Use of field work funds for employment of men with equipment, etc.

Funds available for field work in the Department of Agriculture shall be available for employment by contract or otherwise of men with equipment, boats, work animals, animal-drawn, and motor-propelled vehicles.

(June 4, 1936, ch. 489, 49 Stat. 1422.)

CODIFICATION

Section was formerly classified to section 542a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§ 2238. Use of field work funds for purchase of arms and ammunition

Funds available for field work in the Department of Agriculture may be used for the purchase of arms and ammunition whenever the in-

dividual purchase does not exceed $50, and for individual purchases exceeding $50, when such arms and ammunition cannot advantageously be supplied by the Secretary of the Army pursuant to section 4655 of title 10.

(June 4, 1936, ch. 489, 49 Stat. 1422.)

CODIFICATION

''Section 4655 of title 10'' substituted in text for ''the Act of March 3, 1879 (20 Stat. 412)'' on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces.

Section was formerly classified to section 542b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 2239. Funds for printing, binding, and scientific and technical article reprint purchases

Funds available to the Department of Agriculture may be used for printing and binding, including the purchase of reprints of scientific and technical articles.

(Sept. 6, 1950, ch. 896, Ch. VI, title IV, § 406, 64 Stat. 679.)

CODIFICATION

Section was formerly classified to section 542c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2240. Reimbursement of appropriation for salaries and compensation of employees in mechanical shops

The Secretary of Agriculture may, by transfer settlements through the General Accounting Office, reimburse any appropriation made for the salaries and compensation of employees in the mechanical shops of the department from the appropriation made for the bureau, office, or division for which any work in said shops is performed, and such reimbursement shall be at the actual cost of labor for such work.

(May 11, 1922, ch. 185, 42 Stat. 508.)

CODIFICATION

Section was formerly classified to section 543 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2241. Sale or exchange of animals or animal products

The Secretary of Agriculture is authorized to sell in the open market or to exchange for other livestock such animals or animal products as cease to be needed in the work of the department, and all moneys received from the sale of such animals or animal products or as a bonus in the exchange of the same shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1114.)

CODIFICATION

Section was formerly classified to section 549 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2242. Repealed. Pub. L. 101–624, title XVI, § 1606(b)(1), (2), Nov. 28, 1990, 104 Stat. 3715

Section, acts May 23, 1908, ch. 192, 35 Stat. 264, 266; Mar. 4, 1915, ch. 144, 38 Stat. 1109, provided for sale of copies of card index of publications. See section 3125a of this title.

§ 2242a. User fees for reports, publications, and software

(a) Authority of Secretary

The Secretary of Agriculture may—

(1) furnish, on request, copies of software programs, pamphlets, reports, or other publications, regardless of their form, including electronic publications, prepared in the Department of Agriculture in carrying out any of its missions or programs; and

(2) charge such fees therefor as the Secretary determines are reasonable.

(b) Consistency of charges with provisions of section 9701 of title 31

The imposition of such charges shall be consistent with section 9701 of title 31.

(c) Use and disposition of moneys

All moneys received in payment for work or services performed, or for software programs, pamphlets, reports, or other publications provided, under this section—

(1) shall be available until expended to pay directly the costs of such work, services, software programs, pamphlets, reports, or publications; and

(2) may be credited to appropriations or funds that incur such costs.

(d) Investment

Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments. Fees and charges, including late payment penalties and interest earned from the investment of such funds shall be credited to such account.

(Pub. L. 97–98, title XI, § 1121, Dec. 22, 1981, 95 Stat. 1273; Pub. L. 99–198, title XVII, § 1769, Dec. 23, 1985, 99 Stat. 1656; Pub. L. 101–624, title XXV, § 2510, Nov. 28, 1990, 104 Stat. 4073.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–624 added subsec. (d).

1985—Pub. L. 99–198, in amending section generally, divided existing provisions into subsecs. (a), (b), and (c) and inserted references to software programs and electronic publications.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2242b. Translation of publications into foreign languages

On and after October 28, 1991, funds appropriated to the Department of Agriculture by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

(Pub. L. 102–142, title VII, § 721, Oct. 28, 1991, 105 Stat. 913.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–142, Oct. 28, 1991, 105 Stat. 878, known as the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

§ 2243. Sale of photographic prints and maps

The Secretary of Agriculture may dispose of photographic prints (including bromide enlargements), lantern slides, transparencies, blueprints, and forest maps at cost and 10 per centum additional, and condemned property or materials under his charge in the same manner as provided by law for other bureaus.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1270.)

CODIFICATION

Section was formerly classified to section 552 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2244. Repealed. Pub. L. 101–624, title XVI, § 1606(b)(3), Nov. 28, 1990, 104 Stat. 3715

Section, act Sept. 21, 1944, ch. 412, title VII, § 708, 58 Stat. 742, provided for manufacture and sale of copies of bibliographies, photographic reproductions of books, and library supplies. See section 3125a of this title.

Provisions similar to those in this section were contained in the following Department of Agriculture Appropriation Acts:

June 28, 1944, ch. 296, 58 Stat. 429.
July 12, 1943, ch. 215, 57 Stat. 396.
July 22, 1942, ch. 516, 56 Stat. 665.

§ 2245. Sale of prints and lantern slides

The Secretary of Agriculture is authorized to furnish, upon application, prints and lantern slides from negatives in the possession of the department and to charge for the same a price to cover the cost of preparation, such price to be determined and established by the Secretary of Agriculture, and the money received from such sales to be deposited in the Treasury of the United States.

(Mar. 4, 1907, ch. 2907, 34 Stat. 1281.)

CODIFICATION

Section was formerly classified to section 553 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2246. Loan, rental, or sale of films

The Secretary of Agriculture is authorized, under such rules and regulations and subject to such conditions as he may prescribe, to loan, rent, or sell copies of films. In the sale or rental of films educational institutions or associations for agricultural education not organized for profit shall have preference; all moneys received from such rentals or sales to be covered into the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1917, ch. 179, 39 Stat. 1157; May 31, 1920, ch. 217, 41 Stat. 718.)

CODIFICATION

Section was formerly classified to section 554 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2247. Sale of samples of pure sugars

The Secretary of Agriculture may furnish, upon application, samples of pure sugars, naval stores, microscopical specimens, and other products to State and municipal officers, educational institutions, and other parties and charge for the same a price to cover the cost thereof, such price to be determined and established by the Secretary, and the money received from sales to be deposited in the Treasury of the United States as miscellaneous receipts.

(Mar. 4, 1915, ch. 144, 38 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 555 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2248. Statistics relating to turpentine and rosin

The Secretary of Agriculture is authorized and directed to collect and/or compile and publish annually, and at such other times, and in such form and on such date or dates as he shall prescribe, statistics and essential information relating to spirits of turpentine and rosin produced, held, and used in the domestic and foreign commerce of the United States.

(Aug. 15, 1935, ch. 548, 49 Stat. 653.)

CODIFICATION

Section was formerly classified to section 556b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2276 of this title.

§ 2249. Amount and character of cooperation

Unless otherwise provided by the Department of Agriculture Organic Act of 1944 or by other statute, the measure and character of cooperation authorized by said Act on the part of the Federal Government and on the part of the cooperator shall be such as may be prescribed by the Secretary, unless otherwise provided for in the applicable appropriation.

(Sept. 21, 1944, ch. 412, title VII, § 711, 58 Stat. 743.)

REFERENCES IN TEXT

The Department of Agriculture Organic Act of 1944, referred to in text, is act Sept. 21, 1944, ch. 412, 58 Stat. 734, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 564a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2250. Construction and repair of buildings and public improvements

The Department of Agriculture is authorized to erect, alter, and repair such buildings and other public improvements as may be necessary to carry out its authorized work: *Provided*, That no building or improvement shall be erected or altered under this authority unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 703, 58 Stat. 742.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 565a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2254 of this title.

§ 2250a. Erection of buildings and other structures on non-Federal lands; duration of use of such lands; removal of structures after termination of use; availability of funds for expenses of acquiring long-term leases or other agreements

Notwithstanding the provisions of existing law, except the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.] and without regard to section 255 of title 40, but within the limitations of cost otherwise applicable, appropriations of the Department of Agriculture may be expended for the erection of buildings and other structures on land owned by States, counties, municipalities, or other political subdivisions, corporations, or individuals: *Provided*, That prior to such erection there is obtained the right to use the land for the estimated life of or need for the structure, including the right to remove any such structure within a reasonable time after the termination of the right to use the land: *Provided further*, That appropriations and funds available to the Department of Agriculture shall be available for expenses in connection with acquiring the right to use land for such purposes under long-term lease or other agreement.

(Pub. L. 89–106, § 1, Aug. 4, 1965, 79 Stat. 431.)

REFERENCES IN TEXT

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, and is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

CODIFICATION

Section was formerly classified to section 565b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2251. Reimbursement of Production and Marketing Administration appropriations for expenses of maintaining registers of indebtedness and making set-offs

Beginning with the fiscal year 1942, each appropriation to enable the Secretary of Agriculture to carry into effect any program administered through the Production and Marketing Administration may, in the discretion of the Secretary, be reimbursed out of the then current appropriation for the agency affected, for a fair share of the administrative expense, as estimated periodically or in advance by the Production and Marketing Administration of maintaining registers of indebtedness and making, out of such Production and Marketing Administration appropriation, set-offs under the order entered by the Secretary on May 8, 1937, as heretofore or hereafter amended, in favor of any other agency of the Government.

(July 22, 1942, ch. 516, 56 Stat. 691; 1946 Reorg. Plan No. 3, § 501(a), eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1100.)

CODIFICATION

Section was formerly classified to section 566 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Production and Marketing Administration functions transferred to other units of Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Agriculture Adjustment Administration consolidated into Production and Marketing Administration by Secretary of Agriculture's Memorandum No. 1118, Aug. 18, 1945, which consolidation was ratified by 1946 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2252. Reimbursement of Production and Marketing Administration appropriations for costs of procuring agricultural commodities for nongovernmental agencies or foreign governments

Applicable appropriations available to the Production and Marketing Administration current at the time services are rendered or payment therefore is received may be reimbursed by

nongovernmental agencies or foreign governments (by advance credits or reimbursements) for the actual or estimated costs, as determined by the Production and Marketing Administration, incident to procuring agricultural commodities for such nongovernmental agencies or foreign governments.

(Sept. 21, 1944, ch. 412, title IV, § 402, 58 Stat. 738; Ex. Ord. No. 9577, June 29, 1945, 10 F.R. 4253.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 569 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Production and Marketing Administration functions transferred to other units in Department of Agriculture under Secretary's memorandum 1320, supp. 4, of Nov. 2, 1953.

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

War Food Administration terminated by Ex. Ord. No. 9577, and all functions transferred to Secretary of Agriculture, who established Production and Marketing Administration, under authority of said Ex. Ord. No. 9577, to administer functions of many of marketing and production agencies, including those functions of former War Food Administration.

§ 2253. Adjustment by Secretary of titles to lands acquired by Government and subject to his control

If the Secretary of Agriculture shall find after the acquisition by the United States of any land or interest therein which is subject to his administration, custody, or control, other than land acquired by exchange of public domain land or resources, that the title thereto is legally insufficient for the purposes for which such land or interest was acquired and no consideration therefor has been paid by the United States, or that title or color of title to such land or interest was acquired through mistake, misunderstanding, error, or inadvertence, he is authorized to execute and deliver on behalf of and in the name of the United States to the person from whom the title was acquired or to the person whom he finds entitled thereto a quitclaim deed to such land or interest: *Provided*, *however*, That if the person to whom such deed is made is the same person from whom the United States acquired title, or his successor in interest, any consideration given by the United States for such land or interest shall be restored or, in lieu thereof, the value equivalent of such consideration as determined by the Secretary of Agriculture shall be paid to the United States; and any consideration or value equivalent so restored or paid shall, so far as is practicable, be restored to the jurisdiction, or deposited to the credit, of the department, agency, appropriation, or fund from which the consideration was transferred or paid at the time of the acquisition of title by the United States.

(July 8, 1943, ch. 197, 57 Stat. 388; Mar. 3, 1952, ch. 72, 66 Stat. 11; Pub. L. 87–869, § 2, Oct. 23, 1962, 76 Stat. 1157.)

CODIFICATION

Section was formerly classified to section 567 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1962—Pub. L. 87–869 struck out ''within twenty years'' after ''shall find''.

1952—Act Mar. 3, 1952, increased period of limitation during which Secretary may adjust land titles from ten to twenty years.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Option to purchase lands, see section 428a of this title.

§ 2254. Operation, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings

Appropriations for the Agricultural Research Service shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only and pursuant to section 2250 of this title for the construction, alteration, and repair of buildings and improvements.

(Pub. L. 106–78, title I, Oct. 22, 1999, 113 Stat. 1139.)

CODIFICATION

Section is from the appropriation act cited as the credit to this section.

Section was formerly classified to section 568a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 105–277, div. A, § 101(a) [title I], Oct. 21, 1998, 112 Stat. 2681, 2681–4.

Pub. L. 105–86, title I, Nov. 18, 1997, 111 Stat. 2083.

Pub. L. 104–180, title I, Aug. 6, 1996, 110 Stat. 1573.

Pub. L. 104–37, title I, Oct. 21, 1995, 109 Stat. 303.

Pub. L. 103–330, title I, Sept. 30, 1994, 108 Stat. 2439.

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1050.

Pub. L. 102–341, title I, Aug. 14, 1992, 106 Stat. 877.

Pub. L. 102–142, title I, Oct. 28, 1991, 105 Stat. 882.

Pub. L. 101–506, title I, Nov. 5, 1990, 104 Stat. 1319.

Pub. L. 101–161, title I, Nov. 21, 1989, 103 Stat. 955, 956.

Pub. L. 100–460, title I, Oct. 1, 1988, 102 Stat. 2233.

Pub. L. 100–202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–327.

Pub. L. 99–500, § 101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783–4, and Pub. L. 99–591, § 101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341–4.

Pub. L. 99–190, § 101(a) [H.R. 3037, title I], Dec. 19, 1985, 99 Stat. 1185.

Pub. L. 98–473, title I, § 101(a) [H.R. 5743, title I], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, § 101(d) [H.R. 3223, title I], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title I, Dec. 18, 1982, 96 Stat. 1789.

Pub. L. 97–103, title I, Dec. 23, 1981, 95 Stat. 1469.

Pub. L. 96–528, title I, Dec. 15, 1980, 94 Stat. 3097.

Pub. L. 96–108, title I, Nov. 9, 1979, 93 Stat. 822.

Pub. L. 95–448, title I, Oct. 11, 1978, 92 Stat. 1074.

Pub. L. 95–97, title I, Aug. 12, 1977, 91 Stat. 811, 812.
Pub. L. 94–351, title I, July 12, 1976, 90 Stat. 852.
Pub. L. 94–122, title I, Oct. 21, 1975, 89 Stat. 642, 643.
Pub. L. 93–563, title I, Dec. 31, 1974, 88 Stat. 1823.
Pub. L. 93–135, title I, Oct. 24, 1973, 87 Stat. 470.
Pub. L. 92–399, title I, Aug. 22, 1972, 86 Stat. 593.
Pub. L. 92–73, title I, Aug. 10, 1971, 85 Stat. 184.
Pub. L. 91–566, title I, Dec. 22, 1970, 84 Stat. 1480.
Pub. L. 91–127, title I, Nov. 26, 1969, 83 Stat. 245.
Pub. L. 90–463, title I, Aug. 8, 1968, 82 Stat. 639.
Pub. L. 90–113, title I, Oct. 24, 1967, 81 Stat. 320.
Pub. L. 89–556, title I, Sept. 7, 1966, 80 Stat. 689.
Pub. L. 89–316, title I, Nov. 2, 1965, 79 Stat. 1165.
Pub. L. 88–573, title I, Sept. 2, 1964, 78 Stat. 862.
Pub. L. 88–250, title I, Dec. 30, 1963, 77 Stat. 820.
Pub. L. 87–879, title I, Oct. 24, 1962, 76 Stat. 1203.
Pub. L. 87–112, title I, July 26, 1961, 75 Stat. 226.
Pub. L. 86–532, title I, June 29, 1960, 74 Stat. 232.
Pub. L. 86–80, title I, July 8, 1959, 73 Stat. 167.
Pub. L. 85–459, title I, June 13, 1958, 72 Stat. 188.
Pub. L. 85–118, title I, Aug. 2, 1957, 71 Stat. 329.
June 4, 1956, ch. 355, title I, 70 Stat. 229.
May 23, 1955, ch. 43, title I, 69 Stat. 51.
June 29, 1954, ch. 409, title I, 68 Stat. 304.
July 28, 1953, ch. 251, title I, 67 Stat. 206.
July 5, 1952, ch. 574, title I, 66 Stat. 336.
Aug. 31, 1951, ch. 374, title I, 65 Stat. 226.
Sept. 6, 1950, ch. 896, Ch. VI, title I, 64 Stat. 658.
June 29, 1949, ch. 280, title I, 63 Stat. 329.
June 19, 1948, ch. 543, 62 Stat. 513.
July 30, 1947, ch. 356, title I, 61 Stat. 528.
June 22, 1946, ch. 445, 60 Stat. 276.
May 5, 1945, ch. 109, 59 Stat. 142.

§ 2255. Membership in International Wheat Advisory Committee, International Sugar Council, etc.

The Secretary of Agriculture is authorized to expend funds, available for agricultural conservation, adjustment, and land use programs, for the share of the United States as a member of the International Wheat Advisory Committee, the International Sugar Council, or like events or bodies concerned with the objectives of said program, together with traveling and other necessary expenses relating thereto: *Provided*, That expenditures under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 701(a), 58 Stat. 741.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to sections 570 and 574 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 2255a. Financial assistance to national and international conferences

On and after October 21, 1993, appropriations available to the Department of Agriculture can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs.

(Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1050.)

§ 2256. Inspections, analyses, and tests for other Government departments and agencies; reimbursement

The head of any department or independent establishment of the Government requiring inspections, analyses, and tests of food and other products, within the scope of the functions of the Department of Agriculture and which that Department is unable to perform within the limits of its appropriations, may, with the approval of the Secretary, transfer to the Department for direct expenditure such sums as may be necessary for the performance of such work.

(Sept. 21, 1944, ch. 412, title VII, § 702(a), 58 Stat. 741.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 571 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2257. Interchangeability of funds for miscellaneous expenses and general expenses

Not to exceed 7 per centum of the amounts appropriated for any fiscal year for the miscellaneous expenses of the work of any bureau, division, or office of the Department of Agriculture shall be available interchangeably for expenditures on the objects included within the general expenses of such bureau, division, or office, but no more than 7 per centum shall be added to any one item of appropriation except in cases of extraordinary emergency.

(Sept. 21, 1944, ch. 412, title VII, § 702(b), 58 Stat. 741.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 572 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2258. Purchase of newspapers

The Department of Agriculture is authorized to subscribe for such newspapers as may be necessary to carry out its authorized work: *Provided*, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

(Sept. 21, 1944, ch. 412, title VII, § 704, 58 Stat. 742.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 573 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2259. Market-inspection certificates as prima facie evidence

Market-inspection certificates issued by authorized agents of the Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(Sept. 21, 1944, ch. 412, title IV, § 401(c), 58 Stat. 738.)

CODIFICATION

This section was enacted as part of the Department of Agriculture Organic Act of 1944.

Section was formerly classified to section 575 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2260. Inspection or quarantine services involving overtime furnished upon a reimbursable basis

The Secretary of Agriculture is authorized to pay employees of the United States Department of Agriculture performing inspection or quarantine services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them at any place where such inspection and quarantine services are performed, at such rates as he may determine, and to accept from persons for whom such work is performed reimbursement for any sums paid out by him for such work.

(Aug. 28, 1950, ch. 815, 64 Stat. 561.)

CODIFICATION

Section was formerly classified to section 576 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2260a. Reimbursable agreements

(a) In general

The Secretary of Agriculture (referred to in this section as the ''Secretary'') may enter into reimbursable fee agreements with persons for preclearance at locations outside the United States of plants, plant products, animals, and articles for movement into the United States.

(b) Overtime, night, and holiday work

Notwithstanding any other provision of law, the Secretary may pay an employee of the Department of Agriculture performing services relating to imports into and exports from the United States for overtime, night, and holiday work performed by the employee at a rate of pay established by the Secretary.

(c) Reimbursement

(1) In general

The Secretary may require persons for whom preclearance services are performed to reimburse the Secretary for any amounts paid by the Secretary for performance of the services.

(2) Crediting of funds

All funds collected under paragraph (1) shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(3) Late payment penalty

(A) In general

On failure of a person to reimburse the Secretary for the costs of performance of preclearance services—

(i) the Secretary may assess a late payment penalty; and

(ii) the overdue funds shall accrue interest in accordance with section 3717 of title 31.

(B) Crediting of funds

Any late payment penalty and any accrued interest collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(Pub. L. 104–127, title IX, § 919, Apr. 4, 1996, 110 Stat. 1191.)

§ 2261. Credit of donations and proceeds from exhibitions to appropriations concerned with foreign market development programs

In the conduct of foreign market development programs, the Secretary of Agriculture is authorized to credit contributions from individuals, firms, associations, agencies, and other groups, and the proceeds received from space rentals, and sales of products and materials at exhibitions, to the appropriations charged with the cost of acquiring such space, products, and materials.

(Pub. L. 87–128, title II, § 203, Aug. 8, 1961, 75 Stat. 307.)

CODIFICATION

Section was formerly classified to section 577 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2262. Employee liability insurance on motor vehicles in foreign countries

The Secretary of Agriculture is authorized to obtain insurance to cover the liability of any employee of the Department of Agriculture for damage to or loss of property or personal injury or death caused by the act or omission of any such employee while acting within the scope of his office or employment and while operating a motor vehicle belonging to the United States in a foreign country.

(Pub. L. 89–106, § 3, Aug. 4, 1965, 79 Stat. 431.)

CODIFICATION

Section was formerly classified to section 578 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2262a. Overseas tort claims

(a) In general

The Secretary of Agriculture may pay a tort claim in the manner authorized by section 2672 of title 28, if the claim arises outside the United States in connection with activities of individuals who are performing services for the Secretary.

(b) Period for presentation of claim

A claim may not be allowed under this section unless the claim is presented in writing to the

Secretary of Agriculture within 2 years after the date on which the claim accrues.

(c) Finality

Notwithstanding any other provision of law, an award or denial of a claim by the Secretary of Agriculture under this section is final.

(Pub. L. 104–127, title IX, § 920, Apr. 4, 1996, 110 Stat. 1191.)

§ 2263. Transfer of funds

Subject to limitations applicable with respect to each appropriation concerned, each appropriation available to the Department of Agriculture may be charged, at any time during a fiscal year, for the benefit of any other appropriation available to the Department, for the purpose of financing the procurement of materials and services, or financing activities or other costs, for which funds are available both in the financing appropriation so charged and in the appropriation so benefited; except that such expenses so financed shall be charged on a final basis, as of a date not later than the close of such fiscal year, to the appropriations so benefited, with appropriate credit to the financing appropriation.

(Pub. L. 89–106, § 8, Aug. 4, 1965, 79 Stat. 432.)

CODIFICATION

Section was formerly classified to section 579 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 2264. National Agricultural Library; acceptance of gifts, bequests, or devises; conditional gifts

The Secretary of Agriculture is hereby authorized to accept, receive, hold, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made unconditionally for the benefit of the National Agricultural Library or for the carrying out of any of its functions. Conditional gifts may be accepted and used in accordance with their provisions provided that no gift may be accepted which is conditioned on any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(Pub. L. 91–591, § 2, Dec. 28, 1970, 84 Stat. 1588.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2265 of this title.

§ 2265. Deposit of money accepted for benefit of National Agricultural Library; disbursement

Any gift of money accepted pursuant to the authority granted in section 2264 of this title, or the net proceeds from the liquidation of any other property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate account and shall be disbursed upon order of the Secretary of Agriculture.

(Pub. L. 91–591, § 3, Dec. 28, 1970, 84 Stat. 1588.)

§ 2266. Congressional reaffirmation of policy to foster and encourage family farms; annual report to Congress

(a) Congress reaffirms the historical policy of the United States to foster and encourage the family farm system of agriculture in this country. Congress believes that the maintenance of the family farm system of agriculture is essential to the social well-being of the Nation and the competitive production of adequate supplies of food and fiber. Congress further believes that any significant expansion of nonfamily owned large-scale corporate farming enterprises will be detrimental to the national welfare. It is neither the policy nor the intent of Congress that agricultural and agriculture-related programs be administered exclusively for family farm operations, but it is the policy and the express intent of Congress that no such program be administered in a manner that will place the family farm operation at an unfair economic disadvantage.

(b)(1) In order that Congress may be better informed regarding the status of the family farm system of agriculture in the United States, the Secretary of Agriculture shall submit to Congress, by July 1 of each year, a written report containing current information on trends in family farm operations and comprehensive national and State-by-State data on nonfamily farm operations in the United States.

(2) The Secretary shall also include in each such report—

(A) information on how existing agricultural and agriculture-related programs are being administered to enhance and strengthen the family farm system of agriculture in the United States;

(B) an assessment of how tax, credit, and other current Federal income, excise, estate, and other tax laws, and proposed changes in such laws, may affect the structure and organization of, returns to, and investment opportunities by family and nonfamily farm owners and operators, both foreign and domestic;

(C) identification and analysis of new food and agricultural production and processing technological developments, especially in the area of biotechnology, and evaluation of the potential effect of such developments on—

(i) the economic structure of the family farm system;

(ii) the competitive status of domestically-produced agricultural commodities and foods in foreign markets; and

(iii) the achievement of Federal agricultural program objectives;

(D) an assessment of the credit needs of family farms and the extent to which those needs are being met, and an analysis of the effects of the farm credit situation on the economic structure of the family farm system;

(E) an assessment of how economic policies and trade policies of the United States affect the financial operation of, and prospects for, family farm operations;

(F) an assessment of the effect of Federal farm programs and policies on family farms and non-family farms that—

(i) derive the majority of their income from non-farm sources; and

(ii) derive the majority of their income from farming operations; and

(G) such other information as the Secretary considers appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.

(Pub. L. 95–113, title I, §102, Sept. 29, 1977, 91 Stat. 918; Pub. L. 97–98, title XVI, §1608, Dec. 22, 1981, 95 Stat. 1347; Pub. L. 99–198, title XIV, §1441, Dec. 23, 1985, 99 Stat. 1560.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–198 designated first and second sentences as pars. (1) and (2), respectively, and amended par. (2), as so designated, generally. Prior to redesignation and amendment, second sentence read as follows: ''The Secretary shall also include in each such report (1) information on how existing agricultural and agriculture-related programs are being administered to enhance and strengthen the family farm system of agriculture in the United States, (2) an assessment of how tax, credit, and other Federal laws may encourage the growth of nonfamily farm operations and investment in agriculture by nonfamily farm interests, both foreign and domestic, and (3) such other information as the Secretary deems appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.''

1981—Pub. L. 97–98 substantially reenacted existing provisions, and inserted reference to tax and credit laws, and investment in agriculture by nonfamily farm interests, foreign and domestic.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

STUDY OF IMPACT OF PROHIBITIONS ON PAYMENTS TO CERTAIN CORPORATIONS UNDER WHEAT, FEED GRAINS, COTTON, AND RICE PROGRAMS; REPORT BY JANUARY 1, 1979

Section 103 of Pub. L. 95–113 provided that in furtherance of the policy stated in section 102 of this Act [this section], the Secretary of Agriculture was to conduct a study and report to Congress no later than January 1, 1979, on the impact on participation in the wheat, feed grain, cotton, and rice programs and the production of such commodities in carrying out a statutory provision such as that included in the Food and Agriculture Act of 1977, as passed by the Senate on May 24, 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], prohibiting the making of payments to certain corporations and other entities under such programs, which study was to assess the impact of extending the prohibition against making commodity program payments to tenants on land owned by such corporations and other entities which would be excluded from payments under such a provision, and was to utilize the information on commodity program payments compiled by the Agricultural Stabilization and Conservation Service in determining payment eligibility under section 101 of the Agricultural Act of 1970, as amended [section 1307 of this title], and section 101 of this Act [section 1308 of this title]. The Secretary was authorized to collect such other information as necessary to determine the impact of such a statutory provision and to identify the number and characteristics of producers that would be affected by such a provision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961 of this title.

§ 2267. Repealed. Pub. L. 100–387, title I, § 101(b)(1), Aug. 11, 1988, 102 Stat. 931

Section, Pub. L. 95–113, title XI, §1105, Sept. 29, 1977, 91 Stat. 955; Pub. L. 97–98, title XI, §1111(b), Dec. 22, 1981, 95 Stat. 1267; Pub. L. 99–198, title XVII, §1763(a), Dec. 23, 1985, 99 Stat. 1651, related to an emergency feed program. See section 1471 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 15 days after Aug. 11, 1988, see section 101(c)(1) of Pub. L. 100–387, set out as an Effective and Termination Dates of 1988 Amendment note under section 1427 of this title.

§ 2268. Public lands; relinquishment

Notwithstanding any other provision of law, the Secretary of Agriculture may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.

(Pub. L. 95–441, Oct. 10, 1978, 92 Stat. 1064.)

§ 2269. Gifts of property; acceptance and administration by Secretary of Agriculture; Federal tax law consideration; separate fund in Treasury; regulations

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture. The Secretary of Agriculture may promulgate regulations to carry out the provisions of this section.

(Pub. L. 95–442, Oct. 10, 1978, 92 Stat. 1065.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3152 of this title; title 16 section 460*lll*–26.

§ 2270. Authority of Office of Inspector General

Any person who is employed in the Office of the Inspector General, Department of Agriculture, who conducts investigations of alleged or suspected felony criminal violations of statutes, including but not limited to the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], admin-

istered by the Secretary of Agriculture or any agency of the Department of Agriculture and who is designated by the Inspector General of the Department of Agriculture may—

(1) make an arrest without a warrant for any such criminal felony violation if such violation is committed, or if such employee has probable cause to believe that such violation is being committed, in the presence of such employee;

(2) execute a warrant for an arrest, for the search of premises, or the seizure of evidence if such warrant is issued under authority of the United States upon probable cause to believe that such violation has been committed; and

(3) carry a firearm;

in accordance with rules issued by the Secretary of Agriculture, while such employee is engaged in the performance of official duties under the authority provided in section 6, or described in section 9, of the Inspector General Act of 1978 (5 U.S.C. App. 6, 9). The Attorney General of the United States may disapprove any designation made by the Inspector General under this section.

(Pub. L. 97–98, title XIII, §1337, Dec. 22, 1981, 95 Stat. 1294.)

REFERENCES IN TEXT

The Food Stamp Act of 1977, referred to in text, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under 2011 of this title and Tables.

Sections 6 and 9 of the Inspector General Act of 1978, referred to in text, are sections 6 and 9 of Pub. L. 95–452, which are set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on such date as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation, see section 1338 of Pub. L. 97–98, set out as an Effective Date of 1981 Amendment note under section 2012 of this title.

§ 2270a. Office of Inspector General; transfer of forfeiture funds for law enforcement activities

For fiscal year 1999 and thereafter, funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, to remain available until expended.

(Pub. L. 105–277, div. A, §101(a) [title I], Oct. 21, 1998, 112 Stat. 2681, 2681–3.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Pub. L. 105–86, title I, Nov. 18, 1997, 111 Stat. 2082.
Pub. L. 104–180, title I, Aug. 6, 1996, 110 Stat. 1572.
Pub. L. 104–37, title I, Oct. 21, 1995, 109 Stat. 302.

§ 2271. Marketing education programs for small and medium size family farm operations

In carrying out marketing research and education programs, the Secretary of Agriculture shall take such steps as may be necessary to increase the efforts of the Department of Agriculture in providing marketing education programs for persons engaged in small and medium size family farm operations.

(Pub. L. 97–98, title XIV, §1445, Dec. 22, 1981, 95 Stat. 1327.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2271a. Advanced marketing training for farmers and ranchers

The Secretary of Agriculture may establish a program to train farmers and ranchers in advanced techniques for the marketing of agricultural commodities, livestock, and aquacultural products produced by such farmers and ranchers, including (where appropriate as determined by the Secretary) training in the use of futures and options markets.

(Pub. L. 99–641, title II, §206(b), Nov. 10, 1986, 100 Stat. 3564.)

STUDY AND REPORT OF MARKETING PRACTICES OF APPLICANTS AND BORROWERS OF FARM LOANS

Section 206(a) of Pub. L. 99–641 provided that:

''(1) STUDY.—The Comptroller General of the United States shall conduct a study of marketing practices used by applicants for and borrowers of farm loans made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.). The study shall include an examination of the methods used by the applicants and borrowers in marketing agricultural commodities, livestock, and aquacultural products and the extent to which the applicants and borrowers use advanced marketing techniques for such sales.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 10, 1986], the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study conducted under paragraph (1), together with any appropriate recommendations.''

§ 2272. Volunteers for Department of Agriculture programs

(a) Establishment of program

The Secretary of Agriculture (hereafter referred to in this section as the ''Secretary'') may establish a program to use volunteers in carrying out the programs of the Department of Agriculture.

(b) Acceptance of personnel

The Secretary may accept, subject to regulations issued by the Office of Personnel Manage-

ment, voluntary service for the Department of Agriculture for such purpose if the service:

(1) is to be without compensation; and

(2) will not be used to displace any employee of the Department of Agriculture including the local, county, and State committees established under section 590h(b) of title 16.

(c) Federal employee status

Any individual who provides voluntary service under this section shall not be considered a Federal employee, except for purposes of chapter 81 of title 5 (relating to compensation for injury), and sections 2671 through 2680 of title 28 (relating to tort claims).

(Pub. L. 97–98, title XV, § 1526, Dec. 22, 1981, 95 Stat. 1337.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 1527 of Pub. L. 97–98 provided that: ''There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle [enacting this section], such sums to remain available until expended.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2272a of this title.

§ 2272a. Funds for incidental expenses and promotional items relating to volunteers

On and after August 6, 1996, funds appropriated to the Department of Agriculture may be used for incidental expenses such as transportation, uniforms, lodging, and subsistence for volunteers serving under the authority of section 2272 of this title, when such volunteers are engaged in the work of the United States Department of Agriculture; and for promotional items of nominal value relating to the United States Department of Agriculture Volunteer Programs.

(Pub. L. 104–180, title VII, § 729, Aug. 6, 1996, 110 Stat. 1600.)

PRIOR PROVISIONS

A prior section 2272a, Pub. L. 102–142, title VII, § 739, Oct. 28, 1991, 105 Stat. 915, authorized use of funds for incidental expenses and promotional items relating to volunteers on and after Oct. 28, 1991, prior to repeal by Pub. L. 104–127, title III, § 336(f)(2), Apr. 4, 1996, 110 Stat. 1007.

§ 2273. Local search and rescue operations

The Secretary of Agriculture may assist, through the use of Soil Conservation Service personnel, vehicles, communication equipment, and other equipment or materials available to the Secretary, in local search and rescue operations when requested by responsible local public authorities. Such assistance may be provided in emergencies caused by tornadoes, fires, floods, snowstorms, earthquakes, and similar disasters.

(Pub. L. 97–98, title XV, § 1550, Dec. 22, 1981, 95 Stat. 1344.)

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2274. Firearm authority of employees engaged in animal quarantine enforcement

Any employee of the United States Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employee is engaged in the performance of the employee's official duties to (1) carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable disease of livestock or poultry into the United States or (2) perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary.

(Pub. L. 97–312, § 1, Oct. 14, 1982, 96 Stat. 1461.)

§ 2275. Repealed. Pub. L. 101–624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702

Section, Pub. L. 99–198, title XI, § 1151, Dec. 23, 1985, 99 Stat. 1497, provided for trade consultation between the Foreign Agricultural Service and other Federal agencies. See section 5674 of this title.

§ 2276. Confidentiality of information

(a) Authorized disclosure

In the case of information furnished under a provision of law referred to in subsection (d) of this section, neither the Secretary of Agriculture, any other officer or employee of the Department of Agriculture or agency thereof, nor any other person may—

(1) use such information for a purpose other than the development or reporting of aggregate data in a manner such that the identity of the person who supplied such information is not discernible and is not material to the intended uses of such information; or

(2) disclose such information to the public, unless such information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

(b) Duty of Secretary; immunity from disclosure; necessary consent

(1) In carrying out a provision of law referred to in subsection (d) of this section, no department, agency, officer, or employee of the Federal Government, other than the Secretary of Agriculture, shall require a person to furnish a copy of statistical information provided to the Department of Agriculture.

(2) A copy of such information—

(A) shall be immune from mandatory disclosure of any type, including legal process; and

(B) shall not, without the consent of such person, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(c) Violations; penalties

Any person who shall publish, cause to be published, or otherwise publicly release information

collected pursuant to a provision of law referred to in subsection (d) of this section, in any manner or for any purpose prohibited in section [1] (a) of this section, shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

(d) Specific provisions for collection of information

For purposes of this section, a provision of law referred to in this subsection means—

(1) the first section of the Act entitled ''An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton'', approved March 3, 1927 (7 U.S.C. 471) (commonly referred to as the ''Cotton Statistics and Estimates Act'');

(2) the first section of the Act entitled ''An Act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture'', approved January 14, 1929 (7 U.S.C. 501);

(3) the first section of the Act entitled ''An Act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture'', approved June 24, 1936 (7 U.S.C. 951);

(4) section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g));

(5) section 526(a) of the Revised Statutes (7 U.S.C. 2204(a));

(6) the Act entitled ''An Act providing for the publication of statistics relating to spirits of turpentine and resin'', approved August 15, 1935 (7 U.S.C. 2248);

(7) section 42 of title 13;

(8) section 4 of the Act entitled ''An Act to establish the Department of Commerce and Labor'', approved February 14, 1903 (15 U.S.C. 1516);

(9) section 2 of the joint resolution entitled ''Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent'', approved June 16, 1976 (15 U.S.C. 1516a); or [2]

(10) section 3(e) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(e)); [2]

(11) section 2204g of this title.

(e) Information provided to Secretary of Commerce

This section shall not prohibit the release of information under section 2204g(f)(2) of this title.

(Pub. L. 99–198, title XVII, § 1770, Dec. 23, 1985, 99 Stat. 1657; Pub. L. 105–113, § 4(a)(2), (b), Nov. 21, 1997, 111 Stat. 2276; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 348], Nov. 29, 1999, 113 Stat. 1535, 1501A–207.)

AMENDMENTS

1999—Subsec. (d)(10), (11). Pub. L. 106–113 added par. (10) and redesignated former par. (10) as (11).

1997—Subsec. (d)(10). Pub. L. 105–113, § 4(a)(2), added par. (10).

Subsec. (e). Pub. L. 105–113, § 4(b), added subsec. (e).

[1] So in original. Probably should be ''subsection''.

[2] So in original. The word ''or'' probably should appear at end of par. (10).

§ 2277. Contracts by Animal and Plant Health Inspection Service for services to be performed abroad

Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

(Pub. L. 102–142, title VII, § 737, Oct. 28, 1991, 105 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 101–506, title VI, § 641, Nov. 5, 1990, 104 Stat. 1350.

§ 2278. Consistency with international obligations of United States

(a) In general

Prior to the promulgation of, or amendment to, any order or plan under a research and promotion program relating to research and promotion of any agricultural commodity or product, after November 28, 1990, where such order or plan would provide for an assessment on imports, the Secretary of Agriculture shall consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States.

(b) Compliance with U.S. international obligations

The Secretary of Agriculture shall take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

(c) Construction

Nothing in this section shall be construed as providing for a cause of action under this section.

(Pub. L. 101–624, title XIX, § 1999T, Nov. 28, 1990, 104 Stat. 3928.)

§ 2279. Outreach and assistance for socially disadvantaged farmers and ranchers

(a) Outreach and assistance

(1) In general

The Secretary of Agriculture (hereafter referred to in this section as the ''Secretary'') shall provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. This assistance

should include information on application and bidding procedures, farm management, and other essential information to participate in agricultural programs.

(2) Grants and contracts

The Secretary may make grants and enter into contracts and other agreements in the furtherance of this section with the following entities—

(A) any community based organization that—

(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

(ii) provides documentary evidence of its past experience of working with socially disadvantaged farmers and ranchers during the two years preceding its application for assistance under this section; and

(iii) does not engage in activities prohibited under section 501(c)(3) of title 26; and

(B) 1890 Land-Grant Colleges including Tuskegee Institute, Indian tribal community colleges and Alaska native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged family farmers and ranchers in their region.

(3) Funding

There are authorized to be appropriated $10,000,000 for each fiscal year to carry out this subsection.

(b) Designation of Federal personnel

(1) In general

The Secretary shall designate from existing Federal personnel resources in the county or region a qualified person who shall, in cooperation with the State cooperative extension services, implement the policies and programs established or modified in accordance with this section.

(2) Additional personnel

In counties or regions in which the number of socially disadvantaged farmers and ranchers exceeds 25 percent of the total number of farmers and ranchers in the county or region, the Secretary shall designate additional personnel to implement the policies and programs established or modified in accordance with this section.

(c) Report to Congress

(1) In general

Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by members of socially disadvantaged groups in agricultural programs;

(B) the specific participation goals established for each agricultural program;

(C) the results achieved for each agricultural program; and

(D) the progress of the Department towards meeting each of the purposes described in paragraph (2)(C).

(2) Contents

In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the participation goals and the actual participation rates of members of socially disadvantaged groups in each agricultural program;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this section;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to members of socially disadvantaged groups; and

(ii) the amount of funds used to guarantee loans to members of socially disadvantaged groups compared to the total amount of such guarantees;

(D) a breakdown in allocation of crop base in each program crop compared to the target participation rates established pursuant to sections 355(a)(1) and 355(c) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2003(a)(1), 2003(c)], on a State-by-State and county-by-county basis; and

(E) a review and analysis of participation by members of socially disadvantaged groups, compared to participation by all others, in agricultural programs, on a State-by-State and county-by-county basis, including a survey representative of all farmers and ranchers, including socially disadvantaged farmers and ranchers, to identify reasons for participation and nonparticipation in agricultural programs.

(d) Affirmative action, appeals, and contracting review

(1) Purpose

It is the purpose of this subsection to direct the Secretary to analyze within the Department of Agriculture the design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(2) Scope

The study shall include—

(A) an assessment of the successes and failures of these affirmative action programs and policies;

(B) a review of the reasons for the successes and failures described in subparagraph (A);

(C) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of socially disadvantaged businesses in such activities, and the impact of those policies on the participation of members of socially disadvantaged groups in such contracting with the Department;

(D) a review of the reasons for participation or lack of participation of businesses owned by members of socially disadvantaged groups in the activities described in subparagraph (C); and

(E) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities that shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(3) Report

Not later than November 28, 1991, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the information described in paragraph (2).

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term ''socially disadvantaged group'' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term ''socially disadvantaged farmer or rancher'' means a farmer or rancher who is a member of a socially disadvantaged group.

(3) Agriculture programs

As used in this section, the term ''agriculture programs'' are those established or authorized by—

(A) the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.];

(B) the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.];

(C) the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.];

(D) the Soil Conservation Act;

(E) the Domestic Allotment Assistance Act;

(F) the Food Security Act of 1985; and

(G) other such Acts as the Secretary deems appropriate.

(f) Omitted

(g) Reservations

(1) Consolidated suboffice

The Secretary shall require the Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices, and such other offices and functions the Secretary may choose to include, in each county that has a reservation within its borders, to establish a consolidated suboffice at the tribal headquarters of said reservation and to staff said suboffice as needed, using existing staff, but no less than one day a week or under such other arrangement agreed to by the tribe and the Department of Agriculture offices. The tribe shall be required to provide the necessary office space if it wishes to participate in this program.

(2) Cooperative agreements

For those reservations that are located in more than one county, the Secretary, the relevant county offices and the tribe shall enter into a cooperative agreement to provide the services required by paragraph (1) that avoids duplication of effort.

(Pub. L. 101–624, title XXV, § 2501, Nov. 28, 1990, 104 Stat. 4062; Pub. L. 102–237, title X, § 1003, Dec. 13, 1991, 105 Stat. 1894.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (e)(3)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (e)(3)(B), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Agricultural Adjustment Act of 1938, referred to in subsec. (e)(3)(C), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Soil Conservation Act and the Domestic Allotment Assistance Act, referred to in subsec. (e)(3)(D) and (E), respectively, probably mean the Soil Conservation and Domestic Allotment Act, act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 590q of Title 16 and Tables.

The Food Security Act of 1985, referred to in subsec. (e)(3)(F), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section is comprised of section 2501 of Pub. L. 101–624. Subsec. (f) of section 2501 of Pub. L. 101–624 amended section 2003 of this title.

AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102–237, § 1003(1), substituted ''subsection'' for ''section''.

Subsec. (c)(1)(C). Pub. L. 102–237, § 1003(2), inserted ''program'' after ''agricultural''.

Subsec. (d)(3). Pub. L. 102–237, § 1003(3), substituted ''November 28, 1991'' for ''1 year after the date of enactment of this Act''.

WAIVER OF STATUTE OF LIMITATIONS

Pub. L. 105–277, div. A, § 101(a) [title VII, § 741], Oct. 21, 1998, 112 Stat. 2681, 2681–30, provided that:

''(a) To the extent permitted by the Constitution, any civil action to obtain relief with respect to the discrimination alleged in an eligible complaint, if com-

menced not later than 2 years after the date of the enactment of this Act [Oct. 21, 1998], shall not be barred by any statute of limitations.

''(b) The complainant may, in lieu of filing a civil action, seek a determination on the merits of the eligible complaint by the Department of Agriculture if such complaint was filed not later than 2 years after the date of enactment of this Act [Oct. 21, 1998]. The Department of Agriculture shall—

''(1) provide the complainant an opportunity for a hearing on the record before making that determination;

''(2) award the complainant such relief as would be afforded under the applicable statute from which the eligible complaint arose notwithstanding any statute of limitations; and

''(3) to the maximum extent practicable within 180 days after the date a determination of an eligible complaint is sought under this subsection conduct an investigation, issue a written determination and propose a resolution in accordance with this subsection.

''(c) Notwithstanding subsections (a) and (b), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking a review of such denial.

''(d) The United States Court of Federal Claims and the United States District Court shall have exclusive original jurisdiction over—

''(1) any cause of action arising out of a complaint with respect to which this section waives the statute of limitations; and

''(2) any civil action for judicial review of a determination in an administrative proceeding in the Department of Agriculture under this section.

''(e) As used in this section, the term 'eligible complaint' means a nonemployment related complaint that was filed with the Department of Agriculture before July 1, 1997 and alleges discrimination at any time during the period beginning on January 1, 1981 and ending December 31, 1996—

''(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

''(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

''(B) a housing program established under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; or

''(2) in the administration of a commodity program or a disaster assistance program.

''(f) This section shall apply in fiscal year 1999 and thereafter.

''(g) The standard of review for judicial review of an agency action with respect to an eligible complaint is de novo review. Chapter 5 of title 5 of the United States Code shall apply with respect to an agency action under this section with respect to an eligible complaint, without regard to section 554(a)(1) of that title.''

§ 2279a. Fair and equitable treatment of socially disadvantaged producers

(a) Fair crop acreage bases and farm program payment yields

If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) Fair application of Consolidated Farm and Rural Development Act

If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) Report on treatment of socially disadvantaged producers

(1) Report required

The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 590h(b)(5) of title 16 or local review committees established under section 1363 of this title because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) Submission of report

Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) "Socially disadvantaged producer" defined

For purposes of this section, the term ''socially disadvantaged producer'' means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

(Pub. L. 103–354, title III, § 305, Oct. 13, 1994, 108 Stat. 3240.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. Title V of the Act, which was classified generally to subchapter IV (§ 1461 et seq.) of chapter 35A of this title, was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (b), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

§ 2279b. Operation of Graduate School of Department of Agriculture as nonappropriated fund instrumentality

(a) Definitions

In this section:

(1) Graduate School

The term ''Graduate School'' means the Graduate School of the Department of Agriculture.

(2) Board

The term ''Board'' means the General Administration Board of the Graduate School.

(3) Director

The term ''Director'' means the Director of the Graduate School.

(4) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(b) Operation as nonappropriated fund instrumentality

On and after April 4, 1996, the Graduate School of the Department of Agriculture shall continue to operate as a nonappropriated fund instrumentality of the United States under the jurisdiction of the Department of Agriculture.

(c) Activities of Graduate School

Under the general supervision of the Secretary, the Graduate School shall develop, administer, and provide educational, training, and professional development activities, including educational activities for Federal agencies, Federal employees, nonprofit organizations, other entities, and members of the general public.

(d) Fees and donations

(1) Collection of fees

The Graduate School may charge and retain fair and reasonable fees for the activities provided by the Graduate School. The amount of the fees shall be based on the cost of the activities to the Graduate School.

(2) Acceptance of donations

(A) Acceptance and use authorized

The Graduate School may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of, or in connection with, the Graduate School.

(B) Exception

The Graduate School shall not accept a donation from a person that is actively engaged in a procurement activity with the Graduate School or has an interest that may be substantially affected by the performance or nonperformance of an official duty of a member of the Board or an employee of the Graduate School.

(3) Not Federal funds

Fees collected under paragraph (1) and amounts received under paragraph (2) shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.

(e) General Administration Board and Director

(1) Appointment as governing board

The Secretary shall appoint a General Administration Board to serve as a governing board for the Graduate School and to supervise and direct the activities of the Graduate School. The Board shall be subject to regulation by the Secretary.

(2) Duties of Board

The Board shall—

(A) formulate broad policies in accordance with which the Graduate School shall be administered;

(B) take all steps necessary to ensure that the highest possible educational standards are maintained by the Graduate School;

(C) exercise general supervision over the administration of the Graduate School; and

(D) establish such bylaws, rules, and procedures as may be necessary for the fulfillment of the duties described in subparagraphs (A), (B), and (C).

(3) Appointment of Director and other officers

The Board shall select a Director and such other officers as the Board considers necessary to administer the Graduate School. The Director and other officers shall serve on such terms and perform such duties as the Board may prescribe.

(4) Duties of Director

The Director shall be responsible, subject to the supervision and direction of the Board, for carrying out the functions of the Graduate School.

(5) Borrowing and investment authority

The Board may authorize the Director—

(A) to borrow money on the credit of the Graduate School; and

(B) to invest funds held in excess of the current operating requirements of the Graduate School for purposes of maintaining a reasonable reserve.

(6) Liability

The Director and the members of the Board shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as the result of any act or exercise of discretion performed in carrying out their duties under this section.

(f) Employees

Employees of the Graduate School are employees of a nonappropriated fund instrumentality and shall not be considered to be Federal employees.

(g) Not a Federal agency

The Graduate School shall not be considered to be a Federal agency for purposes of—

(1) the Federal Advisory Committee Act (5 U.S.C. App.);

(2) section 552 or 552a of title 5; or

(3) chapter 171 of title 28.

(h) Acquisition and disposal of property

In order to carry out the activities of the Graduate School, the Graduate School may—

(1) acquire real property in the District of Columbia and in other places by lease, purchase, or otherwise;

(2) maintain, enlarge, or remodel any such property;

(3) have sole control of any such property; and

(4) dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(i) Contract authority

The Graduate School may enter into contracts without regard to the Federal Property and Ad-

ministrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(j) Use of Department facilities and resources

The Graduate School may use the facilities and resources of the Department of Agriculture, on the condition that any costs incurred by the Department that are attributable solely to Graduate School operations and all costs incurred by the Graduate School arising out of such operations shall be paid using funds of the Graduate School. Federal funds may not be used to pay the costs.

(Pub. L. 104–127, title IX, § 921, Apr. 4, 1996, 110 Stat. 1191.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Property and Administrative Services Act of 1949, referred to in subsecs. (h)(4) and (i), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of the Act relating to management and disposal of property and to procurement procedures are classified generally to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works, and subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

CROSS REFERENCES

Graduate School of Department of Agriculture, providing training, obtaining goods and services, and auditing of records, see section 5922 of this title.

§ 2279c. Student internship programs

(a) Student intern subsistence program

(1) "Student intern" defined

In this subsection, the term ''student intern'' means a person who—

(A) is employed by the Department of Agriculture (referred to in this section as the ''Department'') to assist scientific, professional, administrative, or technical employees of the Department; and

(B) is a student in good standing at an institution of higher education (as defined in section 1001 of title 20) pursuing a course of study related to the field in which the person is employed by the Department.

(2) Payment of certain expenses by the Secretary

The Secretary of Agriculture (referred to in this section as the ''Secretary'') may, out of user fee funds or funds appropriated to any agency of the Department, pay for lodging expenses, subsistence expenses, and transportation expenses of a student intern at the agency (including expenses of transportation to and from the student intern's residence at or near the institution of higher education attended by the student intern and the official duty station at which the student intern is employed).

(b) Cooperation with associations of colleges and universities

(1) Authority to cooperate

Notwithstanding chapter 63 of title 31, the Secretary may enter into cooperative agreements on an annual basis with 1 or more associations of institutions of higher education (as defined in section 1001 of title 20) for the purpose of providing for Department participation in internship programs for graduate and undergraduate students who are selected by the associations from students attending member institutions of the associations and other institutions of higher education.

(2) Internship program

An internship program supported under this subsection (referred to in this subsection as an ''internship program'') shall provide work assignments for students within the Department and such other activities as the association that enters into the cooperative agreement under paragraph (1) with respect to the internship program (referred to in this subsection as the ''cooperating association'') and the Secretary shall determine. The nature of Department participation in an internship program shall be developed jointly by the Secretary and the cooperating association.

(3) Program coordination

The cooperating association shall coordinate an internship program, including—

(A) the recruitment of students;

(B) arrangements for travel of the students to Washington, District of Columbia, and to agency field locations;

(C) the provision of housing for students, if required; and

(D) all activities for the students that take place outside the Department work assignments of the students.

(4) Number and selection of students

(A) Number

A cooperative agreement entered into under paragraph (1) shall specify the number of students that the Department will host each year and a list of work assignments to be provided for the students.

(B) Selection

The cooperating association shall provide the Department with a pool of student candidates meeting the requirements for each work assignment identified by the Secretary. Final selection of the students for Department internship positions shall be made by the Secretary.

(5) Cost reimbursement

From such amounts as the Secretary determines are available each fiscal year for internship programs, and subject to such regulations as the Secretary may issue, the Secretary may reimburse a cooperating association for the Department share of all direct and indirect costs of an internship program, including student stipends, transportation costs to the internship site, and other costs of an internship program.

(6) Lead agency

The Secretary may designate a lead agency within the Department to carry out this subsection.

(7) Interagency agreements

Agencies and offices within the Department other than the lead agency—

(A) may enter into interagency agreements with the lead agency to provide work assignments for students participating in an internship program; and

(B) shall reimburse the lead agency for the direct and indirect costs of each student assigned to the agency under an internship program.

(8) Federal employee status

A student who participates in an internship program shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, and chapter 171 of title 28.

(Pub. L. 104–127, title IX, § 922, Apr. 4, 1996, 110 Stat. 1193; Pub. L. 105–244, title I, § 102(a)(1)(A), Oct. 7, 1998, 112 Stat. 1617.)

AMENDMENTS

1998—Subsecs. (a)(1)(B), (b)(1). Pub. L. 105–244 substituted ''section 1001 of title 20)'' for ''section 1141 of title 20)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 2279d. Compensatory damages in claims under Rehabilitation Act of 1973

In any claim brought under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] and filed with the Secretary of Agriculture after January 1994 resulting in a finding that a farmer was subjected to discrimination under any farm loan program or activity conducted by the United States Department of Agriculture in violation of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Secretary of Agriculture shall be liable for compensatory damages. Such liability shall apply to any administrative action brought before October 21, 1998, but only if the action is brought within the applicable statute of limitations and the complainant sought or seeks compensatory damages while the action is pending.

(Pub. L. 105–277, div. A, § 101(a) [title VII, § 742], Oct. 21, 1998, 112 Stat. 2681, 2681–31.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CHAPTER 55A—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES

Sec.
2281. Congressional declaration of purpose.
2282. Definitions.
2283. Membership on advisory committees.
(a) Simultaneous service.
(b) Service by more than one officer or employee of corporation or non-Federal entity.
(c) Maximum length.
2284. Repealed.
2285. Budget prohibitions.
2286. Termination of committees.
2287 to 2289. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 390b, 390c, 450i, 3124a, 3129a, 3152, 3196 of this title; title 19 section 2155; title 21 section 679a.

§ 2281. Congressional declaration of purpose

The purposes of this chapter are to—

(1) require strict financial and program accounting by advisory committees of the Department of Agriculture;

(2) assure balance and objectivity in the membership of such advisory committees; and

(3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.

(Pub. L. 95–113, title XVIII, § 1801, Sept. 29, 1977, 91 Stat. 1041; Pub. L. 97–98, title XI, § 1116(a), Dec. 22, 1981, 95 Stat. 1270.)

AMENDMENTS

1981—Pub. L. 97–98 reenacted section without change.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SOYBEAN RESEARCH ADVISORY INSTITUTE; ESTABLISHMENT, COMPOSITION, ETC.

Section 1446 of Pub. L. 97–98 provided for the establishment of a Soybean Research Advisory Institute for the purpose of preparing and submitting to Senate Committee on Agriculture, Nutrition, and Forestry and House Committee on Agriculture, not later than Mar. 1, 1983, a comprehensive report, with appropriate recommendations, on the findings of the Institute regarding research on soybean production and utilization, prior to repeal by Pub. L. 99–198, title XIV, § 1434, Dec. 23, 1985, 99 Stat. 1557.

§ 2282. Definitions

When used in this chapter—

(1) the term ''Secretary'' means the Secretary of Agriculture of the United States;

(2) the term ''Department of Agriculture'' means the United States Department of Agriculture; and

(3) the term ''advisory committee'' means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof that is established or utilized by the Department of Agriculture in the interest of obtaining advice or recommendations for the President or the Department of Agriculture, except that such term excludes any committee which (A) is composed wholly of full-time offi-

cers or employees of the Federal Government, (B) is established by statute or reorganization plan, or (C) is established by the President.

(Pub. L. 95–113, title XVIII, §1802, Sept. 29, 1977, 91 Stat. 1041; Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1270.)

AMENDMENTS

1981—Pub. L. 97–98 reenacted section without change.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 2283. Membership on advisory committees

(a) Simultaneous service

No person other than an officer or employee of the Department of Agriculture may serve simultaneously on more than one advisory committee, unless authorized by the Secretary.

(b) Service by more than one officer or employee of corporation or non-Federal entity

Not more than one officer or employee of any corporation or other non-Federal entity, including all subsidiaries and affiliates thereof, may serve on the same advisory committee at any one time, unless authorized by the Secretary.

(c) Maximum length

No person other than an officer or employee of the Department of Agriculture may serve for more than six consecutive years on an advisory committee, unless authorized by the Secretary.

(Pub. L. 95–113, title XVIII, §1803, Sept. 29, 1977, 91 Stat. 1041; Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1270.)

AMENDMENTS

1981—Pub. L. 97–98 substituted provision relating to membership on advisory committees for provision relating to establishment of advisory committees.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 2284. Repealed. Pub. L. 105–362, title I, § 101(c), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 95–113, title XVIII, §1804, Sept. 29, 1977, 91 Stat. 1041; Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1270, required annual reports to Congress.

§ 2285. Budget prohibitions

No advisory committee may expend funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, until it provides the Secretary with an explanation of the need for the additional expenditure and the Secretary approves such additional expenditure.

(Pub. L. 95–113, title XVIII, §1805, Sept. 29, 1977, 91 Stat. 1042; Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1271.)

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

AMENDMENTS

1981—Pub. L. 97–98 substituted provision relating to budget prohibitions for provision relating to membership on advisory committees. See section 2283 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2286 of this title.

§ 2286. Termination of committees

The Secretary shall terminate any advisory committee upon a finding that any such advisory committee—

(1) has expended funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, without the prior approval of the Secretary pursuant to the provisions of section 2285 of this title;

(2) has failed to file all reports required under the provisions of the Federal Advisory Committee Act or this chapter;

(3) has failed to meet for two consecutive years;

(4) is responsible for functions that otherwise would be or should be performed by Federal employees; or

(5) does not serve or has ceased to serve an essential public function.

(Pub. L. 95–113, title XVIII, §1806, Sept. 29, 1977, 91 Stat. 1042; Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1271.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in par. (2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1981—Pub. L. 97–98 substituted provision relating to termination of advisory committees for provision relating to advisory committee charter requirements.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§§ 2287 to 2289. Omitted

Sections 2287 to 2289 of this title were omitted in the general amendment of this chapter by Pub. L. 97–98, title XI, §1116(a), Dec. 22, 1981, 95 Stat. 1270.

Section 2287, Pub. L. 95–113, title XVIII, §1807, Sept. 29, 1977, 91 Stat. 1043, related to transmission of an annual report. See section 2284 of this title.

Section 2288, Pub. L. 95–113, title XVIII, §1808, Sept. 29, 1977, 91 Stat. 1044, related to budget prohibitions. See section 2285 of this title.

Section 2289, Pub. L. 95–113, title XVIII, §1809, Sept. 29, 1977, 91 Stat. 1044, related to termination of advisory committees. See section 2286 of this title.

CHAPTER 56—UNFAIR TRADE PRACTICES AFFECTING PRODUCERS OF AGRICULTURAL PRODUCTS

Sec.
2301. Congressional findings and declaration of policy.
2302. Definitions.
2303. Prohibited practices.
2304. Disclaimer of intention to prohibit normal dealing.

Sec.
2305. Enforcement provisions.
(a) Civil actions by persons aggrieved; preventive relief; attorneys' fees; security.
(b) Civil actions by Attorney General; Federal jurisdiction; complaint; preventive relief.
(c) Suits by persons injured; Federal jurisdiction; amount of recovery; attorneys' fees; limitation of actions.
(d) Federal jurisdiction; exhaustion of other remedies; State laws and jurisdiction unaffected.
2306. Separability.

§ 2301. Congressional findings and declaration of policy

Agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States of the Nation. Such products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and such products which do not move in these channels directly burden or affect interstate commerce. The efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to their welfare and to the general economy of the Nation. Because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Interference with this right is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

It is, therefore, declared to be the policy of Congress and the purpose of this chapter to establish standards of fair practices required of handlers in their dealings in agricultural products.

(Pub. L. 90–288, § 2, Apr. 16, 1968, 82 Stat. 93.)

SHORT TITLE

Section 1 of Pub. L. 90–288 provided that: ''This Act [enacting this chapter] shall be known as the 'Agricultural Fair Practices Act of 1967'.''

§ 2302. Definitions

When used in this chapter—

(a) The term ''handler'' means any person engaged in the business or practice of (1) acquiring agricultural products from producers or associations of producers for processing or sale; or (2) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers; or (3) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or (4) acting as an agent or broker for a handler in the performance of any function or act specified in clause (1), (2), or (3) of this paragraph.

(b) The term ''producer'' means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, fruit, vegetable, or nut grower.

(c) The term ''association of producers'' means any association of producers of agricultural products engaged in marketing, bargaining, shipping, or processing as defined in section 1141j(a) of title 12, or in section 291 of this title.

(d) The term ''person'' includes individuals, partnerships, corporations, and associations.

(e) The term ''agricultural products'' shall not include cotton or tobacco or their products.

(Pub. L. 90–288, § 3, Apr. 16, 1968, 82 Stat. 94.)

§ 2303. Prohibited practices

It shall be unlawful for any handler knowingly to engage or permit any employee or agent to engage in the following practices:

(a) To coerce any producer in the exercise of his right to join and belong to or to refrain from joining or belonging to an association of producers, or to refuse to deal with any producer because of the exercise of his right to join and belong to such an association; or

(b) To discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of his membership in or contract with an association of producers; or

(c) To coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler; or

(d) To pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers; or

(e) To make false reports about the finances, management, or activities of associations of producers or handlers; or

(f) To conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by this chapter.

(Pub. L. 90–288, § 4, Apr. 16, 1968, 82 Stat. 94.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2305 of this title.

§ 2304. Disclaimer of intention to prohibit normal dealing

Nothing in this chapter shall prevent handlers and producers from selecting their customers and suppliers for any reason other than a producer's membership in or contract with an association of producers, nor require a handler to deal with an association of producers.

(Pub. L. 90–288, § 5, Apr. 16, 1968, 82 Stat. 95.)

§ 2305. Enforcement provisions

(a) Civil actions by persons aggrieved; preventive relief; attorneys' fees; security

Whenever any handler has engaged or there are reasonable grounds to believe that any handler is about to engage in any act or practice prohibited by section 2303 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved. In any action

commenced pursuant hereto, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. The court may provide that no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

(b) Civil actions by Attorney General; Federal jurisdiction; complaint; preventive relief

Whenever the Secretary of Agriculture has reasonable cause to believe that any handler, or group of handlers, has engaged in any act or practice prohibited by section 2303 of this title, he may request the Attorney General to bring civil action in his behalf in the appropriate district court of the United States by filing with it a complaint (1) setting forth facts pertaining to such act or practice, and (2) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the handler, or handlers, responsible for such acts or practices. Upon receipt of such request, the Attorney General is authorized to file such complaint.

(c) Suits by persons injured; Federal jurisdiction; amount of recovery; attorneys' fees; limitation of actions

Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, any provision of section 2303 of this title may sue therefor in the appropriate district court of the United States without respect to the amount in controversy, and shall recover damages sustained. In any action commenced pursuant to this subsection, the court may allow the prevailing party a reasonable attorney's fee as a part of the costs. Any action to enforce any cause of action under this subsection shall be forever barred unless commenced within two years after the cause of action accrued.

(d) Federal jurisdiction; exhaustion of other remedies; State laws and jurisdiction unaffected

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

The provisions of this chapter shall not be construed to change or modify existing State law nor to deprive the proper State courts of jurisdiction.

(Pub. L. 90–288, § 6, Apr. 16, 1968, 82 Stat. 95.)

§ 2306. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 90–288, § 7, Apr. 16, 1968, 82 Stat. 95.)

CHAPTER 57—PLANT VARIETY PROTECTION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1562, 1611 of this title; title 15 section 3703; title 35 section 201; title 42 section 12002.

SUBCHAPTER I—PLANT VARIETY PROTECTION OFFICE

PART A—ORGANIZATION AND PUBLICATIONS

§ 2321. Establishment

There is hereby established in the Department of Agriculture an office to be known as the Plant Variety Protection Office, which shall have the functions set forth in this chapter.

(Pub. L. 91–577, title I, § 1, Dec. 24, 1970, 84 Stat. 1542; Pub. L. 96–574, § 1, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted ''an office'' for ''a bureau''.

EFFECTIVE DATE

Section 141 of Pub. L. 91–577 provided that: ''This Act [this chapter] shall take effect upon enactment [Dec. 24, 1970]. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation''.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–349, § 1(a), Oct. 6, 1994, 108 Stat. 3136, provided that: ''This Act [amending sections 2327, 2330, 2353, 2354, 2357, 2401, 2402, 2404, 2422, 2423, 2424, 2425, 2442, 2461, 2462, 2463, 2482, 2483, 2486, 2501, 2504, 2532, 2541, 2542, 2543, 2561, 2566, 2567, 2568, and 2570 of this title, repealing sections 2463, 2502 and 2503 of this title, and enacting provisions set out as notes under section 2401 of this title] may be cited as the 'Plant Variety Protection Act Amendments of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–560, § 1, Oct. 28, 1992, 106 Stat. 4230, provided that: ''This Act [enacting section 2570 of this title and section 296 of Title 35, Patents, amending section 2541 of this title and section 271 of Title 35, and enacting provisions set out as a note under section 2541 of this title] may be cited as the 'Patent and Plant Variety Protection Remedy Clarification Act'.''

SHORT TITLE

Section 145 of Pub. L. 91–577 provided that: ''This Act [enacting this chapter, section 1611 of this title, and sections 1545 and 2353 of Title 28, Judiciary and Judicial Procedure, amending section 1562 of this title and sections 1338 and 1498 of Title 28, and enacting provisions set out as notes under this section] may be cited as the 'Plant Variety Protection Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 1545.

§ 2322. Seal

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

(Pub. L. 91–577, title I, § 2, Dec. 24, 1970, 84 Stat. 1542.)

§ 2323. Organization

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this chapter.

(Pub. L. 91–577, title I, § 3, Dec. 24, 1970, 84 Stat. 1542.)

§ 2324. Restrictions on employees as to interest in plant variety protection

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety

protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

(Pub. L. 91–577, title I, § 4, Dec. 24, 1970, 84 Stat. 1542.)

§ 2325. Repealed. Pub. L. 96–574, § 2, Dec. 22, 1980, 94 Stat. 3350

Section, Pub. L. 91–577, title I, § 5, Dec. 24, 1970, 84 Stat. 1542, required employees designated by Secretary to give bond before entering upon their duties.

§ 2326. Regulations

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

(Pub. L. 91–577, title I, § 6, Dec. 24, 1970, 84 Stat. 1542.)

§ 2327. Plant Variety Protection Board

(a) Appointment

The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this chapter. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or the designee of the Secretary shall act as chairperson of the Board without voting rights except in the case of ties.

(b) Functions of Board

The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this chapter;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 2404 of this title.

(c) Compensation of Board

The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

(Pub. L. 91–577, title I, § 7, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 103–349, § 13(a), Oct. 6, 1994, 108 Stat. 3142.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349 substituted ''the designee of the Secretary shall act as chairperson'' for ''his designee shall act as chairman'' in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2328. Library

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the examiners in the discharge of their duties.

(Pub. L. 91–577, title I, § 8, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96–574, § 3, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted ''examiners'' for ''officers''.

§ 2329. Register of protected plant varieties

The Secretary shall maintain a register of descriptions of United States protected plant varieties.

(Pub. L. 91–577, title I, § 9, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96–574, § 4, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted ''descriptions'' for ''published specifications'', and struck out provisions requiring maintenance of a file for other information.

§ 2330. Publications

(a) The Secretary may publish, or cause to be published, in such format as the Secretary shall determine to be suitable, the following:

(1) The descriptions of plant varieties protected including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of plant breeding.

(c) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of descriptions, drawings, and photographs of United States protected plant varieties for copies of descriptions, drawings, and photographs of applications and protected plant varieties of foreign countries.

(Pub. L. 91–577, title I, § 10, Dec. 24, 1970, 84 Stat. 1543; Pub. L. 96–574, §§ 5–8, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 103–349, § 13(b), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349 substituted ''the Secretary'' for ''he'' before ''shall'' in introductory provisions.

1980—Subsec. (a)(1). Pub. L. 96–574, § 5, substituted provisions respecting descriptions for provisions respecting specifications.

Subsec. (b). Pub. L. 96–574, §§6, 7, struck out subsec. (b) which related to photolithography and lithography, redesignated subsec. (c) as (b) and substituted ''plant breeding'' for ''the useful arts''.

Subsecs. (c), (d). Pub. L. 96–574, §§7, 8, redesignated subsec. (d) as (c) and substituted ''descriptions'' for ''specifications'' in two places. Former subsec. (c) redesignated (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2331. Copies for public libraries

The Secretary may supply printed copies of descriptions, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

(Pub. L. 91–577, title I, §11, Dec. 24, 1970, 84 Stat. 1544; Pub. L. 96–574, §9, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted ''descriptions'' for ''specifications''.

PART B—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

§ 2351. Day for taking action falling on Saturday, Sunday, or holiday

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

(Pub. L. 91–577, title I, §21, Dec. 24, 1970, 84 Stat. 1544.)

§ 2352. Form of papers filed

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

(Pub. L. 91–577, title I, §22, Dec. 24, 1970, 84 Stat. 1544.)

§ 2353. Testimony in Plant Variety Protection Office cases

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, the person shall have like power.

(Pub. L. 91–577, title I, §23, Dec. 24, 1970, 84 Stat. 1544; Pub. L. 103–349, §13(c), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the officer'' for ''he'' in second sentence and ''the person'' for ''he'' in third sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2354. Subpoenas; witnesses

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding the witness to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless the fees and traveling expenses of the witness in going to, and returning from, one day's attendance at the place of examination, are paid or tendered the witness at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary.

(Pub. L. 91–577, title I, §24, Dec. 24, 1970, 84 Stat. 1544; Pub. L. 103–349, §13(d), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349, §13(d)(1), substituted ''the witness'' for ''him'' in first sentence.

Subsec. (c). Pub. L. 103–349, §13(d)(2)(B), substituted ''the witness'' for ''him'' after ''paid or tendered'' in second sentence.

Pub. L. 103–349, §13(d)(2)(A), which directed that second sentence be amended by substituting ''the fees and traveling expenses of the witness'' for ''this fees and traveling expenses'', was executed by making the substitution for ''his fees and traveling expenses'', to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Subpoena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2355. Effect of defective execution

Any document to be filed in the Plant Variety Protection Office and which is required by any

law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

(Pub. L. 91–577, title I, § 25, Dec. 24, 1970, 84 Stat. 1545.)

§ 2356. Regulations for practice before the Office

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

(Pub. L. 91–577, title I, § 26, Dec. 24, 1970, 84 Stat. 1545.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2357 of this title.

§ 2357. Unauthorized practice

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 2356 of this title, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; or to anyone who establishes that the person acted only on behalf of any employer by whom the person was regularly employed.

(Pub. L. 91–577, title I, § 27, Dec. 24, 1970, 84 Stat. 1545; Pub. L. 103–349, § 13(e), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the person'' for ''he'' in two places in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

PART C—PLANT VARIETY PROTECTION FEES

§ 2371. Plant variety protection fees

(a) In general

The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this chapter.

(b) Late payment penalty

On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31.

(c) Disposition of funds

Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this chapter. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(d) Actions for nonpayment

The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this chapter against any person obligated for payment of such charges under this chapter in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 91–577, title I, § 31, Dec. 24, 1970, 84 Stat. 1545; Pub. L. 96–574, § 10, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 100–203, title I, § 1505, Dec. 22, 1987, 101 Stat. 1330–28.)

AMENDMENTS

1987—Pub. L. 100–203 amended section generally. Prior to amendment, section read as follows: ''The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this chapter. Such fees shall be deposited into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this chapter.''

1980—Pub. L. 96–574 substituted provisions relating to deposit of fees and authorization of appropriations for provisions relating to recovering of fees, initial capital of the fund, and charging of fees.

§ 2372. Payment of plant variety protection fees; return of excess amounts

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

(Pub. L. 91–577, title I, § 32, Dec. 24, 1970, 84 Stat. 1545.)

SUBCHAPTER II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

PART D—PROTECTABILITY OF PLANT VARIETIES

§ 2401. Definitions and rules of construction

(a) Definitions

As used in this chapter:

(1) Basic seed

The term ''basic seed'' means the seed planted to produce certified or commercial seed.

(2) Breeder

The term ''breeder'' means the person who directs the final breeding creating a variety or

who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

(3) Essentially derived variety

(A) In general

The term ''essentially derived variety'' means a variety that—

(i) is predominantly derived from another variety (referred to in this paragraph as the ''initial variety'') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

(ii) is clearly distinguishable from the initial variety; and

(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(B) Methods

An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

(4) Kind

The term ''kind'' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

(5) Seed

The term ''seed'', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

(6) Sexually reproduced

The term ''sexually reproduced'' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

(7) Tuber propagated

The term ''tuber propagated'' means propagated by a tuber or a part of a tuber.

(8) United States

The terms ''United States'' and ''this country'' mean the United States, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

(9) Variety

The term ''variety'' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

(b) Rules of construction

For the purposes of this chapter:

(1) Sale or disposition for nonreproductive purposes

The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

(2) Sale or disposition for reproductive purposes

The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

(3) Sale or disposition of hybrid seed

The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

(4) Application for protection or entering into a register of varieties

The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

(5) Distinctness

The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

(6) Publicly known varieties

(A) In general

A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

(B) Description

A description that meets the requirements of subparagraph (A) shall include a disclo-

sure of the principal characteristics by which a variety is distinguished.

(C) Other means

A variety may become publicly known and a matter of common knowledge by other means.

(Pub. L. 91–577, title II, § 41, Dec. 24, 1970, 84 Stat. 1546; Pub. L. 103–349, § 2, Oct. 6, 1994, 108 Stat. 3136.)

AMENDMENTS

1994—Pub. L. 103–349 amended section generally, substituting provisions consisting of subsecs. (a) and (b) for former provisions consisting of subsecs. (a) to (j).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 15 of Pub. L. 103–349 provided that: ''This Act [amending this section and sections 2327, 2330, 2353, 2354, 2357, 2402, 2404, 2422, 2423, 2424, 2425, 2442, 2461, 2462, 2463, 2482, 2483, 2486, 2501, 2504, 2532, 2541, 2542, 2543, 2561, 2566, 2567, 2568, and 2570 of this title, repealing sections 2463, 2502 and 2503 of this title, and enacting provisions set out as notes under this section and section 2321 of this title] and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act [Oct. 6, 1994].''

TRANSITIONAL PROVISIONS FOR 1994 AMENDMENT

Section 14 of Pub. L. 103–349 provided that:

''(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act [see Effective Date of 1994 Amendment note above], and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

''(b) APPLICATIONS REFILED.—

''(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act [see Effective Date of 1994 Amendment note above].

''(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

''(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act [7 U.S.C. 2321 et seq.], as amended by this Act; and

''(B) for purposes of section 42 of the Plant Variety Protection Act [7 U.S.C. 2402], as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

''(c) LABELING.—

''(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

''(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 201.

§ 2402. Right to plant variety protection; plant varieties protectable

(a) In general

The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this chapter, if the variety is—

(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

(A) in the United States, more than 1 year prior to the date of filing; or

(B) in any area outside of the United States—

(i) more than 4 years prior to the date of filing, except that in the case of a tuber propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after April 4, 1996; or

(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) Multiple applicants

(1) In general

If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a) of this section, the applicant who first complies with all requirements of this chapter shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

(2) Requirements completed on same date

(A) In general

Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

(B) Varieties indistinguishable

If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.

(Pub. L. 91–577, title II, § 42, Dec. 24, 1970, 84 Stat. 1547; Pub. L. 103–349, § 3, Oct. 6, 1994, 108 Stat. 3138; Pub. L. 104–127, title IX, § 913(a), Apr. 4, 1996, 110 Stat. 1186.)

AMENDMENTS

1996—Subsec. (a)(1)(B)(i). Pub. L. 104–127 inserted '', except that in the case of a tuber propagated plant

variety the Secretary may waive the 4-year limitation for a period ending 1 year after April 4, 1996'' after ''filing''.

1994—Pub. L. 103–349 amended section generally, substituting present provisions for substantially similar former provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2483, 2562 of this title.

§ 2403. Reciprocity limits

Protection under this chapter may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

(Pub. L. 91–577, title II, § 43, Dec. 24, 1970, 84 Stat. 1547.)

§ 2404. Public interest in wide usage

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when the Secretary determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 2461 or 2462 of this title (any finding that the price is not reasonable being reviewable), and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

(Pub. L. 91–577, title II, § 44, Dec. 24, 1970, 84 Stat. 1547; Pub. L. 103–349, § 13(f), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the Secretary'' for ''he'' before ''determines'' in first sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2327, 2461 of this title.

PART E—APPLICATIONS; FORM; WHO MAY FILE; RELATING BACK; CONFIDENTIALITY

§ 2421. Application for recognition of plant variety rights

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary.

(Pub. L. 91–577, title II, § 51, Dec. 24, 1970, 84 Stat. 1548.)

§ 2422. Content of application

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued. The variety shall be named in accordance with regulations issued by the Secretary.

(2) A description of the variety setting forth its distinctiveness, uniformity, and stability and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A statement of the basis of the claim of the applicant that the variety is new.

(4) A declaration that a viable sample of basic seed (including any propagating material) necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder.

(5) A statement of the basis of applicant's ownership.

(Pub. L. 91–577, title II, § 52, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 96–574, § 11, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 103–349, § 4, Oct. 6, 1994, 108 Stat. 3139.)

AMENDMENTS

1994—Par. (1). Pub. L. 103–349, § 4(1), inserted at end ''The variety shall be named in accordance with regulations issued by the Secretary.''

Par. (2). Pub. L. 103–349, § 4(2), in first sentence substituted ''distinctiveness, uniformity, and stability'' for ''novelty''.

Par. (3). Pub. L. 103–349, § 4(4), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 103–349, § 4(3), (5), redesignated par. (3) as (4) and inserted ''(including any propagating material)'' after ''basic seed''. Former par. (4) redesignated (5).

Par. (5). Pub. L. 103–349, § 4(3), redesignated par. (4) as (5).

1980—Par. (3). Pub. L. 96–574 struck out provisions relating to adding of declaration by amendment.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2481, 2562 of this title.

§ 2423. Joint breeders

(a) When two or more persons are the breeders, one person (or the successor of the person) may apply, naming the others.

(b) The Secretary, after such notice as the Secretary may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

(Pub. L. 91–577, title II, § 53, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 103–349, § 13(g), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349, § 13(g)(1), substituted ''one person (or the successor of the person)'' for ''one (or his successor)''.

Subsec. (b). Pub. L. 103–349, § 13(g)(2), substituted ''the Secretary'' for ''he'' before ''may''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2424. Death or incapacity of breeder

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or the successor in interest of the breeder.

(Pub. L. 91–577, title II, § 54, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 103–349, § 13(h), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the successor in interest of the breeder'' for ''his successor in interest''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2425. Benefit of earlier filing date

(a)(1) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by nationals of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed, not including the date on which the application is filed in the foreign country.

(2) No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in the application filed in the United States or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

(i) the 2-year period beginning on the date of the expiration of the period of priority; or

(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by the predecessor in title of the person, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

(Pub. L. 91–577, title II, § 55, Dec. 24, 1970, 84 Stat. 1548; Pub. L. 103–349, §§ 5, 13(i), Oct. 6, 1994, 108 Stat. 3139, 3143.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349, § 5(1), designated first sentence as par. (1) and second sentence as par. (2).

Subsec. (a)(1). Pub. L. 103–349, § 5(2), inserted before period at end '', not including the date on which the application is filed in the foreign country''.

Subsec. (a)(2). Pub. L. 103–349, § 13(i)(1), substituted ''in the application filed in the United States'' for ''in his application''.

Subsec. (a)(3). Pub. L. 103–349, § 5(3), added par. (3).

Subsec. (b). Pub. L. 103–349, § 13(i)(2), substituted ''the predecessor in title of the person'' for ''his predecessor in title''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2426. Confidential status of application

Applications for plant variety protection and their contents shall be kept in confidence by the

Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies, the name of the applicant, and whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed.

(Pub. L. 91–577, title II, § 56, Dec. 24, 1970, 84 Stat. 1549; Pub. L. 96–574, § 12, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 inserted provisions relating to name of applicant and sale of the variety.

§ 2427. Publication

The Secretary may establish regulations for the publication of information regarding any pending application when publication is requested by the owner.

(Pub. L. 91–577, title II, § 57, Dec. 24, 1970, 84 Stat. 1549; Pub. L. 96–574, § 13, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 inserted ''information regarding'' after ''publication of''.

PART F—EXAMINATIONS; RESPONSE TIME; INITIAL APPEALS

§ 2441. Examination of application

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

(Pub. L. 91–577, title II, § 61, Dec. 24, 1970, 84 Stat. 1549.)

§ 2442. Notice of refusal; reconsideration

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to an applicant of an action other than allowance, the applicant shall be allowed at least 30 days, and not more than 180 days, or such other time as the Secretary shall set in the refusal, or such time as the Secretary may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

(Pub. L. 91–577, title II, § 62, Dec. 24, 1970, 84 Stat. 1549; Pub. L. 103–349, §§ 6, 13(j), Oct. 6, 1994, 108 Stat. 3140, 3143.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–349 in first sentence substituted ''mailing to an applicant'' for ''mailing to him'', ''the applicant shall'' for ''an applicant shall'', ''at least 30 days, and not more than 180 days'' for ''six months'', ''the Secretary shall'' for ''the Secretary in exceptional circumstances shall'', and ''as the Secretary may'' for ''as he may''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2443. Initial appeal

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

(Pub. L. 91–577, title II, § 63, Dec. 24, 1970, 84 Stat. 1550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2461, 2462 of this title.

PART G—APPEALS TO COURTS AND OTHER REVIEW

§ 2461. Appeals

From the decisions made under sections 2404, 2443, 2501, and 2568 of this title appeal may, within sixty days or such further times as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal.

(Pub. L. 91–577, title II, § 71, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 97–164, title I, § 145, Apr. 2, 1982, 96 Stat. 45; Pub. L. 103–349, § 8(d)(1), Oct. 6, 1994, 108 Stat. 3141.)

AMENDMENTS

1994—Pub. L. 103–349 struck out ''2502,'' after ''2501,''.

1982—Pub. L. 97–164 substituted ''The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal'' for ''The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in section 2343 of title 28''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF APPELLATE PROCEDURE

Review and enforcement of orders of administrative agencies, boards, commissions, and officers, see rule 15 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2568 of this title; title 28 section 1295.

§ 2462. Civil action against Secretary

An applicant dissatisfied with a decision under section 2443 or 2501 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for the variety as specified in the application as the facts of the case may appear, on compliance with the requirements of this chapter.

(Pub. L. 91–577, title II, § 72, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 103–349, § 13(k), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349, which directed that the second sentence be amended by substituting ''the variety as specified in the application'' for ''his variety as specified in his application'', was executed by making the substitution in the third sentence, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2404 of this title.

§ 2463. Repealed. Pub. L. 103–349, § 8(c)(2), Oct. 6, 1994, 108 Stat. 3141

Section, Pub. L. 91–577, title II, § 73, Dec. 24, 1970, 84 Stat. 1550; Pub. L. 103–349, § 8(c)(1), Oct. 6, 1994, 108 Stat. 3140, related to appeal or civil action in contested cases. Prior to repeal, subsec. (b) of this section was transferred to section 2504 of this title by Pub. L. 103–349, § 8(c)(1), Oct. 6, 1994, 108 Stat. 3140.

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as an Effective Date of 1994 Amendment note under section 2401 of this title.

PART H—CERTIFICATES OF PLANT VARIETY PROTECTION

§ 2481. Plant variety protection

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 2422(3)[1] of this title, the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

(Pub. L. 91–577, title II, § 81, Dec. 24, 1970, 84 Stat. 1551.)

REFERENCES IN TEXT

Section 2422(3) of this title, referred to in subsec. (b), was redesignated section 2422(4) of this title by Pub. L. 103–349, § 4, Oct. 6, 1994, 108 Stat. 3139.

§ 2482. How issued

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have the signature of the Secretary placed thereon, and shall be recorded in the Plant Variety Protection Office.

(Pub. L. 91–577, title II, § 82, Dec. 24, 1970, 84 Stat. 1551; Pub. L. 103–349, § 13(*l*), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the signature of the Secretary'' for ''his signature''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2483. Contents and term of plant variety protection

(a) Certificate

(1) Every certificate of plant variety protection shall certify that the breeder (or the successor in interest of the breeder),[1] has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this chapter.

(2) If the owner so elects, the certificate shall—

(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

(B) if so specified, conform to the number of generations designated by the owner.

(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).

(4) The Secretary may at the discretion of the Secretary permit such election or waiver to be made after certificating and amend the certificate accordingly, without retroactive effect.

(b) Term

(1) In general

Except as provided in paragraph (2), the term of plant variety protection shall expire 20 years from the date of issue of the certificate in the United States, except that—

[1] See References in Text note below.

[1] So in original. The comma probably should not appear.

(A) in the case of a tuber propagated plant variety subject to a waiver granted under section 2402(a)(1)(B)(i) of this title, the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

(B) in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate.

(2) Exceptions

If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) Expiration upon failure to comply with regulations; notice

The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certificating, relating to replenishing seed in a public repository, or requiring the submission of a different name for the variety, except that this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 2531(d) of this title and the last owner fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

(Pub. L. 91–577, title II, § 83, Dec. 24, 1970, 84 Stat. 1551; Pub. L. 96–574, § 14, Dec. 22, 1980, 94 Stat. 3350; Pub. L. 103–349, §§ 7, 13(m), Oct. 6, 1994, 108 Stat. 3140, 3143; Pub. L. 104–127, title IX, § 913(b), Apr. 4, 1996, 110 Stat. 1186.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, § 913(b)(1), (2), inserted heading, designated first sentence as par. (1), inserted par. heading, substituted ''Except as provided in paragraph (2), the term'' for ''The term'', designated second sentence as par. (2), and inserted par. heading.

Subsec. (b)(1). Pub. L. 104–127, § 913(b)(3), which directed the amendment of par. (2) by striking out ''except that, in the case'' and inserting ''except that—'', subpar. (A), and ''(B) in the case'', was executed to par. (1) to reflect the probable intent of Congress.

1994—Subsec. (a). Pub. L. 103–349, § 7(1)(A), designated first through fourth sentences as pars. (1) to (4), respectively.

Subsec. (a)(1). Pub. L. 103–349, § 13(m)(1)(A), which directed the substitution of ''(or the successor in interest of the breeder)'' for ''(or his successor in interest) his heirs and assignees'', was executed by making the substitution for ''(or his successor in interest) his heirs or assignees'', to reflect the probable intent of Congress.

Subsec. (a)(2), (3). Pub. L. 103–349, § 7(1)(B), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

''(2) If the owner so elects, the certificate shall also specify that in the United States, seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner.

''(3) Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver.''

Subsec. (a)(4). Pub. L. 103–349, § 13(m)(1)(B), substituted ''the discretion of the Secretary'' for ''his discretion''.

Subsec. (b). Pub. L. 103–349, § 7(2), in first sentence substituted ''20 years'' for ''eighteen years'' and inserted before period at end '', except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate''.

Subsec. (c). Pub. L. 103–349, §§ 7(3), 13(m)(2), substituted ''repository, or requiring the submission of a different name for the variety, except that'' for ''repository: *Provided, however*, That'' and ''the last owner'' for ''he'' before ''fails''.

1980—Subsec. (b). Pub. L. 96–574 substituted ''eighteen'' for ''seventeen''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2484. Correction of Plant Variety Protection Office mistake

Whenever a mistake in a certificate of plant variety protection incurred through the fault of the Plant Variety Protection Office is clearly disclosed by the records of the Office, the Secretary may issue, without charge, a corrected certificate of plant variety protection, stating the fact and nature of such mistake. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.

(Pub. L. 91–577, title II, § 84, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96–574, § 15, Dec. 22, 1980, 94 Stat. 3350.)

AMENDMENTS

1980—Pub. L. 96–574 substituted provisions relating to correction of Plant Variety Protection Office mistake for provisions relating to certificate of correction of Plant Variety Protection Office mistake.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2485 of this title.

§ 2485. Correction of applicant's mistake

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a corrected certificate if the correction could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.

(Pub. L. 91–577, title II, § 85, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96–574, § 16, Dec. 22, 1980, 94 Stat. 3351.)

AMENDMENTS

1980—Pub. L. 96–574 struck out applicability of section 2484 of this title to manner and form of certificate, and reference to trials of actions thereafter arising with respect to effect and operation in law of certificate.

§ 2486. Correction of named breeder

An error as to the naming of a breeder in the application, without deceptive intent, shall not

affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by the Secretary or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights the person otherwise would have had.

(Pub. L. 91–577, title II, § 86, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 103–349, § 13(n), Oct. 6, 1994, 108 Stat. 3143.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the Secretary'' for ''him'' in first sentence and ''the person'' for ''he'' in third sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

PART I—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

§ 2501. Reexamination after issue

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the description of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) of this section makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as the Secretary shall establish.

(Pub. L. 91–577, title II, § 91, Dec. 24, 1970, 84 Stat. 1552; Pub. L. 96–574, § 17, Dec. 22, 1980, 94 Stat. 3351; Pub. L. 103–349, § 13(*o*), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–349 substituted ''the Secretary'' for ''he''.

1980—Subsec. (b). Pub. L. 96–574 substituted ''description'' for ''specification''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2461, 2462 of this title.

§§ 2502, 2503. Repealed. Pub. L. 103–349, § 8(a), Oct. 6, 1994, 108 Stat. 3140

Section 2502, Pub. L. 91–577, title II, § 92, Dec. 24, 1970, 84 Stat. 1553, related to priority contest.

Section 2503, Pub. L. 91–577, title II, § 93, Dec. 24, 1970, 84 Stat. 1553; Pub. L. 96–574, § 18, Dec. 22, 1980, 94 Stat. 3351, related to effect of adverse final judgment or of nonaction.

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as an Effective Date of 1994 Amendment note under section 2401 of this title.

§ 2504. Interfering plant variety protection

(a) The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshall of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but the Secretary shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this chapter.

(Pub. L. 91–577, title II, § 92, formerly § 94, Dec. 24, 1970, 84 Stat. 1553; renumbered § 92 and amended Pub. L. 103–349, §§ 8(b), (c)(1), 13(p), Oct. 6, 1994, 108 Stat. 3140, 3144.)

CODIFICATION

The text of subsec. (b) of section 2463 of this title, which was transferred to subsec. (b) of this section by Pub. L. 103–349, § 8(c)(1), was based on section 73(b) of Pub. L. 91–577, title II, Dec. 24, 1970, 84 Stat. 1550.

PRIOR PROVISIONS

A prior section 92 of Pub. L. 91–577 was classified to section 2502 of this title prior to repeal by Pub. L. 103–349.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349, § 8(b)(2), designated existing provisions as subsec. (a) and struck out at end ''The provisions of section 2463(b) of this title shall apply to actions brought under this section.''

Subsec. (b). Pub. L. 103–349, §§ 8(c)(1), 13(p), transferred subsec. (b) of section 2463 of this title to subsec. (b) of this section, and substituted ''the Secretary'' for ''he'' before ''shall have'' in fourth sentence. See Codification note above.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SUBCHAPTER III—PLANT VARIETY PROTECTION AND RIGHTS

PART J—OWNERSHIP AND ASSIGNMENT

§ 2531. Ownership and assignment

(a) Subject to the provisions of this subchapter, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgment thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

(Pub. L. 91–577, title III, § 101, Dec. 24, 1970, 84 Stat. 1554.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2483 of this title.

§ 2532. Ownership during testing

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible or tuber propagable plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible or tuber propagable plant material available to the public, as by sale thereof.

(Pub. L. 91–577, title III, § 102, Dec. 24, 1970, 84 Stat. 1554; Pub. L. 103–349, § 8(d)(2), Oct. 6, 1994, 108 Stat. 3141.)

AMENDMENTS

1994—Pub. L. 103–349 inserted ''or tuber propagable'' after ''sexually reproducible'' in two places.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

PART K—INFRINGEMENT OF PLANT VARIETY PROTECTION

§ 2541. Infringement of plant variety protection

(a) Acts constituting infringement

Except as otherwise provided in this subchapter, it shall be an infringement of the rights of the owner of a protected variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a protected plant variety with the notice under section 2567 of this title:

(1) sell or market the protected variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the variety into, or export it from, the United States;

(3) sexually multiply, or propagate by a tuber or a part of a tuber, the variety as a step in marketing (for growing purposes) the variety;

(4) use the variety in producing (as distinguished from developing) a hybrid or different variety therefrom;

(5) use seed which had been marked ''Unauthorized Propagation Prohibited'' or ''Unauthorized Seed Multiplication Prohibited'' or progeny thereof to propagate the variety;

(6) dispense the variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received;

(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 2543 of this title;

(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);

(9) perform any of the foregoing acts even in instances in which the variety is multiplied other than sexually, except in pursuance of a valid United States plant patent; or

(10) instigate or actively induce performance of any of the foregoing acts.

(b) Uses authorized by owner

(1) Subject to paragraph (2), the owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

(2) In the case of a contract between a seed producer and the owner of a protected variety of lawn, turf, or forage grass seed, or alfalfa or clover seed for the production of seed of the protected variety, the producer shall be deemed to be authorized by the owner to sell such seed and to use the variety if—

(A) the producer has fulfilled the terms of the contract;

(B) the owner refuses to take delivery of the seed or refuses to pay any amounts due under

the contract within 30 days of the payment date specified in the contract; and

(C) after the expiration of the period specified in subparagraph (B), the producer notifies the owner of the producer's intent to sell the seed and unless the owner fails to pay the amounts due under the contract and take delivery of the seed within 30 days of such notification. For the purposes of this paragraph, the term ''owner'' shall include any licensee of the owner.

(3) Paragraph (2) shall apply to contracts entered into with respect to plant varieties protected under this chapter as in effect on the day before the effective date of this provision as well as plant varieties protected under this chapter as amended by the Plant Variety Protection Act Amendments of 1994.

(4) Nothing in this subsection shall affect any other rights or remedies of producers or owners that may exist under other Federal or State laws.

(c) Applicability to certain plant varieties

This section shall apply equally to—

(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

(2) any variety that is not clearly distinguishable from a protected variety;

(3) any variety whose production requires the repeated use of a protected variety; and

(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided under this chapter with respect to the propagating material.

(d) Acts not considered infringing

It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that is sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

(e) Private noncommercial uses

It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.

(f) "Perform without authority" defined

As used in this section, the term ''perform without authority'' includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.

(Pub. L. 91–577, title III, §111, Dec. 24, 1970, 84 Stat. 1554; Pub. L. 96–574, §19(a), Dec. 22, 1980, 94 Stat. 3351; Pub. L. 102–560, §3(a), Oct. 28, 1992, 106 Stat. 4231; Pub. L. 103–349, §§9, 13(q), Oct. 6, 1994, 108 Stat. 3141, 3144.)

REFERENCES IN TEXT

The effective date of this provision, referred to in subsec. (b)(3), probably means the effective date of subsec. (b)(3), which was added by Pub. L. 103–349, effective 180 days after Oct. 6, 1994. See Effective Date of 1994 Amendment note set out under section 2401 of this title.

The Plant Variety Protection Act Amendments of 1994, referred to in subsec. (b)(3), is Pub. L. 103–349, Oct. 6, 1994, 108 Stat. 3136. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 2321 of this title and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349, §9(1)(A), substituted ''protected'' for ''novel'' in two places in introductory provisions.

Subsec. (a)(1). Pub. L. 103–349, §9(1)(B), substituted ''or market the protected'' for ''the novel''.

Subsec. (a)(2). Pub. L. 103–349, §9(1)(C), struck out ''novel'' before ''variety''.

Subsec. (a)(3). Pub. L. 103–349, §9(1)(C)–(E), inserted '', or propagate by a tuber or a part of a tuber,'' after ''multiply'', struck out ''novel'' before ''variety'', and struck out ''or'' at end.

Subsec. (a)(4) to (6). Pub. L. 103–349, §9(1)(C), (E), struck out ''novel'' before ''variety'' and struck out ''or'' at end.

Subsec. (a)(7). Pub. L. 103–349, §9(1)(G), added par. (7). Former par. (7) redesignated (9).

Pub. L. 103–349, §9(1)(C), struck out ''novel'' before ''variety''.

Subsec. (a)(8). Pub. L. 103–349, §9(1)(G), added par. (8). Former par. (8) redesignated (10).

Subsec. (a)(9), (10). Pub. L. 103–349, §9(1)(F), redesignated pars. (7) and (8) as (9) and (10), respectively.

Subsecs. (b) to (e). Pub. L. 103–349, §9(3), added subsecs. (b) to (e). Former subsec. (b) redesignated (f).

Subsec. (f). Pub. L. 103–349, §§9(2), 13(q), redesignated subsec. (b) as (f) and in first sentence substituted ''the official capacity of the officer or employee'' for ''his official capacity''.

1992—Pub. L. 102–560 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Par. (5). Pub. L. 96–574 substituted '' 'Unauthorized Propagation Prohibited' or 'Unauthorized Seed Multiplication Prohibited' '' for '' 'propagation prohibited' ''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 4 of Pub. L. 102–560 provided that: ''The amendments made by this Act [enacting section 2570 of this title and section 296 of Title 35, Patents, and amending this section and section 271 of Title 35] shall take effect with respect to violations that occur on or after the date of the enactment of this Act [Oct. 28, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2543, 2561, 2570 of this title.

§ 2542. Grandfather clause

Nothing in this chapter shall abridge the right of any person, or the successor in interest of the person, to reproduce or sell a variety developed

and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

(Pub. L. 91–577, title III, § 112, Dec. 24, 1970, 84 Stat. 1555; Pub. L. 103–349, § 13(r), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Pub. L. 103–349 substituted ''the successor in interest of the person'' for ''his successor in interest''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2543. Right to save seed; crop exemption

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 2541[1] of this title, it shall not infringe any right hereunder for a person to save seed produced by the person from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on the farm of the person, or for sale as provided in this section. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 2567 of this title that the actions of the purchaser constitute an infringement.

(Pub. L. 91–577, title III, § 113, Dec. 24, 1970, 84 Stat. 1555; Pub. L. 103–349, §§ 10, 13(s), Oct. 6, 1994, 108 Stat. 3142, 3144.)

REFERENCES IN TEXT

Subsections (3) and (4) of section 2541 of this title, referred to in text, probably means paragraphs (3) and (4) of section 2541 of this title, which were redesignated subsection (a)(3) and (4) of section 2541 of this title by Pub. L. 102–560, § 3(a), Oct. 28, 1992, 106 Stat. 4231.

AMENDMENTS

1994—Pub. L. 103–349, §§ 10, 13(s)(1), in first sentence substituted ''produced by the person'' for ''produced by him'', ''the farm of the person'' for ''his farm'', and ''section.'' for ''section: *Provided*, That without regard to the provisions of section 2541(3) of this title it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable.''

Pub. L. 103–349, § 13(s)(2), substituted ''the actions of the purchaser'' for ''his actions'' in third sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2541 of this title.

§ 2544. Research exemption

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this chapter.

(Pub. L. 91–577, title III, § 114, Dec. 24, 1970, 84 Stat. 1555.)

§ 2545. Intermediary exemption

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this chapter.

(Pub. L. 91–577, title III, § 115, Dec. 24, 1970, 84 Stat. 1555.)

PART L—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

§ 2561. Remedy for infringement of plant variety protection

An owner shall have remedy by civil action for infringement of plant variety protection under section 2541 of this title. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

(Pub. L. 91–577, title III, § 121, Dec. 24, 1970, 84 Stat. 1556; Pub. L. 103–349, § 13(t), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Pub. L. 103–349 struck out ''his'' before ''plant'' in first sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2562. Presumption of validity; defenses

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 2402 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 2422 of this title; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this chapter.

(Pub. L. 91–577, title III, § 122, Dec. 24, 1970, 84 Stat. 1556.)

§ 2563. Injunction

The several courts having jurisdiction of cases under this subchapter may grant injunctions in

accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

(Pub. L. 91–577, title III, § 123, Dec. 24, 1970, 84 Stat. 1556.)

§ 2564. Damages

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

(Pub. L. 91–577, title III, § 124, Dec. 24, 1970, 84 Stat. 1556.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2570 of this title.

§ 2565. Attorney fees

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

(Pub. L. 91–577, title III, § 125, Dec. 24, 1970, 84 Stat. 1556.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2570 of this title.

§ 2566. Time limitation on damages

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that the claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

(Pub. L. 91–577, title III, § 126, Dec. 24, 1970, 84 Stat. 1556; Pub. L. 103–349, § 13(u), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–349 substituted ''the'' for ''his'' before ''claim has been denied''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

§ 2567. Limitation of damages; marking and notice

Owners may give notice to the public by physically associating with or affixing to the container of seed of a variety or by fixing to the variety, a label containing either the words ''Unauthorized Propagation Prohibited'' or the words ''Unauthorized Seed Multiplication Prohibited'' and after the certificate issues, such additional words as ''U.S. Protected Variety''. In the event the variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice of knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

(Pub. L. 91–577, title III, § 127, Dec. 24, 1970, 84 Stat. 1557; Pub. L. 96–574, § 19(b), Dec. 22, 1980, 94 Stat. 3351; Pub. L. 103–349, § 11, Oct. 6, 1994, 108 Stat. 3142.)

AMENDMENTS

1994—Pub. L. 103–349 in first sentence struck out ''novel'' before ''variety or'' and before ''variety, a'', and in second sentence struck out ''novel'' before ''variety is distributed''.

1980—Pub. L. 96–574 substituted ''either the words 'Unauthorized Propagation Prohibited' or the words 'Unauthorized Seed Multiplication Prohibited' '' for ''the words 'Propagation Prohibited' ''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2541, 2543 of this title.

§ 2568. False marking; cease and desist orders

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant material or tubers or parts of tubers, is prohibited, and the Secretary may, if the Secretary determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 2461 of this title:

(1) Use of the words ''U.S. Protected Variety'' or any word or number importing that the material is a variety protected under certificate, when it is not.

(2) Use of any wording importing that the material is a variety for which an application for plant variety protection is pending, when it is not.

(3) Use of either the phrase ''Unauthorized Propagation Prohibited'' or ''Unauthorized Seed Multiplication Prohibited'' or similar phrase without reasonable basis. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by

a pending application or a certificate still in force.

(4) Failure to use the name of a variety for which a certificate of protection has been issued under this chapter, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, or alfalfa or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this chapter is required under State law.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than $10,000 and not less than $500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

(Pub. L. 91–577, title III, § 128, Dec. 24, 1970, 84 Stat. 1557; Pub. L. 96–574, § 19(c), Dec. 22, 1980, 94 Stat. 3352; Pub. L. 103–349, §§ 12, 13(v), Oct. 6, 1994, 108 Stat. 3142, 3144.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349 inserted ''or tubers or parts of tubers'' after ''plant material'' and substituted ''if the Secretary determines'' for ''if he determines'' in introductory provisions, and added par. (4).

1980—Subsec. (a)(3). Pub. L. 96–574 substituted provisions respecting prohibitions for use of phrases ''Unauthorized Propagation Prohibited'' and ''Unauthorized Seed Multiplication Prohibited'' for provisions respecting prohibitions for use of phrase ''propagation prohibited''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2461 of this title.

§ 2569. Nonresident proprietors; service and notice

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

(Pub. L. 91–577, title III, § 129, Dec. 24, 1970, 84 Stat. 1557.)

§ 2570. Liability of States, instrumentalities of States, and State officials for infringement of plant variety protection

(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 2541 of this title, or for any other violation under this subchapter.

(b) In a suit described in subsection (a) of this section for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 2564 of this title, and attorney fees under section 2565 of this title.

(Pub. L. 91–577, title III, § 130, as added Pub. L. 102–560, § 3(b), Oct. 28, 1992, 106 Stat. 4231; amended Pub. L. 103–349, § 13(w), Oct. 6, 1994, 108 Stat. 3144.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–349 substituted ''the official capacity of the officer or employee'' for ''his official capacity''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103–349, set out as a note under section 2401 of this title.

EFFECTIVE DATE

Section effective with respect to violations that occur on or after Oct. 28, 1992, see section 4 of Pub. L. 102–560, set out as an Effective Date of 1992 Amendment note under section 2541 of this title.

PART M—INTENT AND SEVERABILITY

§ 2581. Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

(Pub. L. 91–577, title III, § 131, Dec. 24, 1970, 84 Stat. 1558.)

§ 2582. Severability

If this chapter is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances.

(Pub. L. 91–577, title III, § 132, Dec. 24, 1970, 84 Stat. 1558.)

§ 2583. Repealed. Pub. L. 96–574, § 20, Dec. 22, 1980, 94 Stat. 3352

Section, Pub. L. 91–577, title III, § 144, Dec. 24, 1970, 84 Stat. 1559, exempted certain plants from provisions of this chapter.

CHAPTER 58—POTATO RESEARCH AND PROMOTION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 2611. Congressional findings and declaration of policy

Potatoes are a basic food in the United States and foreign countries. They are produced by many individual potato growers in every State in the United States and imported into the United States from foreign countries. In 1966, there were one million four hundred and ninety-seven thousand acres of cropland in the United States devoted to the production of potatoes.

Potatoes and potato products move in the channels of interstate or foreign commerce, and potatoes which do not move in such channels directly burden or affect interstate commerce in potatoes and potato products.

The maintenance and expansion of existing potato markets and the development of new or improved markets are vital to the welfare of potato growers and those concerned with marketing, using, and processing potatoes as well as the general economic welfare of the Nation.

Therefore, it is the declared policy of the Congress and the purpose of this chapter that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the financing, through adequate assessments on all potatoes harvested in the United States for commercial use and imported into the United States from foreign countries, and the carrying out of an effective and continuous coordinated program of research, development, advertising, and promotion designed to strengthen potatoes' competitive position, and to maintain and expand domestic and foreign markets for potatoes and potato products.

(Pub. L. 91–670, title III, § 302, Jan. 11, 1971, 84 Stat. 2041; Pub. L. 101–624, title XIX, § 1936, Nov. 28, 1990, 104 Stat. 3865.)

AMENDMENTS

1990—Pub. L. 101–624, in first par., inserted ''and foreign countries'' and ''and imported into the United States from foreign countries'' and struck out at end ''Approximately two hundred and seventy-five million hundredweight of potatoes have been produced annually during the past five years with an estimated sales value to the potato producers of $561,000,000.''; in second par., struck out '', in a large part,'' after ''products move'', inserted ''or foreign'', and struck out at end ''All potatoes produced in the United States are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in potatoes and

potato products.'' and, in third par., inserted ''and imported into the United States from foreign countries'' and substituted ''and potato products'' for ''produced in the United States''.

EFFECTIVE DATE

Section 319 of title III of Pub. L. 91–670 provided that: ''This title [this chapter] shall take effect upon enactment [Jan. 11, 1971]''.

SHORT TITLE OF 1990 AMENDMENT

Section 1935 of Pub. L. 101–624 provided that: ''This subtitle [subtitle C (§§1935–1946) of title XIX of Pub. L. 101–624, amending this section and sections 2612 to 2614, 2617 to 2619, and 2622 to 2624 of this title, and enacting provisions set out as a note under section 2625 of this title] may be cited as the 'Potato Research and Promotion Act Amendments of 1990'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–244, §1, Aug. 26, 1982, 96 Stat. 310, provided: ''That this Act [amending sections 2617, 2621, and 2623 of this title] may be cited as the 'Potato Research and Promotion Act Amendments of 1982'.''

SHORT TITLE

Section 301 of title III of Pub. L. 91–670 provided that: ''This title [enacting this chapter] may be cited as the 'Potato Research and Promotion Act'.''

§ 2612. Definitions

As used in this chapter:

(a) The term ''Secretary'' means the Secretary of Agriculture.

(b) The term ''person'' means any individual, partnership, corporation, association, or other entity.

(c) The term ''potatoes'' means all varieties of Irish potatoes grown by producers in the 50 States of the United States, and grown in foreign countries and imported into the United States.

(d) The term ''handler'' means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes in a manner specified in a plan issued pursuant to this chapter or in the rules and regulations issued thereunder.

(e) The term ''producer'' means any person engaged in the growing of five or more acres of potatoes.

(f) The term ''promotion'' means any action taken by the National Potato Promotion Board, pursuant to this chapter, to present a favorable image for potatoes to the public with the express intent of improving their competitive positions and stimulating sales of potatoes and shall include, but shall not be limited to, paid advertising.

(g) The term ''importer'' means any person who imports tablestock, frozen, or processed potatoes for ultimate consumption by humans or seed potatoes into the United States.

(Pub. L. 91–670, title III, §303, Jan. 11, 1971, 84 Stat. 2041; Pub. L. 101–624, title XIX, §1937, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–624, §1937(1), substituted ''50'' for ''forty-eight contiguous'' and inserted before the period at the end '', and grown in foreign countries and imported into the United States''.

Subsec. (g). Pub. L. 101–624, §1937(2), added subsec. (g).

§ 2613. Authority for issuance and amendment of plan

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to handlers and importers and shall have authority to issue orders authorizing the collection of assessments on potatoes handled or imported under the provisions of this chapter, and to authorize the use of such funds to provide research, development, advertising, and promotion of potatoes in a manner prescribed in this chapter. Any order issued by the Secretary under this chapter shall hereinafter in this chapter be referred to as a ''plan''. Any such plan shall be applicable to potatoes produced in the 50 States of the United States and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States.

(Pub. L. 91–670, title III, §304, Jan. 11, 1971, 84 Stat. 2042; Pub. L. 101–624, title XIX, §1938, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Pub. L. 101–624 substituted ''handlers and importers'' for ''persons engaged in the handling of potatoes (hereinafter referred to as handlers)'', inserted ''or imported'', substituted ''50'' for ''forty-eight contiguous'', and inserted before period at end ''and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States''.

§ 2614. Notice and hearings

When sufficient evidence is presented to the Secretary by interested persons, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for a hearing upon a proposed plan. Such hearing may be requested by any interested person, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(Pub. L. 91–670, title III, §305, Jan. 11, 1971, 84 Stat. 2042; Pub. L. 101–624, title XIX, §1939, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Pub. L. 101–624 substituted ''interested persons'' for ''potato producers'' in first sentence and ''by any interested person, including the Secretary'' for ''by potato producers or by any other interested person or persons, including the Secretary'' in second sentence.

§ 2615. Finding and issuance of plan

After notice and opportunity for hearing, the Secretary shall issue a plan if he finds, and sets forth in such plan, upon the evidence introduced at such hearing, that the issuance of such plan and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 91–670, title III, §306, Jan. 11, 1971, 84 Stat. 2042.)

§ 2616. Regulations

The Secretary is authorized to make such regulations with the force and effect of law, as may

be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 91–670, title III, § 307, Jan. 11, 1971, 84 Stat. 2042.)

§ 2617. Required terms and conditions of plans

Any plan issued pursuant to this chapter shall contain the following terms and conditions:

(a) National Potato Promotion Board; establishment; powers and duties

Providing for the establishment by the Secretary of a National Potato Promotion Board (hereinafter referred to as ''the board'') and for defining its powers and duties, which shall include powers—

(1) to administer such plan in accordance with its terms and conditions;

(2) to make rules and regulations to effectuate the terms and conditions of such plan;

(3) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

(4) to recommend to the Secretary amendments to such plan.

(b) Membership of board

Providing that the board shall be composed of representatives of producers and the public appointed by the Secretary from nominations submitted in accordance with this subsection. If importers are subject to a plan, the board shall also include up to 5 representatives of importers, appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary. Representatives of producers shall be nominated by producers in such manner as may be prescribed by the Secretary. Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary. If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan. The requirement for inclusion of public representatives on the board shall not be subject to producer approval, or to importer approval when importers are subject to a plan, in a referendum.

(c) Compensation and expenses of board members

Providing that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

(d) Budget; preparation and submission

Providing that the board shall prepare and submit to the Secretary for his approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research, development, advertising, and promotion.

(e) Assessment rate per poundage handled; limitation

Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per one hundred pounds of potatoes handled; except that if approved by producers, and importers when importers are subject to a plan, pursuant to section 2623 of this title, the rate of assessment shall not exceed one-half of 1 per centum of the immediate past ten-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

(f) Restrictions

Providing that—

(1) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this chapter: *Provided*, That the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer approval, or importer approval when importers are subject to a plan, in a referendum;

(2) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

(3) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(g) Research, development, advertising or promotion programs or projects; development and submission by board; approval by Secretary

Providing that the board shall, subject to the provisions of subsections (e) and (f) of this section, develop and submit to the Secretary for his approval any research, development, advertising or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

(h) Contract authority of board; funds for payment of cost

Providing the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this chapter.

(i) Recordkeeping; reports for accounting: receipts and disbursements; audit report

Providing that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

(Pub. L. 91–670, title III, § 308, Jan. 11, 1971, 84 Stat. 2042; Pub. L. 97–244, § 2, Aug. 26, 1982, 96 Stat. 310; Pub. L. 98–171, § 2(a), Nov. 29, 1983, 97

Stat. 1117; Pub. L. 101–624, title XIX, § 1940, Nov. 28, 1990, 104 Stat. 3866.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624, § 1940(1), inserted after first sentence ''If importers are subject to a plan, the board shall also include up to 5 representatives of importers, appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.'', inserted ''or importers'' after ''If producers'', and inserted '', or to importer approval when importers are subject to a plan,'' after ''approval'' in last sentence.

Subsec. (e). Pub. L. 101–624, § 1940(2), substituted ''2 cents'' for ''one cent'' and inserted '', and importers when importers are subject to a plan,'' after ''producers''.

Subsec. (f)(1). Pub. L. 101–624, § 1940(3), inserted '', or importer approval when importers are subject to a plan,'' after ''producer approval'' in proviso.

Subsecs. (g) to (j). Pub. L. 101–624, § 1940(4), redesignated subsecs. (h) to (j) as (g) to (i), respectively, and struck out former subsec. (g) which read as follows: ''Providing that, notwithstanding any other provisions of this chapter, any potato producer against whose potatoes any assessment is made and collected under authority of this chapter and who is not in favor of supporting the research and promotion program as provided for under this chapter shall have the right to demand and receive from the board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.''

1983—Subsec. (b). Pub. L. 98–171, § 2(a)(1), inserted ''The requirement for inclusion of public representatives on the board shall not be subject to producer approval in a referendum.''

Subsec. (e). Pub. L. 98–171, § 2(a)(2), amended subsec. (e) generally, substituting requirement that the Secretary fix ''the assessment rate at not more than one cent per one hundred pounds of potatoes handled'' for ''the assessment rate required for such costs as may be incurred under subsection (d) of this section, including any referendum and administrative costs estimated to be incurred by the United States Department of Agriculture under this chapter'' and provision ''except that if approved by producers pursuant to section 2623 of this title, the rate of assessment shall not exceed'' for ''*Provided*, That the rate of assessment for fiscal year 1982 and each fiscal year thereafter shall not exceed''.

Subsec. (f)(1). Pub. L. 98–171, § 2(a)(3), inserted ''*Provided*, That the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer approval in a referendum''.

1982—Subsec. (b). Pub. L. 97–244, § 2(1), substituted provisions that the board be composed of representatives of producers and the public appointed by the Secretary from nominations submitted in accordance with this subsection, that representatives of producers be nominated by producers in such manner as may be prescribed by the Secretary, that public representatives be nominated by the board in such manner as may be prescribed by the Secretary, and that, if producers fail to select nominees for appointment to the board or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan for provisions that the board could be composed of representatives of producers selected by the Secretary from nominations made by producers in such manner as might be prescribed by the Secretary and that, in the event producers failed to select nominees for appointment to the board, the Secretary was to appoint producers on the basis of representation provided for in such plan.

Subsec. (e). Pub. L. 97–244, § 2(2), substituted provisions that the assessment rate include any referendum and administrative costs estimated to be incurred by the Department of Agriculture under this chapter, but that the assessment rate for fiscal year 1982 and each fiscal year thereafter not exceed one-half of 1 per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture, for provisions that the assessment rate could not exceed 1 cent per hundred pounds of potatoes handled.

Subsec. (f)(1). Pub. L. 97–244, § 2(3), substituted ''as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this chapter'' for ''as may be authorized by the Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2618 of this title.

§ 2618. Permissive terms and conditions of plans

Any plan issued pursuant to this chapter may contain one or more of the following terms and conditions:

(a) Exemptions

Providing authority to exempt from the provisions of the plan potatoes used for nonfood uses, and authority for the board to require satisfactory safeguards against improper use of such exemptions.

(b) Handler payment and reporting schedules

Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures utilized in different production areas.

(c) Advertisement and sales promotion programs or projects

Providing for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of potatoes and potato products and for the disbursement of necessary funds for such purposes: *Provided, however*, That any such program or project shall be directed toward increasing the general demand for potatoes and potato products: *And provided further*, That such promotional activities shall comply with the provisions of section 2617(f) of this title.

(d) Research and development projects and studies for marketing and utilization of potatoes

Providing for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of potatoes may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(e) Reserve funds; accumulation; limitation

Providing for authority to accumulate reserve funds from assessments collected pursuant to this chapter, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced: *Provided*, That the total reserve fund does not exceed the amount budgeted for two years' operation.

(f) Foreign markets; sales development and expansion

Providing for authority to use funds collected herein, with the approval of the Secretary, for the development and expansion of potato and potato product sales in foreign markets.

(g) Assessment; refund

Providing that any potato producer or importer against whose potatoes any assessment is made and collected under authority of this chapter and who is not in favor of supporting the research and promotion program as provided for under this chapter shall have the right to demand and receive from the board a refund of such assessment. Such demand shall be made personally by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than 90 days, and upon submission of proof satisfactory to the board that the producer or importer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand therefor.

(h) Assessment authority

Providing for authority to assess imports of tablestock, frozen, or processed potatoes for ultimate consumption by humans and seed potatoes into the United States.

(i) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such plan.

(Pub. L. 91–670, title III, § 309, Jan. 11, 1971, 84 Stat. 2044; Pub. L. 101–624, title XIX, § 1941, Nov. 28, 1990, 104 Stat. 3867.)

AMENDMENTS

1990—Subsecs. (g) to (i). Pub. L. 101–624 added subsecs. (g) and (h) and redesignated former subsec. (g) as (i).

§ 2619. Assessments

(a) Collection and payment; recordkeeping; limitation

(1) Each handler designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes; and such handler may collect from any producer or deduct from the proceeds paid to any producer, on whose potatoes such assessment is made, any such assessment required to be paid by such handler. Such handler shall maintain a separate record with respect to each producer for whom potatoes were handled, and such records shall indicate the total quantity of potatoes handled by him including those handled for producers and for himself, shall indicate the total quantity of potatoes handled by him which are included under the terms of a plan as well as those which are exempt under such plan, and shall indicate such other information as may be prescribed by the board. To facilitate the collection and payment of such assessments, the board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in any State or area. No more than one such assessment shall be made on any potatoes.

(2) When importers are subject to a plan, each importer designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes. The assessment on imported tablestock, frozen, or processed potatoes for ultimate consumption by humans, and seed potatoes shall be established by the board so that the effective assessment shall equal that on domestic production and shall be paid by the importer to the board at the time of entry into the United States. Each such importer shall maintain a separate record including the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans, and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan, and shall indicate such other information as may be prescribed by the board. No more than one assessment shall be made on any imported potatoes.

(b) Records and reports; availability

Handlers and importers responsible for payment of assessments under subsection (a) of this section shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any plan or regulation issued pursuant to this chapter.

(c) Confidential information; disclosure during proceedings; prohibition inapplicable to general statements and publication of violations; penalties; removal from office

All information obtained pursuant to subsections (a) and (b) of this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit—

(1) the issuance of general statements based upon the reports of a number of handlers or importers subject to a plan if such statements do not identify the information furnished by any person, or

(2) the publication by direction of the Secretary of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall upon conviction

be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both, and shall be removed from office.

(Pub. L. 91–670, title III, § 310, Jan. 11, 1971, 84 Stat. 2044; Pub. L. 101–624, title XIX, § 1942, Nov. 28, 1990, 104 Stat. 3867; Pub. L. 102–237, title VIII, § 804, Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237 substituted ''(2) When'' for ''(2) when''.

1990—Subsec. (a). Pub. L. 101–624, § 1942(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 101–624, § 1942(2), inserted ''and importers'' after ''Handlers''.

Subsec. (c)(1). Pub. L. 101–624, § 1942(3), inserted ''or importers'' after ''handlers''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2623 of this title.

§ 2620. Procedural rights of persons subject to plan

(a) Administrative proceedings; petition; hearing; finality of ruling

Any person subject to a plan may file a written petition with the Secretary, stating that such plan or any provision of such plan or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) Judicial review; jurisdiction; complaint; remand; relief during pendency of proceedings

The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling: *Provided*, That a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 2621(a) of this title.

(Pub. L. 91–670, title III, § 311, Jan. 11, 1971, 84 Stat. 2045.)

§ 2621. Enforcement

(a) Jurisdiction of United States district courts; administrative action

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any plan or regulation made or issued under this chapter. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing such violations.

(b) Civil penalties; cease and desist orders; appeal; failure to comply with order or assessment; further proceedings and penalties

(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (b)(1) of this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (b)(1) and (2) of this section, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery

of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 91–670, title III, § 312, Jan. 11, 1971, 84 Stat. 2045; Pub. L. 97–244, § 3, Aug. 26, 1982, 96 Stat. 310.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–244 substituted ''from violating any plan or regulation made or issued under this chapter'' for ''from violating, any plan or regulation made or issued pursuant to this chapter'', and inserted provision that the facts relating to any civil action authorized to be brought under this subsection must be referred to the Attorney General for appropriate action, provided that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsec. (b) of this section or suitable written notice or warning to any person committing such violations.

Subsec. (b). Pub. L. 97–244 added subsec. (b). Former subsec. (b), which provided that any handler who violated any provision of any plan issued by the Secretary under this chapter, or who failed or refused to remit any assessment or fee duly required of him thereunder, would be subject to criminal prosecution and would be fined not less than $100 nor more than $1,000 for each such offense, was struck out.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2620 of this title.

§ 2622. Investigations

(a) Administration of oath; subpena; contempts; process; jurisdiction

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether any person has engaged or is engaging in any acts or practices which constitute a violation of any provision of this chapter, or of any plan, or rule or regulation issued under this chapter. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has his principal place of business.

(b) Self-incrimination; privilege

No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon, or growing out of any alleged violation of this chapter, or of any plan, or rule or regulation issued thereunder on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 91–670, title III, § 313, Jan. 11, 1971, 84 Stat. 2046; Pub. L. 101–624, title XIX, § 1943, Nov. 28, 1990, 104 Stat. 3868.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624 substituted ''any'' for ''a handler or any other'' before ''person has engaged'' in first sentence, and struck out ''handler or other'' after ''judicial district where such'' in last sentence.

§ 2623. Referendum

(a) Secretary's duty to conduct; purpose of referendum

The Secretary shall conduct a referendum among producers, who during a representative period determined by the Secretary have been engaged in the production of potatoes, for the purpose of ascertaining whether the issuance of a plan is approved or favored by such producers. When the issuance of a plan would subject importers to the terms and conditions of a plan, the Secretary also shall conduct the referendum among importers, who during a representative period determined by the Secretary have been engaged in the importation of potatoes, for the purpose of ascertaining whether the issuance of such plan is approved or favored by such importers.

(b) Required margin of approval

No plan issued under this chapter shall be effective unless the Secretary determines that the issuance of such plan is approved or favored by not less than a majority of the producers voting in such referendum or a majority of the producers and importers when the issuance of a plan would subject importers to the terms and conditions of a plan, voting in such referendum.

(c) Amendments

The failure of potato producers and importers to approve an amendment to any plan issued

under this chapter shall not be deemed to invalidate such plan.

(d) Penalties for disclosure of confidential information, ballots and reports

The ballots and other information or reports which reveal or tend to reveal the vote of any producer or his production of potatoes, or any importer or the volume of potatoes imported by such importer, shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall upon conviction be subject to the penalties provided in section 2619(c) of this title.

(Pub. L. 91–670, title III, § 314, Jan. 11, 1971, 84 Stat. 2046; Pub. L. 97–244, § 4, Aug. 26, 1982, 96 Stat. 311; Pub. L. 101–624, title XIX, § 1944, Nov. 28, 1990, 104 Stat. 3868.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624, § 1944(1), inserted at end ''When the issuance of a plan would subject importers to the terms and conditions of a plan, the Secretary also shall conduct the referendum among importers, who during a representative period determined by the Secretary have been engaged in the importation of potatoes, for the purpose of ascertaining whether the issuance of such plan is approved or favored by such importers.''

Subsec. (b). Pub. L. 101–624, § 1944(2), substituted ''a majority of the producers voting in such referendum or a majority of the producers and importers when the issuance of a plan would subject importers to the terms and conditions of a plan, voting in such referendum'' for ''two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum''.

Subsec. (c). Pub. L. 101–624, § 1944(3), inserted ''and importers'' after ''producers''.

Subsec. (d). Pub. L. 101–624, § 1944(4), inserted '', or any importer or the volume of potatoes imported by such importer,'' after ''potatoes''.

1982—Pub. L. 97–244 designated existing provisions as subsecs. (a), (b) and (d), in subsec. (a), as so redesignated, inserted commas after ''referendum among producers'' and ''production of potatoes'', struck out commas after ''who'' and ''determined by the Secretary'', and substituted ''by such producers'' for ''by producers'', in subsec. (b), as so redesignated, substituted ''under this chapter'' for ''pursuant to this chapter'', and added subsec. (c).

CONSTRUCTION OF 1982 REFERENDUM ON AMENDMENTS TO PLAN

Pub. L. 98–171, § 2(b), Nov. 29, 1983, 97 Stat. 1118, provided that: ''The failure of potato producers in December 1982 to approve amendments to the plan issued under this title [probably means title III of Pub. L. 91–670 which is classified to this chapter] shall not be deemed to invalidate the plan.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2617 of this title.

§ 2624. Suspension or termination of plans

(a) Duty of Secretary

The Secretary shall, whenever he finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such plan or such provision thereof.

(b) Referendum

The Secretary may conduct a referendum at any time and shall hold a referendum on request of the board or of 10 per centum or more of the potato producers, or of the total number of producers and importers when importers are subject to a plan, to determine if potato producers and importers favor the termination or suspension of the plan, and he shall terminate or suspend such plan at the end of the marketing year whenever he determines that such suspension or termination is favored by a majority of those voting in a referendum, and who produce and import more than 50 per centum of the volume of the potatoes produced and imported by those voting in the referendum.

(c) Limitation

The termination or suspension of any plan, or any provision thereof, shall not be considered the issuance of a plan within the meaning of this chapter.

(Pub. L. 91–670, title III, § 315, Jan. 11, 1971, 84 Stat. 2047; Pub. L. 101–624, title XIX, § 1945, Nov. 28, 1990, 104 Stat. 3868.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this part'', and was translated as reading ''this title'', meaning title III of Pub. L. 91–670, which enacted this chapter, as the probable intent of Congress, because title III does not contain parts.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624, § 1945(1), inserted '', or of the total number of producers and importers when importers are subject to a plan,'' after first reference to ''potato producers'', ''and importers'' after second reference to ''potato producers'', and ''and import'' after ''produce'', and substituted ''and imported by those voting in the referendum'' for ''by the potato producers voting in the referendum''.

Subsec. (c). Pub. L. 101–624, § 1945(2), added subsec. (c).

§ 2625. Amendment procedure

The provisions of this chapter applicable to plans shall be applicable to amendments to plans.

(Pub. L. 91–670, title III, § 316, Jan. 11, 1971, 84 Stat. 2047.)

AMENDMENT PROCEDURE

Pub. L. 101–624, title XIX, § 1946, Nov. 28, 1990, 104 Stat. 3869, provided that:

''(a) IN GENERAL.—Notwithstanding any provision of the Potato Research and Promotion Act [7 U.S.C. 2611 et seq.] (hereafter in this section referred to as the 'Act'), the procedure specified in this section shall apply if a producer or a producer organization requests the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') to amend the plan in effect under that Act (hereafter in this section referred to as the 'plan') to—

''(1) subject importers to the terms and conditions of a plan, and

''(2) eliminate provisions for refunds of assessments for those not in favor of supporting the research and promotion program as provided under that Act.

The procedure under this section shall apply only in the case of the first such request received after the date of enactment of this Act [Nov. 28, 1990].

''(b) PUBLICATION OF PROPOSED AMENDMENTS.—The Secretary shall publish for public comment such proposed amendments to the plan within 60 days.

''(c) ISSUANCE OF FINAL AMENDMENTS.—Not later than 150 days after publication of such amendment, and after notice and opportunity for public comment, the Secretary shall issue the amendments to the plan, as described in subsection (a), if the Secretary has reason to believe that such amendments will tend to effectuate the declared policy of this subtitle [see Short Title of 1990 Amendment note set out under section 2611 of this title].

''(d) REFERENDUM.—Not later than 24 months after the date of issuance of such amendments to the plan, the Secretary shall conduct a referendum among producers and importers who, during a representative period determined by the Secretary, have been engaged in the production or importation of potatoes. The amendments shall be continued only if the Secretary determines that the amendments to the plan have been approved by a majority of the total number of producers and importers voting in the referendum.

''(e) REFUNDS.—The board shall—

''(1) establish an escrow account to be used for assessment refunds, and place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the amendments to the plan issued under subsection (c) and ending on the date of the referendum on the amendments to the plan;

''(2) place in the account established under paragraph (1), from assessments collected under the plan during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent;

''(3) subject to paragraphs (4), (5), and (6), provide that for the period referred to in paragraph (1) any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during such period if—

''(A) such producer or importer is responsible for paying such assessments;

''(B) such producer or importer does not support the program established under the plan; and

''(C) the amendments to the plan to eliminate provisions for refunds of assessments are not approved pursuant to a referendum conducted under subsection (d);

''(4) require such demand to be made in accordance with regulations, on a form, and within a time period prescribed by the board;

''(5) require such refund to be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded; and

''(6) if the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection, prorate the amount of such refunds among all eligible producers and importers who demand such refund.

''(f) TERMINATION.—If such amendments to the plan are not approved, the Secretary shall terminate the amendments and the plan shall continue in effect without the amendments.

''(g) AMENDMENT TO INCLUDE THE 50 STATES.—Notwithstanding any provision of the Act, the Secretary shall, upon request of a producer or a producer organization, issue an amendment to the plan to include the 50 States of the United States. Such amendment shall not be subject to a referendum.''

§ 2626. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 91–670, title III, § 317, Jan. 11, 1971, 84 Stat. 2047.)

§ 2627. Authorization

There is hereby made available from the funds provided by section 612c of this title such sums as are necessary to carry out the provisions of this chapter: *Provided*, That no such sum shall be used for the payment of any expenses or expenditures of the board in administering any provision of any plan issued under authority of this chapter.

(Pub. L. 91–670, title III, § 318, Jan. 11, 1971, 84 Stat. 2047.)

CHAPTER 59—RURAL FIRE PROTECTION, DEVELOPMENT, AND SMALL FARM RESEARCH AND EDUCATION

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

Sec.
2651 to 2654. Repealed.

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

2661. Statement of purposes and goals.
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(f), (g) Repealed.
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2670. Repealed.

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

§§ 2651 to 2654. Repealed. Pub. L. 95–313, § 16(a)(6), formerly § 13(a)(6), July 1, 1978, 92 Stat. 374; renumbered § 16(a)(6), Pub. L. 101–624, title XII, § 1215(1), Nov. 28, 1990, 104 Stat. 3525

Section 2651, Pub. L. 92–419, title IV, § 401, Aug. 30, 1972, 86 Stat. 670; Pub. L. 91–524, title VIII, § 816(a), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240, related to purpose and findings for provisions relating to rural community fire protection assistance.

Section 2652, Pub. L. 92–419, title IV, § 402, Aug. 30, 1972, 86 Stat. 670; Pub. L. 95–113, title XV, § 1504, Sept. 29, 1977, 91 Stat. 1021, related to terms and conditions, funding requirements, etc., for cooperative agreements with State officials.

Section 2653, Pub. L. 92–419, title IV, § 403, Aug. 30, 1972, 86 Stat. 671, related to reporting requirements for Secretary of Agriculture.

Section 2654, Pub. L. 92–419, title IV, § 404, Aug. 30, 1972, 86 Stat. 671; Pub. L. 91–524, title VIII, § 816(b), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240; amended Pub. L. 95–113, title XV, § 1505, Sept. 29, 1977, 91 Stat. 1021, related to authorization of appropriations for assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 17 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of Title 16, Conservation.

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 917, 2204f of this title.

§ 2661. Statement of purposes and goals

(a) The overall purpose of this subchapter is to foster a balanced national development that provides opportunities for increased numbers of the people of the United States to work and enjoy a high quality of life dispersed throughout our Nation by providing the essential knowledge necessary for successful programs of rural development. It is further the purpose of this subchapter to—

(1) provide multistate regional agencies, States, counties, cities, multicounty planning and development districts, businesses, industries, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups and others involved with public services and investments in rural areas or that provide or may provide employment in these areas the best available scientific, technical, economic, organizational, environmental, and management information and knowledge useful to them, and to assist and encourage them in the interpretation and application of this information to practical problems and needs in rural development;

(2) provide research and investigations in all fields that have as their purpose the development of useful knowledge and information to assist those planning, carrying out, managing, or investing in facilities, services, businesses, or other enterprises, public and private, that may contribute to rural development;

(3) increase the capabilities of, and encourage, colleges and universities to perform the vital public service roles of research, and the transfer and practical application of knowledge, in support of rural development;

(4) expand small farm research and extend training and technical assistance to small farm families in assessing their needs and opportunities and in using the best available knowledge on sound economic approaches to small farm operations and on existing services offered by the Department of Agriculture and other public and private agencies and organizations to improve their income and to gain access to essential facilities and services; and

(5) support activities to supplement and extend programs that address special research and education needs in States experiencing rapid social and economic adjustments or unique problems caused by rural isolation and that address national and regional rural development policies, strategies, issues, and programs.

(b) the[1] goals of this subchapter are to—

(1) encourage and support rural United States, in order to help make it a better place to live, work, and enjoy life;

(2) increase income and improve employment for persons in rural areas, including the owners or operators of small farms, small businesses, and rural youth;

(3) improve the quality and availability of essential community services and facilities in rural areas;

(4) improve the quantity and quality of rural housing;

(5) improve the rural management of natural resources so that the growth and development of rural communities needed to support the family farm may be accommodated with minimum effect on the natural environment and the agricultural land base;

(6) improve the data base for rural development decisionmaking at local, State, and national levels; and

(7) improve the problem solving and development capacities and effectiveness of rural governments, officials, institutions, communities, community leaders, and citizen groups in—

(A) improving access to Federal programs;

(B) improving targeting and delivery of technical assistance;

(C) improving coordination among Federal agencies, other levels of government, and institutions and private organizations in rural areas; and

(D) developing and disseminating better information about rural conditions.

(Pub. L. 92–419, title V, § 501, as added Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1322.)

PRIOR PROVISIONS

A prior section 2661, Pub. L. 92–419, title V, § 501, Aug. 30, 1972, 86 Stat. 671, stated Congressional statement of purposes, prior to repeal by Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1326.

[1] So in original. Should be capitalized.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XXIII, § 2390(a), Nov. 28, 1990, 104 Stat. 4055, provided that: ''This section [amending sections 2662 and 2663 of this title] may be cited as the 'Rural Health and Safety Education Act of 1990'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–219, § 1, Dec. 29, 1987, 101 Stat. 1456, provided that: ''This Act [amending section 2662 of this title] may be cited as the 'Rural Crisis Recovery Program Act of 1987'.''

NORTHERN GREAT PLAINS RURAL DEVELOPMENT

Pub. L. 103–318, Aug. 26, 1994, 108 Stat. 1781, as amended by Pub. L. 104–327, § 2, Oct. 19, 1996, 110 Stat. 4003, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Northern Great Plains Rural Development Act'.

''SEC. 2. FINDINGS.

''Congress finds that—

''(1) the rural economy of the Northern Great Plains is undergoing a substantial and potentially threatening transformation;

''(2) the rural Northern Great Plains suffers from substantial measurable poverty, unemployment, outmigration, underemployment, aging of the population, and low per capita income;

''(3) the Northern Great Plains is highly rural and has a highly dispersed population, and contains many Native American reservations;

''(4) many of the basic industries of the rural Northern Great Plains in natural resources are under stress;

''(5) a concerted Federal, State, and local public and private effort is needed if the rural Northern Great Plains is to share in the general prosperity of the United States;

''(6) the creation of jobs and expansion of existing businesses, including small businesses, offer the greatest hope for rural economic growth and revitalization in the Northern Great Plains;

''(7) the availability of capital, technology, market information, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development are essential to successful business development in the rural Northern Great Plains;

''(8) the transportation needs of the rural Northern Great Plains must be addressed through highway and bridge construction, air service availability, and rail service and river transport development;

''(9) because of the social, geographic, weather, historical, and cultural ties of the rural Northern Great Plains as well as common economic problems, planning for this unique region is desirable and urgently needed; and

''(10) in the rural Northern Great Plains, the tourism industry offers significant additional potential for supporting economic development and job growth, fostered by the wise stewardship of natural resources.

''SEC. 3. PURPOSE.

''The purpose of this Act is to establish the Northern Great Plains Rural Development Commission to study and make recommendations regarding the economic needs and economic development of the rural Northern Great Plains by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, businesses, and other entities in developing a 10-year rural economic development plan for the Northern Great Plains.

''SEC. 4. DEFINITIONS.

''As used in this Act:

''(1) CHAIRPERSON.—The term 'chairperson' means the chairperson of the Commission.

''(2) COMMISSION.—The term 'Commission' means the Northern Great Plains Rural Development Commission.

''(3) NORTHERN GREAT PLAINS.—The term 'Northern Great Plains' means the States of North Dakota, South Dakota, Nebraska, Iowa, and Minnesota.

''(4) STATE.—The term 'State' means a State in the Northern Great Plains.

''SEC. 5. ESTABLISHMENT.

''There is established a Commission to be known as the 'Northern Great Plains Rural Development Commission'.

''SEC. 6. MEMBERSHIP AND ORGANIZATION.

''(a) MEMBERSHIP.—The Commission shall be composed of 10 members, of whom—

''(1) 1 member shall be appointed by the Governor of each State; and

''(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

''(b) TERM.—Each member of the Commission shall serve for such term as the official who appoints the member determines is appropriate.

''(c) QUORUM.—Five members of the Commission shall constitute a quorum, but the Commission may establish that a lesser number shall constitute a quorum for the purpose of conducting hearings.

''(d) MEETINGS.—

''(1) FIRST MEETINGS.—Five or more members appointed under subsection (a)(1) shall determine the date, time, and place of the first meeting, and shall call the first meeting. At the first meeting, the members of the Commission shall appoint a chairperson from among the members appointed under subsection (a)(1). The first meeting of the Commission shall be held not later than 45 days after the date of enactment of this Act [Aug. 26, 1994].

''(2) ADDITIONAL MEETINGS.—The Commission shall conduct such additional meetings as the Commission determines are appropriate.

''(e) APPOINTMENTS.—Each appointment under this Act shall be made not later than 30 days after the date of enactment of this Act [Aug. 26, 1994].

''(f) VACANCIES.—A vacancy on the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

''(g) HEADQUARTERS.—The Commission shall establish the location for the headquarters of the Commission.

''SEC. 7. DUTIES.

''(a) PLAN.—The Commission shall identify and study the economic development, infrastructure, technology, telecommunications, capital, employment, transportation, business resource development, education, health care, housing, and recreation needs of the Northern Great Plains and develop a 10-year plan that makes recommendations and establishes priorities to address the needs.

''(b) PREPARATION OF PLAN.—In developing the plan, the Commission shall, with respect to the Northern Great Plains—

''(1) sponsor and conduct investigations, research studies, and field hearings;

''(2) review and evaluate available research, studies, and information on conditions in the areas referred to in subsection (a);

''(3) study the economy, identifying strengths, weaknesses, participation levels, opportunities, and methods of addressing outmigration;

''(4) develop a profile of, and a description of resources devoted to, economic development (including tourism), human resources (including demographics, outmigration, poverty, Native Americans, education, and training), infrastructure (including air, water, highway, rail, and telecommunications), and natural resources;

''(5) study and evaluate the economic development resources, coordination, collaboration, and 'best prac-

tices' of the Federal, State, and local governments, nonprofit organizations, universities, businesses, agricultural and natural resources groups, foundations, cooperatives, and other organizations;

''(6) identify methods of facilitating the employment and business startups of unemployed, underemployed, and low-income individuals and households;

''(7) identify effective methods for promoting development on Native American reservations;

''(8) study the availability of methods of delivering public, private, and nonprofit capital and technical assistance for business startups and expansions, including farming and ranching;

''(9) evaluate the availability of, need for, and strategies for providing and maintaining, the infrastructure, including air, water, highway, rail, and telecommunications;

''(10) study the structure and potential development of major industries, including agriculture, timber, mining, tourism, and manufacturing (including the use of advanced technologies and processes and adding value to raw materials and component parts);

''(11) study the competence and availability of the labor force, including the health, educational, training, housing, and economic needs of the labor force;

''(12) develop an inventory of water, mineral, energy, timber, agricultural, fishery, wildlife, and other natural resources;

''(13) assess the comparative cost of doing business;

''(14) assess the international trading levels, markets, and practices, and potential opportunities;

''(15) assess the interconnection between metropolitan and rural areas and identify methods through which the areas can collaborate;

''(16) assess methods by which small communities and regions are collaborating or can collaborate in economic development initiatives;

''(17) evaluate—

''(A) the distribution and impact of Federal spending, including grant-in-aid programs, research, and Federal procurement, and compare the level of spending in these categories with spending in other regions of the country; and

''(B) the extent to which reliance on Federal, State, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

''(18) identify Federal, State, and local government programs, policies, and regulations that enhance or obstruct the development of businesses and well-paying jobs with long-term potential and that effectively use the skills, education, and training of the labor force;

''(19) evaluate the potential for States to jointly finance projects and activities of regional benefit; and

''(20) analyze such other issues as the Commission determines are relevant to future economic development.

''(c) DEVELOPMENT OF PLAN.—In developing the plan, the Commission shall—

''(1) provide a forum for the consideration of the problems of the rural Northern Great Plains and proposed solutions, and establish and utilize citizens groups, special advisory councils, public hearings, and conferences;

''(2) seek and encourage the participation of interested citizens, public officials, groups, agencies, economic development organizations, natural resource organizations, and other organizations;

''(3) make the Commission accessible to the individuals, groups, agencies, and organizations referred to in paragraph (2) by holding at least 1 well publicized public hearing in each State; and

''(4) consult with—

''(A) Federal, State, and local government agencies, including the Departments of Agriculture, Commerce, Education, Labor, Health and Human Services, Housing and Urban Development, and Transportation, and the Small Business Administration, bank regulatory agencies, and rural development councils;

''(B) banks, insurance companies, venture capital companies, and other for-profit financial institutions;

''(C) nonprofit and community-based development organizations, revolving loan funds, and other organizations;

''(D) industry and sectoral organizations;

''(E) foundations and universities; and

''(F) other organizations involved in economic development activities.

''SEC. 8. COMPENSATION OF MEMBERS.

''(a) MEMBERS APPOINTED BY GOVERNORS.—Each member of the Commission appointed by a Governor of a State may be compensated by the State that the member represents.

''(b) MEMBERS APPOINTED BY THE SECRETARY.—Each member appointed by the Secretary of Agriculture, who is not otherwise employed by the United States Government, shall receive compensation at a rate determined by the Secretary of not to exceed the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day the member is engaged in the actual performance of the duties of the Commission. A member of the Commission appointed by the Secretary who is an officer or employee of the United States Government shall serve without additional compensation.

''(c) TRAVEL AND OTHER EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Commission. Each member of the Commission shall also be reimbursed by the United States Government for other necessary expenses incurred by the member in the performance of the duties of the member.

''SEC. 9. POWERS AND ADMINISTRATIVE PROVISIONS.

''(a) EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

''(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as are agreed on by the chairperson and the Administrator of General Services.

''(c) CONTRACTS.—Subject to subsection (d), the Commission may enter into contracts with Federal and State agencies and private firms, institutions, and agencies for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out the duties of the Commission.

''(d) SUPPLIES, SERVICES, PROPERTY, AND CONTRACTS.—The Commission may procure supplies, services, and property, and make contracts in any fiscal year, only to such extent and in such amounts as are provided in appropriation Acts.

''(e) HEARINGS.—The Commission or, on the authorization of the Commission, a member of the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, memoranda, papers, and documents as the Commission or the member considers appropriate.

''(f) INFORMATION.—The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each

department, bureau, agency, board, commission, office, establishment, or instrumentality shall provide, to the extent permitted by law, the information, suggestions, estimates, and statistics directly to the Commission, upon request by the chairperson.

''(g) PERSONNEL.—

''(1) IN GENERAL.—Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the chairperson of the Commission may appoint, terminate, and fix the compensation of an Executive Director and such additional personnel as the chairperson determines are necessary to enable the Commission to carry out the duties of the Commission.

''(2) COMPENSATION.—The rate of compensation of the Executive Director may not exceed a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title. The rate of compensation of all other personnel may not exceed a rate equal to the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of such title.

''(h) ASSISTANCE FROM OTHER AGENCIES.—Upon request of the Commission, the head of any Federal agency may make any of the facilities and services of the agency available to the Commission or detail any of the personnel of the agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act. If the head of an agency determines that the agency cannot make the facilities, services, or personnel available to the Commission, the head shall notify the chairperson in writing.

''(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''SEC. 10. REPORTS.

''(a) INTERIM REPORT.—Before the end of the 270-day period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit a report to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, describing the findings and activities of the Commission and the further activities necessary to carry out the duties of the Commission.

''(b) FINAL REPORT.—

''(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, a report describing the findings and activities of the Commission and recommendations in accordance with paragraph (2) regarding specific actions that are necessary to promote the economic development of the rural Northern Great Plains while preserving, to the maximum extent possible, the natural beauty and habitat of the Northern Great Plains.

''(2) RECOMMENDATIONS.—

''(A) REGIONAL COLLABORATION.—The Commission shall, with respect to the Northern Great Plains—

''(i) determine the most effective and appropriate method for ensuring continued collaboration within the region on economic development matters, considering regional compacts, cooperatives, foundations, development corporations, and other agreements and organizations;

''(ii) identify the organizational structure, method of financing, functions, and participating organizations, of the collaboration referred to in clause (i);

''(iii) identify methods of effective multi-community, substate, and small region development; and

''(iv) assess the interconnection between metropolitan and rural areas and identify methods of collaboration between the areas.

''(B) BUSINESS DEVELOPMENT.—The Commission shall, with respect to the rural Northern Great Plains—

''(i) recommend methods of diversifying the rural economy, including the development and financing of value-added and new-use agricultural products;

''(ii) develop methods to promote and finance beginning owner-occupied farming and ranching operations;

''(iii) recommend methods of promoting entrepreneurial development, including business start-ups and expansions;

''(iv) recommend methods in which the public, private, and nonprofit sectors can help increase international trading levels and penetrate new markets in agricultural, manufactured, and service products;

''(v) evaluate the potential utility of business and manufacturing networks in target sectors;

''(vi) assess the competitiveness of manufacturers and the use of modern technology, processes, and information by the manufacturers, and methods of assisting manufacturers lacking the technology, processes, or information;

''(vii) recommend methods in which capital and technical assistance can be provided on a regional or sectoral basis to business startups and expansions by public, private, and nonprofit organizations; and

''(viii) recommend ways in which Federal and State resource conservation programs can be used to encourage tourism in the region.

''(C) CAPITAL.—The Commission shall, with respect to the rural Northern Great Plains—

''(i) determine if there are capital needs in the economy, and in what part of the economy the needs are located, and recommend how governmental, nonprofit, cooperative, community-based, microlending, banking, venture, seed, and nonbanking financing sources can assist in meeting the needs;

''(ii) identify such strategies in organization, regulations, policy, marketing, and coordination as are needed to implement a plan to meet the needs referred to in clause (i); and

''(iii) recommend methods of utilizing secondary financial markets to increase the capital available for business development.

''(D) INFRASTRUCTURE.—The Commission shall, with respect to the rural Northern Great Plains—

''(i) prepare a plan to preserve, finance, and operate effective freight railroad service in coordination with States, the Federal Railroad Administration, the Interstate Commerce Commission, rail operators, shippers, and the financial community;

''(ii) prepare an assessment and agreement on the capital needs, coordination, and financing of telecommunications infrastructure, in cooperation with the Department of Agriculture, the National Telecommunications and Information Administration of the Department of Commerce, the Federal Communications Commission, the public utilities commission of each State, telephone companies and cooperatives, representative users, and such other entities as the Commission determines are appropriate; and

''(iii) recommend strategies for addressing air, water, and highway needs.

''(E) HUMAN RESOURCES.—The Commission shall, with respect to the rural Northern Great Plains—

''(i) identify methods of facilitating the employment and business startups of individuals who are not effectively participating in the labor force, including unemployed, underemployed, and low-income individuals and households;

''(ii) identify methods of coordinating on a regional or sectoral basis education and training programs that are tied to economic development initiatives, especially programs that address the outmigration of youth; and

''(iii) study the competence and availability of the labor force and the effects of the health, educational, training, housing, and economic needs of the labor force, and identify regional strategies addressing the needs.

''(F) GOVERNMENT PROGRAMS, POLICIES, AND REGULATIONS.—The Commission shall submit to the appropriate government, nonprofit, and private sector organizations recommendations for modifications or additions to the programs, policies, and regulations referred to in section 7(b)(18) to promote the rural development of the Northern Great Plains.

''SEC. 11. TERMINATION.

''The Commission shall terminate on September 30, 1997.

''SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act.''

[Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.]

§ 2662. Programs authorized

The Secretary of Agriculture may conduct, in cooperation and coordination with colleges and universities, the following programs to carry out the purposes and achieve the goals of this subchapter.

(a) Rural development extension programs

Rural development extension programs shall consist of the collection, interpretation, and dissemination of useful information and knowledge from research and other sources to units of multistate regional agencies, State, county, municipal, and other units of government, multicounty planning and development districts, organizations of citizens contributing to community and rural development, businesses, Indian tribes on Federal or State reservations or other federally recognized Indian tribal groups, and industries that employ or may employ people in rural areas. The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities. These programs also shall include technical services and educational activities, including instruction for persons not enrolled as students in colleges or universities, to facilitate and encourage the use and practical application of this information. These programs may also include feasibility studies and planning assistance.

(b) Rural development research

Rural development research shall consist of research, investigations, and basic feasibility studies in any field or discipline that may develop principles, facts, scientific and technical knowledge, new technology, and other information that may be useful to agencies of Federal, State, and local government, industries in rural areas, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other organizations involved in community and rural development programs and activities in planning and carrying out such programs and activities or otherwise be practical and useful in achieving the purposes and goals of this subchapter.

(c) Small farm research programs

Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farm operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance; to develop new enterprises that can use labor, skills, or natural resources available to the small farm family; or that will help to increase the quality and availability of services and facilities needed by the small farm family.

(d) Small farm extension programs

Small farm extension programs shall consist of extension programs to improve small farm operations, including management techniques, agricultural production techniques, farm machinery technology, marketing techniques and small farm finance; to increase use by small farm families of existing services offered by the Department of Agriculture and other public and private agencies and organizations; to assist small farm families in establishing and operating cooperatives for the purpose of improving their family income from farming or other economic activities; to increase the quality and availability of services and facilities needed by small farm families; and to develop new enterprises that can use labor, skills, or natural resources available to the small farm family.

(e) Special grants programs

Special grants programs shall consist of extension and research programs to strengthen research and education on national and regional issues in rural development, including the assessment of alternative policies and strategies for rural development and balanced growth; to develop alternative strategies for national and regional investment, and the creation of employment, in rural areas; to develop alternative energy policies to meet rural development needs; and to strengthen rural development programs of agencies of the Department of Agriculture and those in other Federal departments and agencies.

(f), (g) Repealed. Pub. L. 104–127, title VII, § 792(a), title VIII, § 871, Apr. 4, 1996, 110 Stat. 1152, 1175

(h) Rural development extension work

(1) National program

The Secretary of Agriculture shall establish a national program, to be administered by the Extension Service, to provide rural citizens with training in, technical and management assistance regarding, and educational opportunities to enhance their knowledge of—

(A) beginning businesses through entrepreneurship;

(B) the procedures necessary to establish new businesses in rural areas;

(C) self-employment opportunities in rural areas;

(D) the uses of modern telecommunications and computer technologies;

(E) business and financial planning; and

(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

(2) Leadership abilities

The program established under this subsection shall provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include—

(A) information relevant to the development of community goals;

(B) instruction regarding the methods by which State or Federal funding for rural development projects might be obtained;

(C) instruction regarding the successful writing of applications for loan or grant funds from government and private sources;

(D) an updated listing of State, Federal, and other economic development programs available to rural areas; and

(E) such other training, information, and assistance as the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

(3) Catalog of programs

The National Rural Information Center Clearinghouse of the National Agricultural Library, in cooperation with the Extension Service in each State, should develop, maintain, and provide to each community, and make accessible to any other interested party, a catalog of available State, Federal, or private programs that provide leadership training or other information or services similar or complementary to the training or services required by this subsection. Such catalog should include, at a minimum, the following entities within the State that provide such training or services:

(A) Any rural electric cooperative.

(B) Any nonprofit company development corporation.

(C) Any economic development district that serves a rural community.

(D) Any nonprofit subsidiary of any private entity.

(E) Any nonprofit organization whose principal purpose is to promote economic development in rural areas.

(F) Any investor or publicly owned electric utility.

(G) Any small business development center or small business investment company.

(H) Any regional development organization.

(I) Any vocational or technical school.

(J) Any Federal, State, or local government agency or department.

(K) Any other entity that the Secretary deems appropriate.

The extension service in each State should include in the catalog information on the specific training or services provided by each entity in the catalog.

(4) Employee training

The Secretary shall provide training for appropriate State extension service employees, assigned to programs other than rural development, to ensure that such employees understand the availability of rural development programs in their respective States and the availability of Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance.

(5) Coordination of assistance

The Secretary shall ensure, to the extent practicable, that assistance provided under this subsection is coordinated with and delivered in cooperation with similar services or assistance provided by other Federal agencies or programs for rural residents.

(i) Rural health and safety education programs

(1) Programs authorized

(A) Individual and family health education

The Secretary may make grants for the establishment of individual and family health education programs that shall provide individuals and families with—

(i) information concerning the value of good health;

(ii) information to increase the individual or families motivation to take more responsibility for their own health;

(iii) access to health promotion activities; and

(iv) training for volunteers and health services providers concerning health promotion and health care services, in cooperation with the Department of Health and Human Services.

(B) Farm safety education

The Secretary may make grants for the establishment of farm safety education programs that shall provide information and training to farm workers, timber harvesters, and farm families concerning safety in the work place, including information and training concerning—

(i) the reduction of occupational injury and death rates;

(ii) the reduction and prevention of exposure to farm chemicals;

(iii) the reduction of agricultural respiratory diseases and dermititis;[1]

[1] So in original. Probably should be ''dermatitis;''.

(iv) the reduction and prevention of noise induced hearing loss;

(v) the occupational rehabilitation of farmers and timber harvesters with physical disabilities; and

(vi) farm accident rescue procedures.

(C) Rural health leadership development

The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

(i) community decisions regarding funding for and retention of rural hospitals;

(ii) rural physician and allied health professionals recruitment and retention;

(iii) the aging rural population and senior services required to care for the population;

(iv) the establishment and maintenance of rural emergency medical services systems; and

(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.

(2) Coordination of programs

Educational programs conducted with grants awarded under this subsection shall be coordinated with the State offices of rural health and other appropriate programs of the Department of Health and Human Services.

(3) Dissemination of information

Educational programs conducted with grants awarded under this subsection shall provide leadership within the State for the dissemination of appropriate rural health and safety information resources possessed by the Rural Information Center established at the National Agricultural Library.

(4) Procedures and limitations

The Secretary shall establish policies, procedures and limitations that shall apply to States or entities described in paragraph (1)(C) that desire to receive a grant under this subsection. In States with land-grant colleges and universities that are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, and universities which receive Rural Health Research Center grants, such eligible institutions shall mutually determine the type of rural health and safety education program needed in the State within which such institutions reside.

(5) Limitations on authorization of appropriations

For grants under this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended.

(Pub. L. 92–419, title V, § 502, as added Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1323; amended Pub. L. 99–198, title XIV, § 1440(a), Dec. 23, 1985, 99 Stat. 1560; Pub. L. 100–219, § 2, Dec. 29, 1987, 101 Stat. 1456; Pub. L. 101–624, title XXIII, §§ 2346, 2349, 2389(a)–(c)(1), 2390(b)(1), Nov. 28, 1990, 104 Stat. 4032, 4037, 4053–4055; Pub. L. 102–237, title IV, § 403(a), title VII, § 704, Dec. 13, 1991, 105 Stat. 1863, 1881; Pub. L. 104–127, title VII, § 792(a), title VIII, §§ 871, 886, Apr. 4, 1996, 110 Stat. 1152, 1175, 1180.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (i)(4), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the ''First Morrill Act'', which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (i)(4), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

PRIOR PROVISIONS

A prior section 2662, Pub. L. 92–419, title V, § 502, Aug. 30, 1972, 86 Stat. 671; Pub. L. 95–113, title XIV, § 1440, Sept. 29, 1977, 91 Stat. 1005, related to programs authorization and cooperation and coordination with colleges and universities, prior to repeal by Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1326.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 886, inserted after first sentence ''The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities.''

Subsec. (f). Pub. L. 104–127, § 792(a), struck out subsec. (f), which related to competitive grants for financially stressed farmers, dislocated farmers, and rural families.

Subsec. (g). Pub. L. 104–127, § 871, struck out subsec. (g), which authorized establishment of Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff to assist individuals in creating new businesses, or to assist existing businesses.

Subsec. (j). Pub. L. 104–127, § 871, struck out subsec. (j), which authorized program to award competitive grants to carry out rural development research.

1991—Subsec. (b). Pub. L. 102–237, § 403(a)(2)(A), redesignated subsec. (b), relating to rural development extension work, as (h).

Subsec. (f). Pub. L. 102–237, § 403(a)(1), amended heading generally and in par. (2) substituted ''until'' for ''during the period beginning on the date of the enactment of this Act and ending on''.

Subsec. (h). Pub. L. 102–237, § 403(a)(2), redesignated subsec. (b), relating to rural development extension work, as (h), redesignated former subsec. (h), relating to rural health and safety education programs, as (i) and former subsec. (h), relating to research grants, as (j), and moved such subsecs. to appear in proper order.

Subsec. (i). Pub. L. 102–237, § 403(a)(2)(B), (D), redesignated subsec. (h), relating to rural health and safety education programs, as (i) and moved such subsec. to appear in proper order.

Subsec. (i)(1)(C). Pub. L. 102–237, § 704(a), added subpar. (C).

Subsec. (i)(4). Pub. L. 102–237, § 704(b), inserted ''or entities described in paragraph (1)(C)'' after ''to States''.

Subsec. (j). Pub. L. 102–237, § 403(a)(2)(C), (D), redesignated subsec. (h), relating to research grants, as (j) and moved such subsec. to appear in proper order.

1990—Subsec. (b). Pub. L. 101–624, § 2346, added subsec. (b), relating to rural development extension work, following subsec. (g).

Subsec. (f). Pub. L. 101–624, § 2389(c)(1), substituted ''Competitive'' for ''Special'' in heading.

Subsec. (f)(1)(A). Pub. L. 101–624, § 2389(b)(1), substituted ''competitive grants for programs that meet the criteria specified in subparagraph (B) to develop counseling, retraining, and educational'' for ''special grants for programs to develop educational, retraining, and counseling''.

Subsec. (f)(1)(B). Pub. L. 101–624, § 2389(b)(3), (4), added subpar. (B), struck out heading, introductory provisions, and cl. (i) of former subpar. (B), and redesignated cls. (ii) to (viii) of former subpar. (B) as cls. (i) to (vii) of subpar. (D). Prior to amendment, introductory provisions and cl. (i) read as follows: ''Such programs shall provide the following services:

''(i) Clinical outreach counseling and crisis management assistance through appropriate State officials.''

Subsec. (f)(1)(C). Pub. L. 101–624, § 2389(b)(2), (4), added subpar. (C) and redesignated former subpar. (C) as (E).

Subsec. (f)(1)(D). Pub. L. 101–624, § 2389(b)(2), (4), added heading and introductory provisions of subpar. (D) and redesignated former subpar. (D) as (F).

Subsec. (f)(1)(D)(i) to (vii). Pub. L. 101–624, § 2389(b)(3)(B), redesignated former subpar. (B)(ii) to (viii) as subpar. (D)(i) to (vii).

Subsec. (f)(1)(D)(viii). Pub. L. 101–624, § 2389(b)(5), added cl. (viii).

Subsec. (f)(1)(E). Pub. L. 101–624, § 2389(b)(2), redesignated former subpar. (C) as (E).

Subsec. (f)(1)(F). Pub. L. 101–624, § 2389(b)(6), substituted ''shall work with the appropriate State office of rural health, State department or agency of mental health, and other'' for ''is encouraged to work with'' and ''an annual comprehensive plan'' for ''a comprehensive plan'', struck out ''special'' before ''grant funds'', and inserted at end ''For recipients in a State to be eligible for a grant under this subsection in any fiscal year, the Cooperative Extension Service within the State must develop and sign a Memorandum of Agreement with the appropriate State department or agency of mental health and other State agencies as may be appropriate to carry out the comprehensive plan. Such agreement and plan must emphasize the development and delivery of counseling and outreach programs as provided under subparagraph (B).''

Pub. L. 101–624, § 2389(b)(2), redesignated former subpar. (D) as (F).

Subsec. (f)(2). Pub. L. 101–624, § 2389(a), inserted ''to eligible applicants in any State applying for such grants'' after ''under paragraph (1)'', and substituted ''1995'' for ''1990''.

Subsec. (g). Pub. L. 101–624, § 2346, added subsec. (g).

Subsec. (h). Pub. L. 101–624, § 2349, added subsec. (h) relating to research grants.

Pub. L. 101–624, § 2390(b)(1), added subsec. (h) relating to rural health and safety education programs.

1987—Subsec. (f). Pub. L. 100–219 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1)(A) The Secretary shall provide special grants for programs to develop income alternatives for farmers who have been adversely affected by the current farm and rural economic crisis and those displaced from farming.

''(B) Such programs shall consist of educational and counseling services to farmers to—

''(i) assess human and nonhuman resources;

''(ii) assess income earning alternatives;

''(iii) identify resources and opportunities available to the farmer in the local community, county, and State;

''(iv) implement financial planning and management strategies; and

''(v) provide linkages to specific resources and opportunities that are available to the farmer, such as reentering agriculture, new business opportunities, other off-farm jobs, job search programs, and retraining skills.

''(C) The Secretary also may provide support to mental health officials in developing outreach programs in rural areas.

''(2) Grants may be made under paragraph (1) during the period beginning on December 23, 1985, and ending 3 years after such date.''

1985—Subsec. (f). Pub. L. 99–198 added subsec. (f).

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

EFFECT OF AMENDMENTS ON CURRENT GRANT RECIPIENTS

Section 2389(d) of Pub. L. 101–624 provided that 8 States receiving grants under 7 U.S.C. 2662(f) during fiscal year 1990 could continue to be eligible to receive grants (in an amount not to exceed the amount received during that fiscal year) under that section notwithstanding that such grants be awarded competitively, so long as such States complied with requirement that not less than one-half of such grant amount was to be used for clinical outreach counseling and crisis management assistance, prior to repeal by Pub. L. 104–127, title VII, § 792(b)(1), Apr. 4, 1996, 100 Stat. 1152.

RURAL HEALTH INFRASTRUCTURE IMPROVEMENT

Section 2391 of Pub. L. 101–624 provided for award of grant for establishment of project to demonstrate model approach to improving rural health infrastructure, which was to carry out systematic, community-based rural health needs assessments, identify and coordinate available health services resources, improve community infrastructure through health education and information and leadership development and training, and develop community generated health improvement strategies, and further provided for project implementation and limitations on authorization of appropriations, prior to repeal by Pub. L. 104–127, title VII, § 709, Apr. 4, 1996, 110 Stat. 1112.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2663, 2665 of this title.

§ 2662a. Repealed. Pub. L. 104–127, title VII, § 706, title VIII, § 867, Apr. 4, 1996, 110 Stat. 1112, 1174

Section, Pub. L. 101–624, title XXIII, § 2348, Nov. 28, 1990, 104 Stat. 4037, required Secretary to establish program of competitive grants to rural areas to serve as demonstration areas for rural economic development and as models of such development for other areas, and set forth criteria for award of such grants.

§ 2663. Funding

(a) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

(b) Distributions

Such sums as are appropriated to carry out the provisions of section 2662(a) and (b) of this

title shall be distributed by the Secretary of Agriculture as follows:

(1) 4 per centum shall be retained by the Secretary for program administration and national coordination of State programs, and program assistance to the States;

(2) 10 per centum shall be used to finance work serving two or more States in which colleges or universities in two or more States cooperate or that is conducted by one college or university to serve two or more States;

(3) 20 per centum shall be allocated equally among the States; and

(4) 66 per centum shall be allocated to each State as follows: One-half in an amount that bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States, as determined by the last preceding decennial census current at that time; and one-half in an amount that bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States, as determined by the last preceding decennial census current at that time:

Provided, That, beginning with the fiscal year ending September 30, 1982, no State may receive more than $75,000 until all States have been allotted a minimum of $75,000.

(c) Additional distributions

Such sums as are appropriated to carry out subsections (e) and (i) of section 2662 of this title shall be distributed by the Secretary to colleges and universities, on a competitive or matching fund basis, according to the Secretary's determination of the projects and manner of funding that show the most promise of fulfilling the objectives of those subsections.

(d) Administration of programs

Funds appropriated under this subchapter may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this subchapter; to obtain necessary supplies, equipment, and services; and to rent, repair, and maintain facilities needed, but not to purchase or construct buildings.

(e) Development of plans of work and budgets by eligible institutions

Payment of funds to any State for programs authorized under section 2662(a), (b), (c), and (d) of this title shall be contingent upon approval by the Secretary of a plan of work and budget for such programs and compliance with such regulations as the Secretary may issue under this subchapter. Plans for work shall be jointly developed in each State by the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee Institute. In States in which there is no land-grant institution eligible to receive funds under the Act of August 30, 1890, the land-grant institution eligible to receive funds under the Act of July 2, 1862, shall be responsible for developing plans of work and budgets. In the development of the plans of work and budgets, consideration shall be given to involvement of the resources and expertise of the colleges and universities serving the region in which the plans and budgets are to be applied.

(f) Availability; budgets and accounts

Funds shall be available for use by each State in the fiscal year for which appropriated and the next fiscal year following the fiscal year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

(g) Financing of programs at other than cooperating institutions

Funds provided to each State under this subchapter may be used to finance programs through or at private and publicly supported colleges and universities other than the institutions responsible for administering the programs, as provided under section 2664 of this title.

(Pub. L. 92–419, title V, § 503, as added Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1324; amended Pub. L. 99–198, title XIV, § 1440(b), Dec. 23, 1985, 99 Stat. 1560; Pub. L. 101–624, title XXIII, §§ 2389(c)(2), 2390(b)(2), Nov. 28, 1990, 104 Stat. 4055, 4056; Pub. L. 102–237, title IV, § 403(b), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VII, § 792(b)(2), Apr. 4, 1996, 110 Stat. 1152.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (e), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (e), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

PRIOR PROVISIONS

A prior section 2663, Pub. L. 92–419, title V, § 503, Aug. 30, 1972, 86 Stat. 672; Pub. L. 94–259, § 1, Apr. 5, 1976, 90 Stat. 314; Pub. L. 95–113, title XIV, § 1441, Sept. 29, 1977, 91 Stat. 1006; Pub. L. 96–355, § 4(1)–(3), Sept. 24, 1980, 94 Stat. 1173, 1174, related to program moneys, prior to repeal by Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1326.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–127, § 792(b)(2)(A)(ii), (iii), which directed substitution of ''subsections (e), (h), and (i) of section 2662 of this title shall be distributed'' for ''section 2662(e)'' and all that follows through ''shall be distributed'' and ''objectives of subsections (e), (h), and (i) of section 2662 of this title'' for ''objectives of'' and all that follows through ''title'', could not be executed because of prior amendment by Pub. L. 102–237, which substituted ''subsections (e) and (i) of section 2662 of this title shall be distributed'' for ''the provisions of section 2662(e) of this title shall be distributed'' and ''objectives of those subsections'' for ''objectives of section 2662(e) of this title''. See 1991 Amendment note below.

Pub. L. 104–127, § 792(b)(2)(A)(i), (B), struck out ''(1)'' before ''Such sums'' and struck out par. (2) which read as follows: ''The Secretary shall distribute the amounts appropriated to carry out section 2662(f) of this title to colleges and universities in accordance with the requirements of such subsection.''

1991—Subsec. (c)(1). Pub. L. 102–237 substituted ''subsections (e) and (i) of section 2662 of this title'' for ''the provisions of section 2662(e) of this title'' and ''objectives of those subsections'' for ''objectives of section 2662(e) of this title''.

1990—Subsec. (c). Pub. L. 101–624, § 2390(b)(2), which directed substitution of ''section 2662(f) of this title, and section 2662(h) of this title'' for ''and section 2662(f) of this title'', could not be executed because of prior amendment by Pub. L. 101–624, § 2389(c)(2)(B), which struck out ''and section 2662(f)'' wherever appearing in par. (1). See below.

Pub. L. 101–624, § 2389(c)(2), inserted heading, designated existing provisions as par. (1), struck out ''and section 2662(f)'' before ''of this title'' in two places, and added par. (2).

1985—Subsec. (c). Pub. L. 99–198 inserted references to section 2662(f) of this title.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2664. Cooperating colleges and universities

(a) Program administration

To ensure national coordination with other federally supported agricultural research and extension programs, administration of each State program shall be the responsibility of the colleges and universities eligible to receive funds under the Act of July 2, 1862 [7 U.S.C. 301 et seq.], and the Act of August 30, 1890 [7 U.S.C. 321 et seq.], including Tuskegee Institute. In States that contain more than one such institution, such administration shall be the responsibility of the institution designated by mutual agreement of all such institutions, subject to approval by the Secretary of Agriculture. The Secretary shall pay funds available to each State to such institution or university. Such administration shall be coordinated with other federally supported agricultural research and extension programs conducted in the State.

(b) Eligibility for participation

All private and publicly supported colleges and universities in a State shall be eligible to participate in programs authorized under this subchapter. Officials at universities or colleges other than those responsible for administering the programs that wish to participate in these programs shall submit program proposals to the college or university officials responsible for administering the programs who shall consider such proposals in the process of developing the budgets and plans of work.

(c) Designation of official for program coordination

The institution of each State responsible for administering the programs authorized under this subchapter shall designate an official who shall be responsible for the overall coordination of the programs.

(d) Appointment of advisory council for program administration; eligibility, membership, etc.

The institution in each State responsible for administering the programs authorized under this subchapter shall name an advisory council to review and approve budgets and plans of work conducted under this subchapter and to advise the chief administrative officer of the institution administering the programs on matters pertaining to the programs. An existing State rural development committee or council may be named to perform this function, or a new council may be appointed by the chief administrative officer or officers. The committee or council named or appointed shall consist of at least twelve members and shall include persons representing farmers, business, labor, banking, local government, multicounty planning and development districts, public and private colleges and universities in the State, and Federal and State agencies involved in rural development.

(Pub. L. 92–419, title V, § 504, as added Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1325.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (a), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (a), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

PRIOR PROVISIONS

A prior section 2664, Pub. L. 92–419, title V, § 504, Aug. 30, 1972, 86 Stat. 673, related to conducting of programs authorized by this subchapter, by cooperating colleges and universities, prior to repeal by Pub. L. 97–98, title XIV, § 1444(a), Dec. 22, 1981, 95 Stat. 1326.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2663 of this title.

§ 2665. Withholding funds

If the Secretary of Agriculture determines that a State is not eligible to receive part or all of the funds to which it is otherwise entitled for programs under section 2662(a) and (b) of this title because of a failure to comply with regulations issued by the Secretary under this subchapter, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding the session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. If any portion of the moneys that are received by the designated officers of any State for the support and maintenance of programs authorized under this subchapter shall by any action or contingency be diminished or lost, or be misapplied, it shall be replaced by the State.

(Pub. L. 92–419, title V, §505, as added Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.)

PRIOR PROVISIONS

A prior section 2665, Pub. L. 92–419, title V, §505, Aug. 30, 1972, 86 Stat. 673, related to agreements and plans, prior to repeal by Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.

Provisions similar to those comprising this section were contained in former section 2666 of this title, prior to its repeal by Pub. L. 97–98.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2666. Definitions

For the purposes of this subchapter—

(a) ''rural development'' means the planning, financing, and development of facilities and services in rural areas that contribute to making those areas desirable places in which to live and make private and business investments; the planning, development, and expansion of business and industry in rural areas to provide increased employment and income; the planning, development, conservation, and use of land, water, and other natural resources of rural areas to maintain or improve the quality of the environment for people and business in rural areas; and the building or improvement of institutional, organizational, and leadership capacities of rural citizens and leaders to define and resolve their own community problems;

(b) ''State'' means the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands; and

(c) ''small farm'' means any farm (1) producing family net income from all sources (farm and nonfarm) below the median nonmetropolitan income of the State; (2) operated by a family dependent on farming for a significant though not necessarily a majority of its income; and (3) on which family members provide most of the labor and management.

(Pub. L. 92–419, title V, §506, as added Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.)

PRIOR PROVISIONS

A prior section 2666, Pub. L. 92–419, title V, §506, Aug. 30, 1972, 86 Stat. 674, related to withholding of funds, the keeping of a separate account in the Treasury, appeal by a State to Congress, covering of moneys into the Treasury, and State money replacement, prior to repeal by Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.

Provisions similar to those comprising this section were contained in former section 2667 of this title, prior to repeal by Pub. L. 97–98.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2667. Regulations

The Secretary of Agriculture may issue such regulations as the Secretary determines necessary to carry out the provisions of this subchapter.

(Pub. L. 92–419, title V, §507, as added Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.)

PRIOR PROVISIONS

A prior section 2667, Pub. L. 92–419, title V, §507, Aug. 30, 1972, 86 Stat. 674; Pub. L. 95–113, title XIV, §1442, Sept. 29, 1977, 91 Stat. 1006; Pub. L. 96–355, §4(4), Sept. 24, 1980, 94 Stat. 1174, set forth definitions for purposes of this subchapter, prior to repeal by Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1326.

Provisions similar to those comprising this section were contained in former section 2668 of this title, which was omitted from the Code.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 2668. Omitted

CODIFICATION

Section, Pub. L. 92–419, title V, §508, Aug. 30, 1972, 86 Stat. 674, related to Secretary's authority to promulgate such regulations as might be necessary to carry out the provisions of this subchapter, prior to the general revision of this subchapter by Pub. L. 97–98, title XIV, §1444(a), Dec. 22, 1981, 95 Stat. 1322. See section 2667 of this title.

§ 2669. Pilot projects for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products

(a) Formulation and execution of program

The Secretary is authorized and directed to formulate and carry out a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons.

(b) Loan guarantees

The Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans, not to exceed $15,000,000 per each such project, to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender.

(c) Conditions

No loan may be guaranteed under this section unless (1) research indicates the total energy content of the products and byproducts to be manufactured by the loan applicant will exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts, and (2) such other conditions as the Secretary deems appropriate to achieve the purposes of this section are met.

(d) Long-term contracts to supply agricultural commodities to loan recipients

In order to assure that the recipients of loans made under this section have a dependable sup-

ply of agricultural commodities at a stable price for use in the pilot projects provided for in this section, the Secretary is authorized to enter into long-term contracts, not exceeding five years, with the recipients of such loans. Such contracts shall guarantee the recipients of such loans a specified quantity of agricultural commodities annually at mutually agreed upon prices, but the agricultural commodities shall not be sold under any such contracts at less than the price support level prescribed for the commodity concerned unless the commodities are out of condition, unstorable, or sample-grade or lower, as prescribed in Department of Agriculture standards.

(e) Commodity Credit Corporation stocks as supply sources; outside purchases

The Secretary shall supply from Commodity Credit Corporation stocks or, to such extent or in such amounts as are provided in appropriation Acts, purchase such quantities of agricultural commodities as may be necessary to comply with the terms of agreements entered into under this section.

(f) Commodity Credit Corporation

The provisions of this section shall be carried out through the Commodity Credit Corporation.

(Pub. L. 92–419, title V, §508, formerly §509, as added Pub. L. 95–113, title XIV, §1420, Sept. 29, 1977, 91 Stat. 998; renumbered Pub. L. 97–98, title XIV, §1444(b), Dec. 22, 1981, 95 Stat. 1326.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 2670. Repealed. Pub. L. 97–98, title XIV, § 1444(b), Dec. 22, 1981, 95 Stat. 1326

Section, Pub. L. 92–419, title V, §510, as added Pub. L. 95–113, title XIV, §1443, Sept. 29, 1977, 91 Stat. 1006, required an annual evaluation by Secretary of effectiveness of programs established under section 2662(c) and (d) of this title and submission of an annual report to Congress on that evaluation and operation of programs during previous year.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

CHAPTER 60—EGG RESEARCH AND CONSUMER INFORMATION

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 2701. Congressional findings and declaration of policy

Eggs constitute one of the basic, natural foods in the diet. They are produced by many individual egg producers throughout the United States. Egg products, spent fowl, and products of spent fowl are derivatives of egg production. These products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of egg producers and those concerned with marketing, using, and processing eggs as well as the general economy of the Nation. The production and marketing of these products by numerous individual egg producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, eggs, egg products, spent fowl, and products of spent fowl. Without an effective and coordinated method of assuring cooperative and collective action in providing for and financing such programs, individual egg producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all of these products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of fresh eggs readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the egg industry if the consumers of eggs, egg products, spent fowl, or products of spent fowl are to be assured of an adequate, steady supply of such products.

It is therefore declared to be the policy of the Congress and the purpose of this chapter that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment, an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the egg industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States. Nothing in this chapter shall be construed to mean, or provide for, control of production or otherwise limit the right of individual egg producers to produce commercial eggs.

(Pub. L. 93–428, § 2, Oct. 1, 1974, 88 Stat. 1171.)

EFFECTIVE DATE

Section 21 of Pub. L. 93–428 provided that: ''This Act [enacting this chapter and provisions set out as notes under this section] shall take effect upon enactment [Oct. 1, 1974]''.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–188, § 1, Dec. 14, 1993, 107 Stat. 2256, provided that: ''This Act [amending sections 2707, 2708, and 2711 of this title and enacting provisions set out as a note under section 2703 of this title] may be cited as the 'Egg Research and Consumer Information Act Amendments of 1993'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–575, § 1, Oct. 31, 1988, 102 Stat. 2895, provided that: ''This Act [amending sections 2707 and 2712 of this title] may be cited as the 'Egg Research and Consumer Information Act Amendments of 1988'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–276, § 1, June 17, 1980, 94 Stat. 541, provided: ''That this Act [amending sections 2707, 2708, and 2714 of this title and enacting provisions set out as a note under section 4a of this title] may be cited as the 'Egg Research and Consumer Information Act Amendments of 1980'.''

SHORT TITLE

Section 1 of Pub. L. 93–428 provided: ''That this Act [enacting this chapter and provisions set out as notes under this section] shall be known as the 'Egg Research and Consumer Information Act'.''

SEPARABILITY

Section 19 of Pub. L. 93–428 provided that: ''If any provision of this Act [enacting this chapter and provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2708 of this title.

§ 2702. Definitions

As used in this chapter—

(a) The term ''Secretary'' means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term ''commercial eggs'' or ''eggs'' means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing into egg products.

(d) The term ''hen'' or ''laying hen'' means a domesticated female chicken twenty weeks of age or over, raised primarily for the production of commercial eggs.

(e) The term ''egg producer'' means the person owning laying hens engaged in the production of commercial eggs.

(f) The term ''case'' means a standard shipping package containing thirty dozen eggs.

(g) The term ''hatching eggs'' means eggs intended for use by hatcheries for the production of baby chicks.

(h) The term ''United States'' means the forty-eight contiguous States of the United States of America and the District of Columbia.

(i) The term ''promotion'' means any action, including paid advertising, to advance the image

or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(j) The term ''research'' means any type of research to advance the image, desirability, marketability, production, or quality of eggs, egg products, spent fowl, or products of spent fowl.

(k) The term ''consumer education'' means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(*l*) The term ''marketing'' means the sale or other disposition of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(m) The term ''commerce'' means interstate, foreign, or intrastate commerce.

(n) The term ''egg products'' means products produced, in whole or in part, from eggs.

(*o*) The term ''spent fowl'' means hens which have been in production of commercial eggs and have been removed from such production for slaughter.

(p) The term ''products of spent fowl'' means commercial products produced from spent fowl.

(q) The term ''hatchery operator'' means any person engaged in the production of egg-type baby chicks.

(r) The term ''started pullet'' means a hen less than twenty weeks of age.

(s) The term ''started pullet dealer'' means any person engaged in the sale of started pullets.

(t) The term ''handler'' means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires eggs from an egg producer, and processes, prepares for marketing, or markets, such eggs, including eggs of his own production.

(Pub. L. 93–428, § 3, Oct. 1, 1974, 88 Stat. 1172.)

§ 2703. Orders of Secretary to egg producers, etc.

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and from time to time amend, orders applicable to persons engaged in the hatching and/or sale of egg-type baby chicks and started pullets, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale or processing of spent fowl. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 93–428, § 4, Oct. 1, 1974, 88 Stat. 1172.)

AMENDMENT OF EGG PROMOTION AND RESEARCH ORDER

Pub. L. 103–188, § 5, Dec. 14, 1993, 107 Stat. 2257, provided that: ''Notwithstanding any other provision of law:

''(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act [see Short Title of 1993 Amendment note set out under section 2701 of this title]. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 80 days after the date of enactment of this Act [Dec. 14, 1993].

''(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

''(A) 30 days after the proposed amendments are issued; or

''(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the proposed amendments are issued.

''(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.''

§ 2704. Notice and hearing upon proposed orders

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 2715 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(Pub. L. 93–428, § 5, Oct. 1, 1974, 88 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2705, 2715 of this title.

§ 2705. Findings and issuance of orders

After notice and opportunity for hearing as provided in section 2704 of this title, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 93–428, § 6, Oct. 1, 1974, 88 Stat. 1173.)

§ 2706. Permissive terms and conditions in orders

Order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and except as provided in section 2707 of this title, no others.

(a) Advertising, sales promotion, and consumer education plans or projects; prohibition on reference to private brand or trade name and use of unfair or deceptive acts or practices

Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, sales promotion, and consumer education with respect to the use of eggs, egg products, spent fowl, and products of spent fowl, and for the disbursement of necessary funds for such purposes: *Provided, however*, That any such plan or project shall be directed toward increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against eggs, egg products, spent fowl, or products of spent fowl of other persons:

And provided further, That no such advertising, consumer education, or sales promotion programs shall make use of unfair or deceptive acts or practices in behalf of eggs, egg products, spent fowl, or products of spent fowl or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product.

(b) Research, marketing, and development projects and studies

Providing for, establishing, and carrying on research, marketing, and development projects, and studies with respect to sale, distribution, marketing, utilization, or production of eggs, egg products, spent fowl, and products of spent fowl, and the creation of new products thereof, to the end that the marketing and utilization of eggs, egg products, spent fowl, and products of spent fowl may be encouraged, expanded, improved or made more acceptable, and the data collected by such activities may be disseminated and for the disbursement of necessary funds for such purposes.

(c) Recordkeeping and reporting requirements; disclosure of confidential information; violations; penalties

Providing that hatchery operators, persons engaged in the sale of egg-type baby chicks and started pullet dealers, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale, or processing of spent fowl, maintain and make available for the inspection such books and records as may be required by any order issued pursuant to this chapter and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data shall be made available to the Egg Board and to the Secretary which is appropriate or necessary to the effectuation, administration or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided, however*, That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Egg Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by the direction of the Secretary, of general statements relating to refunds made by the Egg Board during any specific period, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Egg Board or Department of Agriculture shall be removed from office.

(d) Incidental and necessary terms and conditions

Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 93–428, § 7, Oct. 1, 1974, 88 Stat. 1173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2707 of this title.

§ 2707. Required terms and conditions in orders

Orders issued pursuant to this chapter shall contain the following conditions:

(a) Egg Board; establishment; appointment and terms of membership; powers and duties

Providing for the establishment and appointment, by the Secretary, of an Egg Board which shall consist of not more than twenty members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate and report to the Secretary complaints of violations of such order, and (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Egg Board shall be for two years with no member serving more than three consecutive terms, except that initial appointment shall be proportionately for two-year and three-year terms.

(b) Composition of Board

Providing that the Egg Board, and alternates therefor, shall be composed of egg producers or representatives of egg producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 2715 of this title, or, if the Secretary determines that a substantial number of egg producers are not members of or their interests are not represented by any such eligible organizations, associations or cooperatives, then from nominations made by such egg producers in the manner authorized by the Secretary, so that the representation of egg producers on the Board shall reflect, to the extent practicable, the proportion of eggs produced in each geographic area of the United States as defined by the Secretary: *Provided, however*, That each such egg producing geographic area shall be entitled to at least one representative on the Egg Board: *Provided further*, That two members of the Egg Board, and alternates therefor, shall be consumers or representatives of consumers, if approved by egg producers voting in a referendum on an amendment to the order. Such consumer appointments shall be made by the Secretary from nomina-

tions submitted by eligible organizations. If the Secretary determines that such nominees are not members of either a bona fide consumer organization or do not represent consumers, the Secretary may appoint such consumers or representatives of consumers as deemed necessary to properly represent the interest of consumers. Consumer members of the Egg Board shall be voting members.

(c) Advertising, sales promotion, consumer education, and research and development plans or projects; development and submittal to Secretary by Board

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer education, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Budgets; submittal to Secretary by Board

Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, consumer education, research, and development projects. In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this chapter that is comparable to the proportion of funds that were allocated for research projects under this chapter in the budget of the Egg Board for fiscal year 1993.

(e) Assessment payments by egg producers to egg handlers; implementation pursuant to order of Board; determination of amount; collection of assessment; rate limitation; maintenance of suit for collection

(1) Providing that each egg producer shall pay to the handler of eggs designated by the order of the Egg Board pursuant to regulations issued under the order, an assessment based upon the number of cases of commercial eggs handled for the account of such producer, in the manner as prescribed by the order, for such expenses and expenditures—including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this chapter—as the Secretary finds are reasonable and likely to be incurred by the Egg Board under the order during any period specified by him. Such handler shall collect such assessment from the producer and shall pay the same to the Egg Board in the manner as prescribed by the order.

(2)(A) The assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 2708(b) of this title.

(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title.

(3) To facilitate the collection of such assessments, the order of the Egg Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Recordkeeping and reporting requirements; accounting by Board

Providing that the Egg Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Egg Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions

Providing that the Egg Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to section 2706(a) and (b) of this title and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Egg Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Egg Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Restriction on use of funds collected by Board for political purposes

Providing that no funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(i) Compensation and expenses of members of Board

Providing that the Board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(j) Reasonable costs limitation for collection of assessments and for an administrative staff

Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed an amount of the pro-

jected total assessments to be collected by the Egg Board for such fiscal year that the Secretary determines to be reasonable.

(Pub. L. 93–428, § 8, Oct. 1, 1974, 88 Stat. 1174; Pub. L. 96–276, §§ 2–4, June 17, 1980, 94 Stat. 541; Pub. L. 100–575, § 2, Oct. 31, 1988, 102 Stat. 2895; Pub. L. 103–188, §§ 2(a), 3, Dec. 14, 1993, 107 Stat. 2256, 2257.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–188, § 3, inserted at end ''In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this chapter that is comparable to the proportion of funds that were allocated for research projects under this chapter in the budget of the Egg Board for fiscal year 1993.''

Subsec. (e). Pub. L. 103–188, § 2(a), designated first and second sentences of existing provisions as par. (1), added par. (2) and struck out third and fourth sentences of existing provisions which read as follows: ''For fiscal year 1981, the rate of assessment prescribed by the order shall not exceed 7½ cents per case of commercial eggs or the equivalent thereof. For each fiscal year thereafter, the rate of assessment may be increased by no more than three-quarters of a cent per case of commercial eggs or the equivalent thereof: *Provided*, That the rate of assessment shall not exceed 10 cents per case of commercial eggs or the equivalent thereof.'', and designated fifth and sixth sentences of existing provisions as par. (3).

1988—Subsec. (j). Pub. L. 100–575 added subsec. (j).

1980—Subsec. (a). Pub. L. 96–276, § 2, substituted ''twenty'' for ''eighteen''.

Subsec. (b). Pub. L. 96–276, § 3, extended membership on the Egg Board to two consumers or representatives of consumers, and their alternates, when approved by egg producers voting in a referendum on an amendment to the order, to be appointed by the Secretary from nominations submitted by eligible organizations or otherwise when necessary to properly represent the interest of consumers, the consumer members to be voting members.

Subsec. (e). Pub. L. 96–276, § 4, substituted rate of assessment provisions prescribing for fiscal year 1981 a rate not exceeding 7½ cents per case of commercial eggs or its equivalent, authorizing increases of three-quarters of a cent per case for each fiscal year thereafter, but limiting maximum rate to 10 cents per case for prior limitation of the rate of assessment to 5 cents per case.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2706, 2715 of this title.

§ 2708. Referendum among egg producers

(a) Producer approval of order

The Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the commercial eggs produced during a representative period defined by the Secretary.

(b) Request by Egg Board for referendum

(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2701 of this title, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this chapter who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

(B) The change in the assessment rate shall become effective if the change is approved or favored by—

(i) not less than two-thirds of the producers voting in the referendum; or

(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

(3)(A) In the case of the order in effect on December 14, 1993, the Egg Board shall determine under paragraph (1), as soon as practicable after December 14, 1993, whether to request that the Secretary conduct a referendum under paragraph (2).

(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

(i) 120 days after receipt of the request from the Egg Board; or

(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

(4) Notwithstanding any other provision of this chapter, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.

(c) Nonapproval of amendments as not invalidating order

The failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate such order.

(Pub. L. 93–428, § 9, Oct. 1, 1974, 88 Stat. 1176; Pub. L. 96–276, § 5, June 17, 1980, 94 Stat. 541; Pub. L. 103–188, § 2(b), Dec. 14, 1993, 107 Stat. 2256.)

AMENDMENTS

1993—Pub. L. 103–188 designated first and second sentences of existing provisions as subsec. (a), added sub-

sec. (b), and designated last sentence of existing provisions as subsec. (c).

1980—Pub. L. 96–276 provided that failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate the order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2707, 2712 of this title.

§ 2709. Termination or suspension of orders

(a) Authority of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of egg producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the egg producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, and who produced more than 50 per centum of the volume of eggs produced by the egg producers voting in the referendum.

(c) Termination or suspension not to be considered as order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 93–428, § 10, Oct. 1, 1974, 88 Stat. 1176.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2712 of this title.

§ 2710. Applicability of provisions to amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 93–428, § 11, Oct. 1, 1974, 88 Stat. 1176.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2712 of this title.

§ 2711. Exempted egg producers and breeding hen flocks; conditions and procedures

(a) In general

The following shall be exempt from the specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded 75,000 laying hens, as determined under subsection (b) of this section.

(2) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(b) Number of laying hens

(1) In general

For purposes of subsection (a)(1) of this section, the aggregate number of laying hens owned by an egg producer shall include—

(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

(C) in cases in which the producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.

(2) Stock or beneficial interests

For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

(A) members of the producer's family described in paragraph (1)(A);

(B) a general partnership or similar entity in which the producer is a partner or equity participant;

(C) the partners or equity participants in an entity of the type described in subparagraph (B); or

(D) a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests,

shall be considered as held by the producer.

(Pub. L. 93–428, § 12, Oct. 1, 1974, 88 Stat. 1176; Pub. L. 101–220, § 3(a), Dec. 12, 1989, 103 Stat. 1877; Pub. L. 103–188, § 4, Dec. 14, 1993, 107 Stat. 2257.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–188 substituted ''75,000'' for ''30,000''.

1989—Pub. L. 101–220 amended section generally. Prior to amendment, section read as follows: ''The following may be exempt from specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

''(a) Any egg producer whose aggregate number of laying hens at any time during a three-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded three thousand laying hens.

''(b) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.''

EGG PROMOTION AND RESEARCH ORDER

Section 3(b) of Pub. L. 101–220 provided that:

''(1) AMENDMENT.—The Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section [amending this section]. Such amendment shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue a proposed amendment to such order not later than 30 days after the date of enactment of this Act [Dec. 12, 1989].

''(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by paragraph (1) shall become effective no later than March 1, 1990, and shall not be subject to a referendum under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).''

§ 2712. Refund of assessment from Egg Board

(a) Procedures

Notwithstanding any other provisions of this chapter except as provided in subsection (b) of this section, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this chapter and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than ninety days after the end of the month in which the assessments are due and collectable, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

(b) Amendment of order to eliminate producer refund: effective date; refund referendum; escrow account; requirements for one-time refund; proration of refunds

(1) With regard to each order issued under this chapter that provides for a producer refund, the Secretary shall amend such order to eliminate such refund.

(2) Notwithstanding sections 2708 and 2710 of this title, an amendment made by the Secretary pursuant to paragraph (1)—

(A) shall take effect on the date that the Secretary issues the amendment; and

(B) shall not be subject to a referendum under section 2708 or 2709(b) of this title until the end of the 18-month period beginning on such effective date.

(3) During the period prior to the referendum of an amendment issued pursuant to paragraph (1) and beginning on the effective date of such amendment, the Egg Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (4).

(4) The Egg Board shall place in such account, from assessments collected during the period referred to in paragraph (3), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(5) Subject to paragraphs (6), (7), and (8), any producer shall have the right to demand and receive from the Egg Board a one-time refund of assessments collected from such producer during the period referred to in paragraph (3) if—

(A) such producer is responsible for paying such assessments;

(B) such producer does not support the program established under this chapter; and

(C) the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 2708 or 2709(b) of this title.

(6) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Egg Board.

(7) Such refund shall be made on submission of proof satisfactory to the Egg Board that such producer paid the assessment for which refund is demanded.

(8) If the amount in the escrow account required to be established by paragraph (3) is not sufficient to refund the total amount of assessments demanded by all eligible producers under this subsection and the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 2708 or 2709(b) of this title, the Egg Board shall prorate the amount of such refunds among all eligible producers who demand such refund.

(Pub. L. 93–428, § 13, Oct. 1, 1974, 88 Stat. 1177; Pub. L. 100–575, § 3, Oct. 31, 1988, 102 Stat. 2895.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–575 designated existing provisions as subsec. (a), inserted ''except as provided in subsection (b) of this section'', and added subsec. (b).

§ 2713. Administrative review of orders; petition; hearing; judicial review

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United

States or the Secretary from obtaining relief pursuant to section 2714(a) of this title.

(Pub. L. 93–428, § 14, Oct. 1, 1974, 88 Stat. 1177.)

§ 2714. Civil enforcement proceedings

(a) Enforcement of orders by district court; referral of civil actions to Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever he believes that the administration and enforcement of the program would be adequately served by administrative action pursuant to subsection (b) of this section or suitable written notice or warning to any person committing such violations.

(b) Civil penalty; review by court of appeals; noncompliance with final order; referral to Attorney General

(1) Any person who violates any provisions of any order or regulation issued by the Secretary pursuant to this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of him thereunder, may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violation or violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (1) and (2) of this subsection, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 93–428, § 15, Oct. 1, 1974, 88 Stat. 1177; Pub. L. 96–276, § 6, June 17, 1980, 94 Stat. 541.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–276 substituted ''civil action authorized to be brought under this subsection'' for ''civil action authorized to be brought under this chapter'', struck out ''minor'' before ''violation of this chapter'', and inserted reference to administrative action pursuant to subsection (b).

Subsec. (b). Pub. L. 96–276 substituted provisions authorizing Secretary to assess civil penalty of not less than $500 or more than $5,000 per violation, to issue cease and desist orders for violations of regulations or orders issued by Secretary, and, after review in court of appeals, to assess civil penalty of $500 per offense for failure to abide by duly issued cease and desist order, and authorized actions by Attorney General in appropriate district courts to collect assessed penalties, for provisions authorizing penalties of up to $1,000 per offense for willful violations of this chapter, recoverable in civil action brought by the United States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2713 of this title.

§ 2715. Certification of organizations; required contents of report as criteria

The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 2704 of this title, and to participate in the making of nominations under section 2707(b) of this title shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership.

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this chapter: *Provided*, *however*, That the primary consideration in determining the eligibility of an organization shall be whether its commercial egg producer membership consists of a substantial number of egg producers who produce a substantial volume of commercial eggs. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 2707(b) of this title.

(Pub. L. 93–428, § 16, Oct. 1, 1974, 88 Stat. 1178.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title.

§ 2716. Regulations

The Secretary is authorized to make regulations with force and effect of law, as may be necessary to carry out the provisions of this chapter and the powers vested in him by this chapter.

(Pub. L. 93–428, § 17, Oct. 1, 1974, 88 Stat. 1178.)

§ 2717. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process

The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this chapter or to determine whether an egg producer, processor, or other seller of commercial eggs or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including an egg producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 93–428, § 18, Oct. 1, 1974, 88 Stat. 1178.)

§ 2718. Authorization of appropriations

There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Egg Board in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 93–428, § 20, Oct. 1, 1974, 88 Stat. 1179.)

CHAPTER 61—NOXIOUS WEEDS

Sec.

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§ 2801. Congressional findings

The importation or distribution in interstate commerce of noxious weeds, except under controlled conditions, allows the growth and spread of such weeds which interfere with the growth of

useful plants, clog waterways and interfere with navigation, cause disease, or have other adverse effects upon man or his environment and therefore is detrimental to the agriculture and commerce of the United States and to the public health. The uncontrolled distribution within the United States of noxious weeds after their importation or interstate distribution has like detrimental effects and allowing such distribution encourages and facilitates the burdening and obstructing of interstate and foreign commerce, and is inimical to the public interest. Accordingly, the Congress hereby determines that the regulation of transactions in, and movement of, noxious weeds as provided in this chapter is necessary to prevent and eliminate burdens upon and obstructions to interstate and foreign commerce and to protect the public welfare.

(Pub. L. 93–629, § 2, Jan. 3, 1975, 88 Stat. 2148.)

SHORT TITLE

Section 1 of Pub. L. 93–629 provided: ''That this Act [enacting this chapter] may be cited as the 'Federal Noxious Weed Act of 1974'.''

§ 2802. Definitions

As used in this chapter, except where the context otherwise requires:

(a) ''Secretary'' means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) ''Authorized inspector'' means any employee of the Department of Agriculture, or any employee of any other agency of the Federal Government or of any State or other governmental agency which is cooperating with the Department in administration of any provisions of this chapter, who is authorized by the Secretary to perform assigned duties under this chapter.

(c) ''Noxious weed'' means any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish and wildlife resources of the United States or the public health, and includes kudzu (Pueraria lobata Dc).

(d) ''United States'' means any of the States, territories, or districts of the United States.

(e) ''Interstate'' means from any State, territory, or district of the United States into or through any other State, territory, or district.

(f) ''District'' means the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States.

(g) ''Move'' means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise.

(Pub. L. 93–629, § 3, Jan. 3, 1975, 88 Stat. 2148; Pub. L. 105–86, title VII, § 728, Nov. 18, 1997, 111 Stat. 2108.)

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–86 inserted '', and includes kudzu (Pueraria lobata Dc)'' before period at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2809 of this title.

§ 2803. Movement of noxious weeds into or through the United States or interstate

(a) Regulations

No person shall import or enter any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or move any noxious weed interstate, unless the movement is in accordance with such conditions as the Secretary may prescribe by regulation under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

(b) Permits

The regulations prescribed by the Secretary to implement subsection (a) of this section may include regulations requiring that any noxious weed imported or entered into the United States or moving interstate be accompanied by a permit issued by the Secretary prior to the movement of the noxious weed.

(c) Unlawful sale, purchase, and transportation, and advertisements for unlawful sale, purchase, and transportation

No person shall knowingly sell, purchase, barter, exchange, give, or receive any such noxious weed which has been moved in violation of subsection (a) of this section, or knowingly deliver or receive for transportation or transport, in interstate or foreign commerce, any advertisement to sell, purchase, barter, exchange, give, or receive any such noxious weed which is prohibited from movement in such commerce under this chapter.

(Pub. L. 93–629, § 4, Jan. 3, 1975, 88 Stat. 2149; Pub. L. 100–449, title III, § 301(f)(4), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103–465, title IV, § 431(f), Dec. 8, 1994, 108 Stat. 4968.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–465 amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

''(a) No person shall knowingly move any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or interstate, unless such movement is—

''(1) from Canada, or authorized under general or specific permit from the Secretary; and

''(2) made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as the Secretary may prescribe under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

''(b) The Secretary may refuse to issue a permit for the movement of any such noxious weed when, in his opinion, such movement would involve a danger of dissemination of such noxious weeds into the United States or interstate.''

1988—Subsec. (a). Pub. L. 100–449 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''No person shall knowingly move any noxious weed, identified in a regulation promulgated by the Secretary, into or through the United States or inter-

state, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2807, 2809 of this title.

§ 2804. Quarantine

(a) Regulations for inspection

The Secretary may promulgate such quarantines and other regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States and otherwise restricting or prohibiting such movement, as he deems necessary to prevent the dissemination into the United States of any noxious weeds, and it shall be unlawful for any person to move any products, articles, or means of conveyance into or through the United States contrary to any such regulation.

(b) Temporary quarantine of areas suspected of infestation; maximum period

Whenever the Secretary has reason to believe that an infestation of noxious weeds exist in any State, territory, or district, he may by regulation temporarily quarantine such jurisdiction, or a portion thereof, and by regulation may restrict or prohibit the interstate movement from the quarantined area of any products and articles of any character whatsoever and means of conveyance, capable of carrying such noxious weeds, and after promulgation of such quarantine and other regulations, it shall be unlawful for any person to move interstate from a quarantined area any such products, articles, or means of conveyance, specified in the regulations, except in accordance with such regulations: *Provided, however*, That such quarantine and regulations shall expire at the close of the ninetieth day after their promulgation.

(c) Promulgation after determination of necessity at public hearing

However, if, after public hearing, the Secretary determines, on the basis of the information received at the hearing and other information available to him, that such a quarantine and regulations are necessary in order to prevent the interstate spread of noxious weeds from any State, territory, or district in which he determines an infestation of noxious weeds exists, and to protect the agriculture, commerce, fish, or wildlife resources of the United States or the public health, he shall promulgate such quarantine and other regulations as he determines are appropriate for such purposes, and thereafter it shall be unlawful for any person to move interstate from any quarantined area any regulated products, articles, or means of conveyance except in accordance with such regulations.

(Pub. L. 93–629, § 5, Jan. 3, 1975, 88 Stat. 2149.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2807 of this title.

§ 2805. Measures to prevent dissemination

(a) Emergency disposal of infested products and articles

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any noxious weed, seize, quarantine, treat, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, in bond or otherwise, and which he has reason to believe is infested by any noxious weed or contains any such weed, or which has moved into the United States, or interstate, and which he has reason to believe was infested by or contained any noxious weed at the time of such movement; and any noxious weed, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation hereunder.

(b) Orders requiring disposal by owner; enforcement

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or noxious weed subject to disposal under subsection (a) of this section, or his agent, to treat, destroy, or make other disposal of such product, article, means of conveyance, or noxious weed, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States District Court, or to the United States Court of any territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or noxious weed is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpenas for witnesses who are required to attend a court in any judicial district in such a case may run to any other judicial district.

(c) Destruction, export, or return as the least drastic action

No product, article, means of conveyance, or noxious weed shall be destroyed, exported, or re-

turned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of noxious weeds into the United States or interstate.

(d) Actions against United States by owners; limitations; just compensation for unlawful disposal

The owner of any product, article, means of conveyance, or noxious weed destroyed, or otherwise disposed of, by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or noxious weed (not including compensation for loss due to delays incident to determining its eligibility for movement under this chapter) if the owner establishes that such destruction or disposal was not authorized under this chapter. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for administration of this chapter.

(Pub. L. 93–629, § 6, Jan. 3, 1975, 88 Stat. 2149.)

§ 2806. Warrantless search of persons and goods; search of premises with warrants; issuance and execution of warrants

Any authorized inspector, when properly identified, shall have authority (a) without a warrant, to stop any person or means of conveyance moving into the United States, and inspect any noxious weeds and any products and articles of any character whatsoever, carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation under this chapter; (b) without a warrant, to stop any person or means of conveyance moving through the United States or interstate, and inspect any noxious weeds and any products and articles of any character whatsoever carried thereby, and inspect such means of conveyance, to determine whether such person or means of conveyance is moving any noxious weed, product, article, or means of conveyance contrary to this chapter or any regulation thereunder, if such inspector has probable cause to believe that such person or means of conveyance is moving any noxious weed regulated under this chapter; and (c) to enter, with a warrant, any premises in the United States, for purposes of any inspections or other actions necessary under this chapter. Any judge of the United States or of a court of record of any State, territory, or district, or a United States commissioner, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or noxious weeds subject to this chapter, issue warrants for the entry of such premises for purposes of any inspection or other action necessary under this chapter, except as otherwise provided in section 2808 of this title. Such warrants may be executed by any authorized inspector or any United States marshal.

(Pub. L. 93–629, § 7, Jan. 3, 1975, 88 Stat. 2150.)

§ 2807. Penalties

Any person who knowingly violates section 2803 or 2804 of this title, or any regulation promulgated under this chapter, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or both.

(Pub. L. 93–629, § 8, Jan. 3, 1975, 88 Stat. 2151.)

§ 2808. Cooperation with other Federal, State, and local agencies

(a) The Secretary is authorized to cooperate with other Federal agencies, agencies of States, territories, or districts, or political subdivisions thereof, farmers' associations, and similar organizations, and individuals in carrying out operations or measures in the United States to eradicate, suppress, control, or prevent or retard the spread of any noxious weed. The Secretary is authorized to appoint employees of other agencies of the Federal Government or any agencies of any State, territory, or district, or political subdivisions thereof, as collaborators to assist in administration of the provisions of this chapter, pursuant to cooperative agreements with such agencies, whenever he determines that such appointments would facilitate administration of this chapter.

(b) In performing the operations or measures authorized by subsection (a) of this section, the cooperating State or other governmental agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the State or other jurisdiction involved, other than those owned or controlled by the United States Government, and for such other facilities and means as in the discretion of the Secretary are necessary.

(Pub. L. 93–629, § 9, Jan. 3, 1975, 88 Stat. 2151.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2806, 2810 of this title.

§ 2809. Regulations

The Secretary is authorized to promulgate regulations necessary to effectuate the provisions of this chapter. However, any regulation identifying a noxious weed under section 2803 of this title shall be promulgated only after publication of a notice of the proposed regulation and, when requested by any interested person, a public hearing on the proposal. Any such regulation shall be based upon the information received at any such hearing and other information available to the Secretary and a determination by the Secretary that the plant is within the definition of a noxious weed in section 2802(c) of this title and that its dissemination in the United States may reasonably be expected to have, to a serious degree, any effect specified in section 2802(c) of this title.

(Pub. L. 93–629, § 10, Jan. 3, 1975, 88 Stat. 2151.)

§ 2810. Authorization of appropriations

There are hereby authorized to be appropriated such sums as Congress may from time to time determine to be necessary for the administration of this chapter. Any sums so appropriated shall be available for expenditures for the purchase, hire, maintenance, operation, and exchange of aircraft and other means of conveyance, and for such other expenses as may be necessary to carry out the purposes of this chapter. However, unless specifically authorized in other legislation or provided for in appropriations, no part of such sum shall be used to pay the cost or value of property injured or destroyed under section 2808 of this title.

(Pub. L. 93–629, § 11, Jan. 3, 1975, 88 Stat. 2151.)

§ 2811. Inapplicability to certain shipments

The provisions of this chapter shall not apply to shipments of seed subject to the Federal Seed Act (7 U.S.C. 1551 et seq.) and this chapter shall not amend or repeal any of the provisions of said Act or of the Plant Quarantine Act of August 20, 1912 (7 U.S.C. 151–154, 156–164a, 167), the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), or any other Federal laws.

(Pub. L. 93–629, § 12, Jan. 3, 1975, 88 Stat. 2152.)

REFERENCES IN TEXT

The Federal Seed Act, referred to in text, is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, as amended, which is classified generally to chapter 37 (§ 1551 et seq.) of this title. For complete classification of this Act to the Code, see section 1551 of this title and Tables.

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title, and Tables.

The Federal Plant Pest Act, referred to in text, is Pub. L. 85–36, title I, May 23, 1957, 71 Stat. 31, as amended, which is classified generally to chapter 7B (§ 150aa et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 150aa of this title, and Tables.

§ 2812. Inconsistent State and local laws

The provisions of this chapter shall not invalidate the provisions of the laws of any State or political subdivision thereof, or of any territory or district of the United States relating to noxious weeds, except that no such jurisdiction may permit any action that is prohibited under this chapter.

(Pub. L. 93–629, § 13, Jan. 3, 1975, 88 Stat. 2152.)

§ 2813. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 93–629, § 14, Jan. 3, 1975, 88 Stat. 2152.)

§ 2814. Management of undesirable plants on Federal lands

(a) Duties of agencies

Each Federal agency shall—

(1) designate an office or person adequately trained in the management of undesirable plant species to develop and coordinate an undesirable plants management program for control of undesirable plants on Federal lands under the agency's jurisdiction;

(2) establish and adequately fund an undesirable plants management program through the agency's budgetary process;

(3) complete and implement cooperative agreements with State agencies regarding the management of undesirable plant species on Federal lands under the agency's jurisdiction; and

(4) establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements.

(b) Environmental impact statements

In the event an environmental assessment or environmental impact statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to implement plant control agreements, Federal agencies shall complete such assessments or statements within 1 year after the requirement for such assessment or statement is ascertained.

(c) Cooperative agreements with State agencies

(1) In general

Federal agencies, as appropriate, shall enter into cooperative agreements with State agencies to coordinate the management of undesirable plant species on Federal lands.

(2) Contents of plan

A cooperative agreement entered into pursuant to paragraph (1) shall—

(A) prioritize and target undesirable plant species or group of species to be controlled or contained within a specific geographic area;

(B) describe the integrated management system to be used to control or contain the targeted undesirable plant species or group of species; and

(C) detail the means of implementing the integrated management system, define the duties of the Federal agency and the State agency in prosecuting that method, and establish a timeframe for the initiation and completion of the tasks specified in the integrated management system.

(d) Exception

A Federal agency is not required under this section to carry out programs on Federal lands unless similar programs are being implemented generally on State or private lands in the same area.

(e) Definitions

As used in this section:

(1) Cooperative agreement

The term ''cooperative agreement'' means a written agreement between a Federal agency and a State agency entered into pursuant to this section.

(2) Federal agency

The term ''Federal agency'' means a department, agency, or bureau of the Federal Gov-

ernment responsible for administering or managing Federal lands under its jurisdiction.

(3) Federal lands

The term ''Federal lands'' means lands managed by or under the jurisdiction of the Federal Government.

(4) Integrated management system

The term ''integrated management systems'' means a system for the planning and implementation of a program, using an interdisciplinary approach, to select a method for containing or controlling an undesirable plant species or group of species using all available methods, including—

(A) education;

(B) preventive measures;

(C) physical or mechanical methods;

(D) biological agents;

(E) herbicide methods;

(F) cultural methods; and

(G) general land management practices such as manipulation of livestock or wildlife grazing strategies or improving wildlife or livestock habitat.

(5) Interdisciplinary approach

The term ''interdisciplinary approach'' means an approach to making decisions regarding the containment or control of an undesirable plant species or group of species, which—

(A) includes participation by personnel of Federal or State agencies with experience in areas including weed science, range science, wildlife biology, land management, and forestry; and

(B) includes consideration of—

(i) the most efficient and effective method of containing or controlling the undesirable plant species;

(ii) scientific evidence and current technology;

(iii) the physiology and habitat of a plant species; and

(iv) the economic, social, and ecological consequences of implementing the program.

(6) State agencies

The term ''State agency'' means a State department of agriculture, or other State agency or political subdivision thereof, responsible for the administration or implementation of undesirable plants laws of a State.

(7) Undesirable plant species

The term ''undesirable plants'' means plant species that are classified as undesirable, noxious, harmful, exotic, injurious, or poisonous, pursuant to State or Federal law. Species listed as endangered by the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] shall not be designated as undesirable plants under this section and shall not include plants indigenous to an area where control measures are to be taken under this section.

(f) Coordination

(1) In general

The Secretary of Agriculture and the Secretary of the Interior shall take such actions as may be necessary to coordinate Federal agency programs for control, research, and educational efforts associated with Federal, State, and locally designated noxious weeds.

(2) Duties

The Secretary, in consultation with the Secretary of the Interior, shall—

(A) identify regional priorities for noxious weed control;

(B) incorporate into existing technical guides regionally appropriate technical information; and

(C) disseminate such technical information to interested State, local, and private entities.

(3) Cost share assistance

The Secretary may provide cost share assistance to State and local agencies to manage noxious weeds in an area if a majority of landowners in that area agree to participate in a noxious weed management program.

(g) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary in each of fiscal years 1991 through 1995 to carry out this section.

(Pub. L. 93–629, §15, as added Pub. L. 101–624, title XIV, §1453, Nov. 28, 1990, 104 Stat. 3611.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Endangered Species Act of 1973, referred to in subsec. (e)(7), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CHAPTER 62—BEEF RESEARCH AND INFORMATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 2901. Congressional findings and declaration of policy

(a) Congress finds that—

(1) beef and beef products are basic foods that are a valuable part of human diet;

(2) the production of beef and beef products plays a significant role in the Nation's economy, beef and beef products are produced by thousands of beef producers and processed by numerous processing entities, and beef and beef products are consumed by millions of people throughout the United States and foreign countries;

(3) beef and beef products should be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for beef and beef products are vital to the welfare of beef producers and those concerned with marketing, using, and producing beef products, as well as to the general economy of the Nation;

(5) there exist established State and national organizations conducting beef promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of beef and beef products; and

(6) beef and beef products move in interstate and foreign commerce, and beef and beef products that do not move in such channels of commerce directly burden or affect interstate commerce of beef and beef products.

(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for financing (through assessments on all cattle sold in the United States and on cattle, beef, and beef products imported into the United States) and carrying out a coordinated program of promotion and research designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products. Nothing in this chapter shall be construed to limit the right of individual producers to raise cattle.

(Pub. L. 94–294, § 2, May 28, 1976, 90 Stat. 529; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1597.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1601(c) of Pub. L. 99–198 provided that: ''The amendments made by this section [amending this section and sections 2902 to 2911 of this title, omitting sections 2912 to 2918 of this title and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1986.''

EFFECTIVE DATE

Section 21 of Pub. L. 94–294 provided that: ''This Act [enacting this chapter and provisions set out as notes under this section] shall take effect upon enactment [May 28, 1976]''.

SHORT TITLE OF 1985 AMENDMENT

Section 1601(a) of Pub. L. 99–198 provided that: ''This section [amending this section and sections 2902 to 2911 of this title, omitting sections 2912 to 2918 of this title and provisions set out as a note under this section, and enacting provisions set out as a note under this section] may be cited as the 'Beef Promotion and Research Act of 1985'.''

SHORT TITLE

Section 1 of Pub. L. 94–294 provided: ''That this Act [enacting this chapter and provisions set out as notes under this section] shall be known as the 'Beef Research and Information Act'.''

SEPARABILITY

Section 19 of Pub. L. 94–294, which provided that if any provision of this Act [enacting this chapter and provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby, was omitted in the general revision of sections 2 through 20 of Pub. L. 94–294 by Pub. L. 99–198, title XVI, § 1601(b), Dec. 28, 1985, 99 Stat. 1597.

§ 2902. Definitions

For purposes of this chapter—

(1) the term ''beef'' means flesh of cattle;

(2) the term ''beef products'' means edible products produced in whole or in part from beef, exclusive of milk and products made therefrom;

(3) the term ''Board'' means the Cattlemen's Beef Promotion and Research Board established under section 2904(1) of this title;

(4) the term ''cattle'' means live domesticated bovine animals regardless of age;

(5) the term ''Committee'' means the Beef Promotion Operating Committee established under section 2904(5) of this title;

(6) the term ''consumer information'' means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of beef and beef products;

(7) the term ''Department'' means the Department of Agriculture.[1]

[1] So in original. The period probably should be a semicolon.

(8) the term ''importer'' means any person who imports cattle, beef, or beef products from outside the United States;

(9) the term ''industry information'' means information and programs that will lead to the development of new markets, marketing strategies, increased efficiency, and activities to enhance the image of the cattle industry;

(10) The[2] term ''order'' means a beef promotion and research order issued under section 2903 of this title.[1]

(11) the term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(12) the term ''producer'' means any person who owns or acquires ownership of cattle, except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee;

(13) the term ''promotion'' means any action, including paid advertising, to advance the image and desirability of beef and beef products with the express intent of improving the competitive position and stimulating sales of beef and beef products in the marketplace;

(14) the term ''qualified State beef council'' means a beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives voluntary contributions and conducts beef promotion, research, and consumer information programs, and that is recognized by the Board as the beef promotion entity within such State;

(15) the term ''research'' means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of beef and beef products, other related food science research, and new product development;

(16) the term ''Secretary'' means the Secretary of Agriculture;

(17) The[2] term ''State'' means each of the 50 States; and

(18) the term ''United States'' means the several States and the District of Columbia.

(Pub. L. 94–294, § 3, May 28, 1976, 90 Stat. 530; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1598.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§ 2903. Issuance of orders

(a) During the period beginning on January 1, 1986, and ending thirty days after receipt of a proposal for a beef promotion and research order, the Secretary shall publish such proposed order and give due notice and opportunity for public comment on such proposed order. Such proposal may be submitted by any organization meeting the requirements for certification under section 2905 of this title or any interested person, including the Secretary.

(b) After notice and opportunity for public comment are given, as provided for in subsection (a) of this section, the Secretary shall issue a beef promotion and research order. The order shall become effective not later than one hundred and twenty days following publication of the proposed order.

(Pub. L. 94–294, § 4, May 28, 1976, 90 Stat. 530; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1599.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to issuance of orders for provisions relating to orders of Secretary to producers and slaughterers.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2902, 2904, 2911 of this title; title 16 section 2005b.

§ 2904. Required terms in orders

An order issued under section 2903(b) of this title shall contain the following terms and conditions:

(1) The order shall provide for the establishment and selection of a Cattlemen's Beef Promotion and Research Board. Members of the Board shall be cattle producers and importers appointed by the Secretary from (A) nominations submitted by eligible State organizations certified under section 2905 of this title (or, if the Secretary determines that there is no eligible State organization in a State, the Secretary may provide for nominations from such State to be made in a different manner), and (B) nominations submitted by importers under such procedures as the Secretary determines appropriate. In determining geographic representation for cattle producers on the Board, whole States shall be considered as a unit. Each State that has a total cattle inventory greater than five hundred thousand head shall be entitled to at least one representative on the Board. A State that has a total inventory of fewer than 500,000 cattle shall be grouped, as far as practicable, with other States each of which has a combined total inventory of not less than 500,000 cattle, into geographically contiguous units in a manner prescribed in the order. A unit may be represented on the Board by more than one member. For each additional million head of cattle within a unit, such unit shall be entitled to an additional member on the Board. The Board may recommend a change in the level of inventory per unit necessary for representation on the Board and, on such recommendation, the Secretary may change the level necessary for representation on the Board. The number of members on the Board that represent importers shall be determined by the Secretary on a proportional basis, by converting the volume of imported beef and beef products into live animal equivalencies.

(2) The order shall define the powers and duties of the Board, which shall be exercised at

[2] So in original. Probably should not be capitalized.

an annual meeting, and shall include only the following powers:

(A) To administer the order in accordance with its terms and provisions.

(B) To make rules and regulations to effectuate the terms and provisions of the order.

(C) To elect members of the Board to serve on the Committee.

(D) To approve or disapprove budgets submitted by the Committee.

(E) To receive, investigate, and report to the Secretary complaints of violations of the order.

(F) To recommend to the Secretary amendments to the order.

In addition, the order shall determine the circumstances under which special meetings of the Board may be held.

(3) The order shall provide that the term of appointment to the Board shall be three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for one-year, two-year, and three-year terms; and that Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(4)(A) The order shall provide that the Board shall elect from its membership ten members to serve on the Beef Promotion Operating Committee, which shall be composed of ten members of the Board and ten producers elected by a federation that includes as members the qualified State beef councils. The producers elected by the federation shall be certified by the Secretary as producers that are directors of a qualified State beef council. The Secretary also shall certify that such directors are duly elected by the federation as representatives to the Committee.

(B) The Committee shall develop plans or projects of promotion and advertising, research, consumer information, and industry information, which shall be paid for with assessments collected by the Board. In developing plans or projects, the Committee shall—

(i) to the extent practicable, take into account similarities and differences between certain beef, beef products, and veal; and

(ii) ensure that segments of the beef industry that enjoy a unique consumer identity receive equitable and fair treatment under this chapter.

(C) The Committee shall be responsible for developing and submitting to the Board, for its approval, budgets on a fiscal year basis of its anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall approve or disapprove such budgets and, if approved, shall submit such budget to the Secretary for the Secretary's approval.

(D) The total costs of collection of assessments and administrative staff incurred by the Board during any fiscal year shall not exceed 5 per centum of the projected total assessments to be collected by the Board for such fiscal year. The Board shall use, to the extent possible, the resources, staffs, and facilities of existing organizations.

(5) The order shall provide that terms of appointment to the Committee shall be one year, and that no person may serve on the Committee for more than six consecutive terms. Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee. The Committee may utilize the resources, staffs, and facilities of the Board and industry organizations. An employee of an industry organization may not receive compensation for work performed for the Committee, but shall be reimbursed from assessments collected by the Board for reasonable expenses incurred in performing such work.

(6) The order shall provide that, to ensure coordination and efficient use of funds, the Committee shall enter into contracts or agreements for implementing and carrying out the activities authorized by this chapter with established national nonprofit industry-governed organizations, including the federation referred to in paragraph (4), to implement programs of promotion, research, consumer information, and industry information. Any such contract or agreement shall provide that—

(A) the person entering the contract or agreement shall develop and submit to the Committee a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Committee of activities conducted, and such other reports as the Secretary, the Board, or the Committee may require.

(7) The order shall require the Board and the Committee to—

(A) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to them.

(8)(A) The order shall provide that each person making payment to a producer for cattle purchased from the producer shall, in the manner prescribed by the order, collect an assessment and remit the assessment to the Board. The Board shall use qualified State beef councils to collect such assessments.

(B) If an appropriate qualified State beef council does not exist to collect an assessment in accordance with paragraph (1), such assessment shall be collected by the Board.

(C) The order also shall provide that each importer of cattle, beef, or beef products shall pay an assessment, in the manner prescribed by the order, to the Board. The assessments

shall be used for payment of the costs of plans and projects, as provided for in paragraph (4), and expenses in administering the order, including more administrative costs incurred by the Secretary after the order has been promulgated under this chapter, and to establish a reasonable reserve. The rate of assessment prescribed by the order shall be one dollar per head of cattle, or the equivalent thereof in the case of imported beef and beef products. A producer who can establish that the producer is participating in a program of an established qualified State beef council shall receive credit, in determining the assessment due from such producer, for contributions to such program of up to 50 cents per head of cattle or the equivalent thereof. There shall be only one qualified State beef council in each State. Any person marketing from[1] beef from cattle of the person's own production shall remit the assessment to the Board in the manner prescribed by the order.

(9) The order shall provide that the Board, with the approval of the Secretary, may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(10) The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

(11) The order shall require that each person making payment to a producer, any person marketing beef from cattle of the person's own production directly to consumers, and any importer of cattle, beef, or beef products maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. Such information shall be made available to the Secretary as is appropriate to the administration or enforcement of this chapter, the order, or any regulation issued under this chapter. In addition, the Secretary shall authorize the use of information regarding persons paying producers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

All information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order. Nothing in this paragraph may be deemed to prohibit—

(A) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.

No information obtained under the authority of this chapter may be made available to any agency or officer of the United States for any purpose other than the implementation of this chapter and any investigatory or enforcement act necessary for the implementation of this chapter. Any person violating the provisions of this paragraph shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(12) The order shall contain terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order.

(Pub. L. 94–294, § 5, May 28, 1976, 90 Stat. 530; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1599.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to required terms in orders for provisions relating to notice and hearing upon proposed orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2902, 2905, 2907 of this title.

§ 2905. Certification of organizations to nominate

(a) Eligibility of State organization certified by Secretary; eligibility criteria

The eligibility of any State organization to represent producers and to participate in the making of nominations under section 2904(1) of this title shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under subsection (b) of this section and such determination as to eligibility shall be final.

(b) State cattle association or State general farm organization

A State cattle association or State general farm organization may be certified as described in subsection (a) of this section if such association or organization meets all of the following eligibility criteria:

(1) The association or organization's total paid membership is comprised of at least a majority of cattle producers or the association or organization's total paid membership represents at least a majority of the cattle producers in the State.

(2) The association or organization represents a substantial number of producers that

[1] So in original. The word ''from'' probably should not appear.

produce a substantial number of cattle in the State.

(3) The association or organization has a history of stability and permanency.

(4) A primary or overriding purpose of the association or organization is to promote the economic welfare of cattle producers.

(c) Factual report basis for certification of State cattle association and State general farm association

Certification of State cattle associations and State general farm organizations shall be based on a factual report submitted by the association or organization involved.

(d) Certification of more than one State organization; caucus

If more than one State organization is certified in a State (or in a unit referred to in section 2904(1) of this title), such organizations may caucus to determine any of such State's (or such unit's) nominations under section 2904(1) of this title.

(Pub. L. 94–294, § 6, May 28, 1976, 90 Stat. 531; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1603.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to certification of organizations to nominate for provisions relating to findings and issuance of orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2903, 2904 of this title.

§ 2906. Requirement of referendum

(a) Continuation or termination of order

For the purpose of determining whether the initial order shall be continued, not later than 22 months after the issuance of the order (or any earlier date recommended by the Board), the Secretary shall conduct a referendum among persons who have been producers or importers during a representative period, as determined by the Secretary. The order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that continuation of the order is not favored by a majority voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) Additional referendum to determine suspension or termination of order

After the initial referendum, the Secretary may conduct a referendum on the request of a representative group comprising 10 per centum or more of the number of cattle producers to determine whether cattle producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle and shall terminate or suspend the order in an orderly manner as soon as practicable after such determination.

(c) Reimbursement for cost of referendum; time and place of referendum; certification by producers; absentee mail ballot

The Department shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with conducting any referendum under this section, except for the salaries of Government employees. Any referendum conducted under this section shall be conducted on a date established by the Secretary, whereby producers shall certify that they were engaged in the production of cattle during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum. Each referendum shall be conducted at county extension offices, and there shall be provision for an absentee mail ballot on request.

(Pub. L. 94–294, § 7, May 28, 1976, 90 Stat. 531; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1604.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to requirement of referendum for provisions relating to permissive terms and conditions in orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2907 of this title.

§ 2907. Refunds

(a) Establishment of escrow account

During the period prior to the approval of the continuation of an order pursuant to the referendum required under section 2906(a) of this title, subject to subsection (f) of this section, the Board shall—

(1) establish an escrow account to be used for assessment refunds;

(2) place funds in such account in accordance with subsection (b) of this section; and

(3) refund assessments to persons in accordance with this section.

(b) Funding escrow account

Subject to subsection (f) of this section, the Board shall place in such account, from assessments collected under section 2906 of this title during the period referred to in subsection (a) of this section, an amount equal to the product obtained by multiplying—

(1) the total amount of assessments collected under section 2906 of this title during such period; by

(2) the greater of—

(A) the average rate of assessment refunds provided to producers under State beef promotion, research, and consumer information programs financed through producer assessments, as determined by the Board; or

(B) 15 percent.

(c) Demand and receipt of one-time refund

Subject to subsections (d), (e), and (f) of this section and notwithstanding any other provision of this chapter,[1] any person shall have the right to demand and receive from the Board a one-time refund of all assessments collected under section 2906 of this title from such person during the period referred to in subsection (a) of this section if such person—

(1) is responsible for paying such assessment; and

(2) does not support the program established under this chapter.

(d) Form and time period for demand for one-time refund

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(e) Submission of proof for one-time refund

Such refund shall be made on submission of proof satisfactory to the Board that the producer, person, or importer—

(1) paid the assessment for which refund is sought; and

(2) did not collect such assessment from another producer, person, or importer.

(f) Insufficiency of funds in escrow account; proration of funds among eligible persons

(1) If the amount in the escrow account required to be established by subsection (a) of this section is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is approved pursuant to the referendum required under section 2906(a)[1] of this title, the Board shall—

(A) continue to place in such account, from assessments collected under section 2904 of this title, the amount required under subsection (b) of this section, until such time as the Board is able to comply with subparagraph (B); and

(B) provide to all eligible persons the total amount of assessments demanded by all eligible producers.

(2) If the amount in the escrow account required to be established by subsection (a) of this section is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is not approved pursuant to the referendum required under section 2906(a) of this title, the Board shall prorate the amount of such refunds among all eligible persons who demand such refund.

(Pub. L. 94–294, § 8, May 28, 1976, 90 Stat. 532; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1604.)

[1] See References in Text note below.

REFERENCES IN TEXT

This chapter, referred to in provisions preceding par. 1 of subsec. (c), was in the original ''this subtitle'', and was translated as reading ''this Act'' to reflect the probable intent of Congress.

Section 2906(a) of this title, referred to in subsec. (f)(1), was in the original a reference to section 10(a) of Pub. L. 94–294, section 2909(a) of this title, and was translated as section 2906(a) of this title as the probable intent of Congress, in view of section 2909 of this title not containing a subsec. (a) and the subject matter of section 2906(a) which relates to a referendum.

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to refunds for provisions relating to required terms and conditions in orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§ 2908. Enforcement

(a) Restraining order; civil penalty

If the Secretary believes that the administration and enforcement of this chapter or an order would be adequately served by such procedure, following an opportunity for an administrative hearing on the record, the Secretary may—

(1) issue an order to restrain or prevent a person from violating an order; and

(2) assess a civil penalty of not more than $5,000 for violation of such order.

(b) Jurisdiction of district court

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation made or issued under this chapter.

(c) Civil action to be referred to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

(Pub. L. 94–294, § 9, May 28, 1976, 90 Stat. 534; Pub. L. 95–334, title III, § 302, Aug. 4, 1978, 92 Stat. 433; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1605.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to enforcement for provisions relating to referendum and cattle producer approval of orders, reimbursement of expenses by Secretary, procedural requirements, and bonding requirements.

1978—Pub. L. 95–334 substituted ''a majority'' for ''not less than two-thirds''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§ 2909. Investigations by Secretary; oaths and affirmations; subpenas; judicial enforcement; contempt proceedings; service of process

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this chapter or to deter-

mine whether any person subject to this chapter has engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, the order, or any rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

(Pub. L. 94–294, § 10, May 28, 1976, 90 Stat. 535; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1606.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to investigations, power to subpoena and take oaths and affirmations, and aid of courts, for provisions relating to termination or suspension of orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§ 2910. Preemption of other Federal and State programs; applicability of provisions to amendments to orders

(a) Nothing in this chapter may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State.

(b) The provisions of this chapter applicable to the order shall be applicable to amendments to the order.

(Pub. L. 94–294, § 11, May 28, 1976, 90 Stat. 535; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1606.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting administrative provisions for provisions relating to applicability of provisions to amendments to orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§ 2911. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter. Sums appropriated to carry out this chapter shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provisions of the order issued under section 2903(b) of this title.

(Pub. L. 94–294, § 12, May 28, 1976, 90 Stat. 535; Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1606.)

AMENDMENTS

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to authorization of appropriations for provisions relating to refund of assessment from Beef Board.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99–198, set out as a note under section 2901 of this title.

§§ 2912 to 2918. Omitted

CODIFICATION

Sections 2912 to 2918 of this title were omitted in the general revision of this chapter by Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1597.

Section 2912, Pub. L. 94–294, § 13, May 28, 1976, 90 Stat. 535, related to administrative review of orders, petition for such review, a hearing, and judicial review.

Section 2913, Pub. L. 94–294, § 14, May 28, 1976, 90 Stat. 536, related to enforcement of orders, referral of civil actions to Attorney General, penalties for willful violations, and availability of additional remedies. See section 2908 of this title.

Section 2914, Pub. L. 94–294, § 15, May 28, 1976, 90 Stat. 536, related to certification of organizations and contents of a factual report as criteria. See section 2905 of this title.

Section 2915, Pub. L. 94–294, § 16, May 28, 1976, 90 Stat. 537, provided that nothing in this chapter be construed to interfere with workings of any State beef board, council, or other promotion entity. See section 2910(a) of this title.

Section 2916, Pub. L. 94–294, § 17, May 28, 1976, 90 Stat. 537, authorized Secretary to promulgate regulations to carry out this chapter.

Section 2917, Pub. L. 94–294, § 18, May 28, 1976, 90 Stat. 537, related to investigations by Secretary, oaths and affirmations, subpenas, judicial enforcement, contempt proceedings, and service of process. See section 2909 of this title.

Section 2918, Pub. L. 94–294, § 20, May 28, 1976, 90 Stat. 538, authorized appropriations to carry out this chapter. See section 2911 of this title.

CHAPTER 63—FARMER–TO–CONSUMER DIRECT MARKETING

Sec.
3001. Congressional statement of purpose.
3002. Definitions.
3003. Survey.
3004. Direct marketing assistance within the States; allocation of funds; activities to be included in direct marketing program; consideration of consumer preferences.
3005. Repealed.
3006. Authorization of appropriations.

§ 3001. Congressional statement of purpose

It is the purpose of this chapter to promote, through appropriate means and on an economi-

cally sustainable basis, the development and expansion of direct marketing of agricultural commodities from farmers to consumers. To accomplish this objective, the Secretary of Agriculture (hereinafter referred to as the ''Secretary'') shall initiate and coordinate a program designed to facilitate direct marketing from farmers to consumers for the mutual benefit of consumers and farmers.

(Pub. L. 94–463, § 2, Oct. 8, 1976, 90 Stat. 1982.)

SHORT TITLE

Section 1 of Pub. L. 94–463 provided: ''That this Act [enacting this chapter and provisions set out as a note under section 5145 of Title 42, The Public Health and Welfare] may be cited as the 'Farmer-to-Consumer Direct Marketing Act of 1976'.''

§ 3002. Definitions

For purposes of this chapter, the term ''direct marketing from farmers to consumers'' shall mean the marketing of agricultural commodities at any marketplace (including, but not limited to, roadside stands, city markets, and vehicles used for house-to-house marketing of agricultural commodities) established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers' organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers.

(Pub. L. 94–463, § 3, Oct. 8, 1976, 90 Stat. 1982.)

§ 3003. Survey

The Secretary shall provide, through the Economic Research Service of the United States Department of Agriculture, or whatever agency or agencies the Secretary considers appropriate, a continuing survey of existing methods of direct marketing from farmers to consumers in each State. The initial survey, which shall be completed no later than one year following October 8, 1976, shall include the number of types of such marketing methods in existence, the volume of business conducted through each such marketing method, and the impact of such marketing methods upon financial returns to farmers (including their impact upon improving the economic viability of small farmers) and food quality and costs to consumers.

(Pub. L. 94–463, § 4, Oct. 8, 1976, 90 Stat. 1982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3004. Direct marketing assistance within the States; allocation of funds; activities to be included in direct marketing program; consideration of consumer preferences

(a) In order to promote the establishment and operation of direct marketing from farmers to consumers, the Secretary shall provide that funds appropriated to carry out this section be utilized by State departments of agriculture and the Extension Service of the United States Department of Agriculture for the purpose of conducting or facilitating activities which will initiate, encourage, develop, or coordinate methods of direct marketing from farmers to consumers within or among the States. Such funds shall be allocated to a State on the basis of the feasibility of direct marketing from farmers to consumers within that State as compared to other States and shall be allocated within a State to the State department of agriculture and to the Extension Service on the basis of the types of activities which are needed in the State and on the basis of which of these two agencies, or combination thereof, can best perform these activities. The activities shall include, but shall not be limited to—

(1) sponsoring conferences which are designed to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups) concerning the establishment and operation of direct marketing from farmers to consumers;

(2) compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the State, formulating drafts and enabling legislation needed to facilitate such direct marketing, determining feasible locations for additional facilities for such direct marketing, and preparing and disseminating practical information on the establishment and operation of such direct marketing; and

(3) providing technical assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

(b) In the implementation of this section, the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

(Pub. L. 94–463, § 5, Oct. 8, 1976, 90 Stat. 1982.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3006 of this title.

§ 3005. Repealed. Pub. L. 105–362, title I, § 101(d)(1), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 94–463, § 6, Oct. 8, 1976, 90 Stat. 1983; Pub. L. 103–437, § 4(a)(8), Nov. 2, 1994, 108 Stat. 4582, related to review of activities by Secretary and annual report to Congress.

§ 3006. Authorization of appropriations

(a) For purposes of carrying out section 3003 of this title, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 3004 of this title, there is authorized to be appropriated $1,500,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978.

(Pub. L. 94–463, § 7, Oct. 8, 1976, 90 Stat. 1983; Pub. L. 105–362, title I, § 101(d)(2), Nov. 10, 1998, 112 Stat. 3281.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–362 substituted ''section 3003'' for ''the provisions of sections 3003 and 3005''.

CHAPTER 64—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 sections 1647, 1676.

SUBCHAPTER I—FINDINGS, PURPOSES, AND DEFINITIONS

§ 3101. Purposes of agricultural research, extension, and education

The purposes of federally supported agricultural research, extension, and education are to—

(1) enhance the competitiveness of the United States agriculture and food industry in an increasingly competitive world environment;

(2) increase the long-term productivity of the United States agriculture and food industry while maintaining and enhancing the natural resource base on which rural America and the United States agricultural economy depend;

(3) develop new uses and new products for agricultural commodities, such as alternative fuels, and develop new crops;

(4) support agricultural research and extension to promote economic opportunity in rural communities and to meet the increasing demand for information and technology transfer throughout the United States agriculture industry;

(5) improve risk management in the United States agriculture industry;

(6) improve the safe production and processing of, and adding of value to, United States food and fiber resources using methods that maintain the balance between yield and environmental soundness;

(7) support higher education in agriculture to give the next generation of Americans the knowledge, technology, and applications necessary to enhance the competitiveness of United States agriculture; and

(8) maintain an adequate, nutritious, and safe supply of food to meet human nutritional needs and requirements.

(Pub. L. 95–113, title XIV, § 1402, as added Pub. L. 101–624, title XVI, § 1602(a), Nov. 28, 1990, 104 Stat. 3705; amended Pub. L. 104–127, title VIII, § 801, Apr. 4, 1996, 110 Stat. 1156.)

PRIOR PROVISIONS

A prior section 3101, Pub. L. 95–113, title XIV, § 1402, Sept. 29, 1977, 91 Stat. 981; Pub. L. 97–98, title XIV, § 1402, Dec. 22, 1981, 95 Stat. 1294; Pub. L. 99–198, title XIV, § 1402, Dec. 23, 1985, 99 Stat. 1542, stated Congressional findings, prior to repeal by Pub. L. 101–624, title XVI, § 1601(f)(1)(A), Nov. 28, 1990, 104 Stat. 3704.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions which set out six purposes of federally funded agricultural research and extension programs.

SHORT TITLE OF 1985 AMENDMENT

Section 1401 of title XIV of Pub. L. 99–198 provided that: ''This title [enacting sections 1632, 3224, 3292, 3319a to 3319d, and 4701 to 4710 of this title, amending this section and sections 178c, 342, 343, 390 to 390d, 390f, 390h, 390i, 390j, 450i, 2266, 2662, 2663, 3103, 3121 to 3123, 3124a, 3125, 3151, 3152, 3194 to 3196, 3221 to 3223, 3291, 3311, 3312, 3318, 3319, 3322, 3324, 3335, and 3336 of this title, repealing sections 390e, 390g, 3174, 3177, 3301 to 3304, and 3323 of this title, enacting provisions set out as notes under sections 343, 390, 390c, 450i, 3173, 3292, 3311, 3312, and 4701 of this title, amending provisions set out as a note under section 3222 of this title, and repealing provisions set out as a note under section 2281 of this title] may be cited as the 'National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985'.''

SHORT TITLE OF 1981 AMENDMENT

Section 1401 of title XIV of Pub. L. 97–98 provided that: ''This title [enacting sections 2271, 2661 to 2667, 3124a, 3223, 3317 to 3319, 3321 to 3324, and 3331 to 3336 of this title, amending this section and sections 322, 361c, 390c, 450i, 3102, 3103, 3121 to 3124, 3125 to 3128, 3151 to 3154, 3175, 3177, 3191, 3192, 3194 to 3196, 3221, 3222, 3263, 3282, 3291, 3311, and 3312 of this title, section 5315 of Title 5, Government Organization and Employees, sections 582a, 582a–1, and 582a–3 to 582a–5 of Title 16, Conservation, section 483 of Title 40, Public Buildings, Property, and Works, and sections 6651 and 8852 of Title 42, The Public Health and Welfare, repealing sections 2670 and 3176 of this title, omitting section 2668 of this title, and enacting provisions set out as notes under sections 2281 and 3176 of this title] may be cited as the 'National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981'.''

SHORT TITLE

Section 1401 of title XIV of Pub. L. 95–113 provided that: ''This title [enacting this chapter and sections 2669 and 2670 of this title, amending sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealing section 390k of this title] may be cited as the 'National Agricultural Research, Extension, and Teaching Policy Act of 1977'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390a, 2204f, 3123, 7612 of this title.

§ 3102. Additional purposes of agricultural research and extension

The purposes of this chapter are to—

(1) establish firmly the Department of Agriculture as the lead agency in the Federal Government for the food and agricultural sciences, and to emphasize that agricultural research, extension, and teaching are distinct missions of the Department of Agriculture;

(2) undertake the special measures set forth in this chapter to improve the coordination and planning of agricultural research, extension, and teaching programs, identify needs and establish priorities for these programs, assure that national agricultural research, extension, and teaching objectives are fully achieved, and assure that the results of agricultural research are effectively communicated and demonstrated to farmers, processors, handlers, consumers, and all other users who can benefit therefrom;

(3) increase cooperation and coordination in the performance of agricultural research by Federal departments and agencies, the States, State agricultural experiment stations, colleges and universities, and user groups;

(4) enable the Federal Government, the States, colleges and universities, and others to implement needed agricultural research, extension, and teaching programs, through the establishment of new programs and the improvement of existing programs, as provided for in this chapter;

(5) establish a new program of grants for high-priority agricultural research to be awarded on the basis of competition among research workers and all colleges and universities;

(6) establish a new program of grants for facilities and instrumentation used in agricultural research; and

(7) establish a new program of education grants and fellowships to strengthen research, extension, and teaching programs in the food and agricultural sciences, to be awarded on the basis of competition.

(Pub. L. 95–113, title XIV, § 1403, Sept. 29, 1977, 91 Stat. 983; Pub. L. 97–98, title XIV, § 1403, Dec. 22, 1981, 95 Stat. 1296; Pub. L. 101–624, title XVI, § 1602(b), Nov. 28, 1990, 104 Stat. 3705.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original this ''title'', meaning title XIV of Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 981, as amended, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–624 amended section catchline generally.

1981—Par. (2). Pub. L. 97–98, § 1403(1), inserted ''extension, and teaching programs,'' and substituted ''these programs'' for ''such research, assure that high priority research is given adequate funding''.

Par. (4). Pub. L. 97–98, § 1403(2), substituted ''programs through'' for ''programs, including the initiatives specified in section 3101(8) of this title, through''.

Par. (5). Pub. L. 97–98, § 1403(3), substituted ''among research workers'' for ''among scientific research workers''.

Par. (7). Pub. L. 97–98, § 1403(4), substituted ''research, extension, and teaching'' for ''training and research''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3103. Definitions

When used in this chapter:

(1) The term ''Advisory Board'' means the National Agricultural Research, Extension, Education, and Economics Advisory Board.

(2) The term ''agricultural research'' means research in the food and agricultural sciences.

(3) The term ''aquaculture'' means the propagation and rearing of aquacultural species, including, but not limited to, any species of finfish, mollusk, or crustacean (or other aquatic invertebrate), amphibian, reptile, ornamental fish, or aquatic plant, in controlled or selected environments.

(4) The terms ''college'' and ''university'' mean an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

(5) The term ''cooperative extension services'' means the organizations established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349), and section 209(b) of the Act of October 26, 1974 (88 Stat. 1428, as amended; D.C. Code, sec. 31–1719(b)).

(6) The term ''Department of Agriculture'' means the United States Department of Agriculture.

(7) The term ''extension'' means the informal education programs conducted in the States in cooperation with the Department of Agriculture.

(8) FOOD AND AGRICULTURAL SCIENCES.—The term ''food and agricultural sciences'' means basic, applied, and developmental research, extension, and teaching activities in food and fiber, agricultural, renewable natural resources, forestry, and physical and social sciences, including activities relating to the following:

(A) Animal health, production, and well-being.

(B) Plant health and production.

(C) Animal and plant germ plasm collection and preservation.

(D) Aquaculture.

(E) Food safety.

(F) Soil and water conservation and improvement.

(G) Forestry, horticulture, and range management.

(H) Nutritional sciences and promotion.

(I) Farm enhancement, including financial management, input efficiency, and profitability.

(J) Home economics.

(K) Rural human ecology.

(L) Youth development and agricultural education, including 4–H clubs.

(M) Expansion of domestic and international markets for agricultural commodities and products, including agricultural trade barrier identification and analysis.

(N) Information management and technology transfer related to agriculture.

(O) Biotechnology related to agriculture.

(P) The processing, distributing, marketing, and utilization of food and agricultural products.

(9) The term ''Hispanic-serving institution'' has the meaning given the term by section 1059c(b)(1)[1] of title 20.

(10) The term ''land-grant colleges and universities'' means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee University.

(11) The term ''Secretary'' means the Secretary of Agriculture of the United States.

(12) The term ''State'' means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, the Virgin Islands of the United States, and the District of Columbia.

(13) The term ''State agricultural experiment stations'' means those institutions eligible to receive funds under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i).

(14) TEACHING AND EDUCATION.—The terms ''teaching'' and ''education'' mean formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and matters relating thereto (such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies) conducted by colleges and universities offering baccalaureate or higher degrees.

(15) The term ''cooperating forestry schools'' means those institutions eligible to receive funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), commonly known as the McIntire-Stennis Act of 1962.

(16) The term ''State cooperative institutions'' or ''State cooperative agents'' means institutions or agents designated by—

(A) the Act of July 2, 1862 (7 U.S.C. 301 et seq.), commonly known as the First Morrill Act;

(B) the Act of August 30, 1890 (7 U.S.C. 321 et seq.), commonly known as the Second Morrill Act, including Tuskegee University;

(C) the Act of March 2, 1887 (7 U.S.C. 361a et seq.), commonly known as the Hatch Act of 1887;

[1] See References in Text note below.

(D) the Act of May 8, 1914 (7 U.S.C. 341 et seq.), commonly known as the Smith-Lever Act;

(E) the Act of October 10, 1962 (16 U.S.C. 582a et seq.), commonly known as the McIntire-Stennis Act of 1962; and

(F) subchapters V, VI, XI, and XII of this chapter.

(17) The term ''sustainable agriculture'' means an integrated system of plant and animal production practices having a site-specific application that will, over the long-term—

(A) satisfy human food and fiber needs;

(B) enhance environmental quality and the natural resource base upon which the agriculture economy depends;

(C) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

(D) sustain the economic viability of farm operations; and

(E) enhance the quality of life for farmers and society as a whole.

(Pub. L. 95–113, title XIV, §1404, Sept. 29, 1977, 91 Stat. 983; Pub. L. 97–98, title XIV, §1404, Dec. 22, 1981, 95 Stat. 1297; Pub. L. 99–198, title XIV, §1403, Dec. 23, 1985, 99 Stat. 1544; Pub. L. 101–624, title XVI, §1603, Nov. 28, 1990, 104 Stat. 3705; Pub. L. 102–237, title IV, §402(3), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, §§802(b)(1), 815(b), 820(a), 853(b)(1), Apr. 4, 1996, 110 Stat. 1159, 1167, 1168, 1172; Pub. L. 105–185, title II, §§221, 226(c)(1), June 23, 1998, 112 Stat. 537, 543.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 3102 of this title.

The Smith-Lever Act of May 8, 1914, referred to in pars. (5) and (16)(D), is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, which is classified generally to subchapter IV (§341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Section 1059c of title 20, referred to in par. (9), was amended generally by Pub. L. 105–244, title III, §303(e), Oct. 7, 1998, 112 Stat. 1639, and, as so amended, no longer relates to Hispanic-serving institutions.

Act of July 2, 1862, 12 Stat. 503, referred to in pars. (10) and (16)(A), is popularly known as the ''Morrill Act'' and also as the ''First Morrill Act'', which is classified generally to subchapter I (§301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under 301 of this title and Tables.

Act of August 30, 1890, 26 Stat. 417, referred to in pars. (10) and (16)(B), is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of March 2, 1887, referred to in pars. (13) and (16)(C), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of October 10, 1962, referred to in pars. (15) and 16(E), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Pub. L. 105–185, §221(c)(1), substituted ''chapter:'' for ''chapter—'' in introductory provisions.

Pars. (1) to (3). Pub. L. 105–185, §221(c)(2), (5), substituted ''The term'' for ''the term'' and period for semicolon at end.

Par. (4). Pub. L. 105–185, §221(c)(3), (5), substituted ''The terms'' for ''the terms'' and period for semicolon at end.

Pars. (5) to (7). Pub. L. 105–185, §221(c)(2), (5), substituted ''The term'' for ''the term'' and period for semicolon at end.

Par. (8). Pub. L. 105–185, §221(a), added par. (8) and struck out former par. (8) which defined term ''food and agricultural sciences'' in broadest sense of terms, including but not limited to activities relating to agriculture, food processing, forestry, acquaculture, home economics, rural community welfare, youth development, market expansion, improvement of productivity, and international food and agricultural issues.

Par. (9). Pub. L. 105–185, §221(c)(4), (5), substituted ''The term'' for ''the term'' after ''(9)'' and substituted period for semicolon at end.

Par. (10). Pub. L. 105–185, §§221(c)(2), (5), 226(c)(1), substituted ''The term'' for ''the term'', ''Tuskegee University'' for ''the Tuskegee Institute'', and period for semicolon at end.

Pars. (11) to (13). Pub. L. 105–185, §221(c)(2), (5), substituted ''The term'' for ''the term'' and period for semicolon at end.

Par. (14). Pub. L. 105–185, §221(b), (c)(5), inserted par. heading, substituted ''The terms 'teaching' and 'education' mean'' for ''the term 'teaching' means'', and substituted period for semicolon at end.

Par. (15). Pub. L. 105–185, §221(c)(2), (5), substituted ''The term'' for ''the term'' and period for semicolon at end.

Par. (16). Pub. L. 105–185, §221(c)(2), substituted ''The term'' for ''the term'' in introductory provisions.

Par. (16)(B). Pub. L. 105–185, §226(c)(1), substituted ''Tuskegee University'' for ''the Tuskegee Institute''.

Par. (16)(F). Pub. L. 105–185, §221(c)(6), substituted period for ''; and'' at end.

Par. (17). Pub. L. 105–185, §221(c)(2), substituted ''The term'' for ''the term''.

1996—Par. (1). Pub. L. 104–127, §802(b)(1), substituted ''National Agricultural Research, Extension, Education, and Economics Advisory Board'' for ''National Agricultural Research and Extension Users Advisory Board''.

Par. (3). Pub. L. 104–127, §820(a), inserted ''ornamental fish,'' after ''reptile,''.

Par. (9). Pub. L. 104–127, §815(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''the term 'Joint Council' means the Joint Council on Food and Agricultural Sciences;''.

Pars. (16) to (18). Pub. L. 104–127, §853(b)(1), inserted ''and'' at end of par. (16), substituted a period for ''; and'' at end of par. (17), and struck out par. (18) which read as follows: ''the term 'Technology Board' means the Agricultural Science and Technology Review Board established in section 3123a of this title.''

1991—Par. (18). Pub. L. 102–237 inserted ''and'' after ''Science''.

1990—Par. (16)(F). Pub. L. 101–624, §1603(2), inserted reference to subchapter VI of this chapter.

Pars. (17), (18). Pub. L. 101–624, §1603(1), (3), added pars. (17) and (18).

1985—Par. (8)(J). Pub. L. 99–198 added subpar. (J).

1981—Par. (8). Pub. L. 97–98, §1404(1), substituted in provision preceding subpar. (A) ''basic, applied, and developmental research, extension, and teaching activities in the food, agricultural, renewable natural resources, forestry, and physical and social sciences, in the broadest sense of these terms, including but not limited to, activities relating to'' for ''sciences relating to food and agriculture in the broadest sense, including

the social, economic, and political considerations of'', in subpar. (E) ''including consumer affairs, food and nutrition, clothing and textiles, housing, and family well-being and financial management;'' for ''human nutrition, and family life; and'', and in subpar. (F) ''community welfare and development'' for ''and community development'', and added subpars. (G) to (I).

Par. (12). Pub. L. 97–98, § 1404(2), struck out ''except as provided in subchapter VII of this chapter,'' before ''the term'' and included within term ''State'' American Samoa, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

Par. (14). Pub. L. 97–98, § 1404(4), struck out reference to laboratory training, inserted reference to practicum experience and matters relating to formal classroom instruction, laboratory instruction, and practicum experience, and substituted provision that the teaching be conducted at colleges or universities offering baccalaureate or higher degrees for provision that the teaching be conducted at colleges and universities leading to a baccalaureate and other recognized degrees.

Pars. (15), (16). Pub. L. 97–98, § 1404(5), added pars. (15) and (16).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390, 450i, 2027, 3319, 5801, 7626 of this title.

SUBCHAPTER II—COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

§ 3121. Responsibilities of Secretary and Department of Agriculture

The Department of Agriculture is designated as the lead agency of the Federal Government for agricultural research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease), extension, and teaching in the food and agricultural sciences, and the Secretary, in carrying out the Secretary's responsibilities, shall—

(1) establish jointly with the Secretary of Health and Human Services procedures for coordination with respect to nutrition research in areas of mutual interest;

(2) keep informed of developments in, and the Nation's need for, research, extension, teaching, and manpower development in the food and agricultural sciences and represent such need in deliberations within the Department of Agriculture, elsewhere within the executive branch of the United States Government, and with the several States and their designated land-grant colleges and universities, other colleges and universities, agricultural and related industries, and other interested institutions and groups;

(3) coordinate all agricultural research, extension, and teaching activity conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other agencies of the executive branch of the United States Government;

(4) take the initiative in establishing coordination of State-Federal cooperative agricultural research, extension, and teaching programs, funded in whole or in part by the Department of Agriculture in each State, through the administrative heads of land-grant colleges and universities and the State directors of agricultural experiment stations and cooperative extension services, and other appropriate program administrators;

(5) consult the Advisory Board and appropriate advisory committees of the Department of Agriculture in the formulation of basic policies, goals, strategies, and priorities for programs of agricultural research, extension, and teaching;

(6) report (as a part of the Department of Agriculture's annual budget submissions) to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations actions taken or proposed to support the recommendations of the Advisory Board;

(7) establish appropriate review procedures to assure that agricultural research projects are timely and properly reported and published and that there is no unnecessary duplication of effort or overlapping between agricultural research units;

(8) establish Federal or cooperative multidisciplinary research teams on major agricultural research problems with clearly defined leadership, budget responsibility, and research programs;

(9) in order to promote the coordination of agricultural research of the Department of Agriculture, conduct a continuing inventory of ongoing and completed research projects being conducted within or funded by the Department;

(10) coordinate all agricultural research, extension, and teaching activities conducted or financed by the Department of Agriculture with the periodic renewable resource assessment and program provided for in sections 1601 and 1602 of title 16 and the appraisal and program provided for in sections 2004 and 2005 of title 16;

(11) coordinate the efforts of States, State cooperative institutions, State extension services, the Advisory Board, and other appropriate institutions in assessing the current status of, and developing a plan for, the effective transfer of new technologies, including biotechnology, to the farming community, with particular emphasis on addressing the unique problems of small- and medium-sized farms in gaining information about those technologies; and

(12) establish appropriate controls with respect to the development and use of the application of biotechnology to agriculture.

(Pub. L. 95–113, title XIV, § 1405, Sept. 29, 1977, 91 Stat. 985; Pub. L. 97–98, title XIV, § 1405, Dec. 22, 1981, 95 Stat. 1298; Pub. L. 99–198, title XIV,

§ 1404, Dec. 23, 1985, 99 Stat. 1544; Pub. L. 101–624, title XVI, § 1605(b)(3), Nov. 28, 1990, 104 Stat. 3714; Pub. L. 104–127, title VIII, §§ 852(b)(1), 853(b)(2), Apr. 4, 1996, 110 Stat. 1171, 1172.)

AMENDMENTS

1996—Par. (5). Pub. L. 104–127, § 852(b)(1)(A), substituted ''Advisory Board'' for ''Joint Council, Advisory Board,''.

Par. (11). Pub. L. 104–127, § 852(b)(1)(B), struck out ''the Joint Council,'' before ''the Advisory Board''.

Par. (12). Pub. L. 104–127, § 853(b)(2), struck out '', after coordination with the Technology Board,'' after ''establish''.

1990—Par. (12). Pub. L. 101–624 inserted '', after coordination with the Technology Board,'' after ''establish''.

1985—Pars. (11), (12). Pub. L. 99–198 added pars. (11) and (12) and struck out former par. (11) which required the Secretary to ''take the initiative in overcoming barriers to long-range planning by developing, in conjunction with the States, State cooperative institutions, the Joint Council, the Advisory Board, and other appropriate institutions, a long-term needs assessment for food, fiber, and forest products, and by determining the research requirements necessary to meet the identified needs.''

1981—Par. (1). Pub. L. 97–98, § 1405(1), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

Par. (5). Pub. L. 97–98, § 1405(2), substituted ''and appropriate advisory'' for ''and other appropriate advisory''.

Par. (6). Pub. L. 97–98, § 1405(3), inserted ''or proposed''.

Pars. (10), (11). Pub. L. 97–98, § 1405(4)–(6), added pars. (10) and (11).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3122. Repealed. Pub. L. 104–127, title VIII, § 852(a), Apr. 4, 1996, 110 Stat. 1171

Section, Pub. L. 95–113, title XIV, § 1407, Sept. 29, 1977, 91 Stat. 986; Pub. L. 97–98, title XIV, § 1407, Dec. 22, 1981, 95 Stat. 1299; Pub. L. 99–198, title XIV, § 1405, Dec. 23, 1985, 99 Stat. 1545; Pub. L. 101–624, title XVI, § 1604(a), Nov. 28, 1990, 104 Stat. 3706; Pub. L. 102–237, title IV, §§ 402(1), 407(1), Dec. 13, 1991, 105 Stat. 1863, 1864; Pub. L. 104–66, title I, § 1012(d), (e), Dec. 21, 1995, 109 Stat. 712, related to establishment of Joint Council on Food and Agricultural Sciences.

§ 3123. National Agricultural Research, Extension, Education, and Economics Advisory Board

(a) Establishment

The Secretary shall establish within the Department of Agriculture a board to be known as the ''National Agricultural Research, Extension, Education, and Economics Advisory Board''.

(b) Membership

(1) In general

The Advisory Board shall consist of 30 members, appointed by the Secretary.

(2) Selection of members

The Secretary shall appoint members of the Advisory Board from nominations submitted by organizations, associations, societies, councils, federations, groups, and companies fitting the criteria specified in paragraph (3).

(3) Membership categories

The Advisory Board shall consist of members from each of the following categories:

(A) 1 member representing a national farm organization.

(B) 1 member representing farm cooperatives.

(C) 1 member actively engaged in the production of a food animal commodity.

(D) 1 member actively engaged in the production of a plant commodity.

(E) 1 member representing a national animal commodity organization.

(F) 1 member representing a national crop commodity organization.

(G) 1 member representing a national aquaculture association.

(H) 1 member representing a national food animal science society.

(I) 1 member representing a national crop, soil, agronomy, horticulture, or weed science society.

(J) 1 member representing a national food science organization.

(K) 1 member representing a national human health association.

(L) 1 member representing a national nutritional science society.

(M) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

(N) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

(O) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

(P) 1 member representing Hispanic-serving institutions.

(Q) 1 member representing the American Colleges of Veterinary Medicine.

(R) 1 member representing that portion of the scientific community not closely associated with agriculture.

(S) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

(T) 1 member representing food retailing and marketing interests.

(U) 1 member representing food and fiber processors.

(V) 1 member actively engaged in rural economic development.

(W) 1 member representing a national consumer interest group.

(X) 1 member representing a national forestry group.

(Y) 1 member representing a national conservation or natural resource group.

(Z) 1 member representing private sector organizations involved in international development.

(AA) 1 member representing an agency within the Department of Agriculture that lacks research capabilities.

(BB) 1 member representing a research agency of the Federal Government (other than the Department of Agriculture).

(CC) 1 member representing a national social science association.

(DD) 1 member representing national organizations directly concerned with agricultural research, education, and extension.

(4) Ex officio members

The Secretary, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Administrator of the Cooperative State Research, Education, and Extension Service, the Administrator of the Economic Research Service, and the Administrator of the National Agricultural Statistics Service shall serve as ex officio members of the Advisory Board.

(5) Officers

At the first meeting of the Advisory Board each year, the members shall elect from among the members of the Advisory Board a chairperson, vice chairperson, and 7 additional members to serve on the executive committee established under paragraph (6).

(6) Executive committee

The Advisory Board shall establish an executive committee charged with the responsibility of working with the Secretary and officers and employees of the Department of Agriculture to summarize and disseminate the recommendations of the Advisory Board.

(7) Equal representation of public and private sector members

In appointing members to serve on the Advisory Board, the Secretary shall ensure, to the maximum extent practicable, equal representation of public and private sector members.

(c) Duties

The Advisory Board shall—

(1) review and provide consultation to the Secretary and land-grant colleges and universities on long-term and short-term national policies and priorities, as set forth in section 3101 of this title, relating to agricultural research, extension, education, and economics;

(2) evaluate the results and effectiveness of agricultural research, extension, education, and economics with respect to the policies and priorities;

(3) review and make recommendations to the Under Secretary of Agriculture for Research, Education, and Economics on the research, extension, education, and economics portion of the draft strategic plan required under section 306 of title 5; and

(4) review the mechanisms of the Department of Agriculture for technology assessment (which should be conducted by qualified professionals) for the purposes of—

(A) performance measurement and evaluation of the implementation by the Secretary of the strategic plan required under section 306 of title 5;

(B) implementation of the national research policies and priorities set forth in section 3101 of this title; and

(C) the development of mechanisms for the assessment of emerging public and private agricultural research and technology transfer initiatives.

(d) Consultation

(1) Duties of Advisory Board

In carrying out this section, the Advisory Board shall solicit opinions and recommendations from persons who will benefit from and use federally funded agricultural research, extension, education, and economics.

(2) Duties of Secretary

To comply with a provision of this chapter or any other law that requires the Secretary to consult or cooperate with the Advisory Board or that authorizes the Advisory Board to submit recommendations to the Secretary, the Secretary shall—

(A) solicit the written opinions and recommendations of the Advisory Board; and

(B) provide a written response to the Advisory Board regarding the manner and extent to which the Secretary will implement recommendations submitted by the Advisory Board.

(e) Appointment

A member of the Advisory Board shall be appointed by the Secretary for a term of up to 3 years. The members of the Advisory Board shall be appointed to serve staggered terms.

(f) Federal Advisory Committee Act

The Advisory Board shall be deemed to have filed a charter for the purpose of section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

(g) Annual limitation on Advisory Board expenses

(1) Maximum amount

Not more than $350,000 may be used to cover the necessary expenses of the Advisory Board for each fiscal year.

(2) General limitation

The expenses of the Advisory Board shall not be counted toward any general limitation on the expenses of advisory committees, panels, commissions, and task forces of the Department of Agriculture contained in any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after June 23, 1998, unless the appropriation Act specifically refers to this subsection and specifically includes this Advisory Board within the general limitation.

(h) Termination

The Advisory Board shall remain in existence until September 30, 2002.

(Pub. L. 95–113, title XIV, § 1408, Sept. 29, 1977, 91 Stat. 988; Pub. L. 97–98, title XIV, § 1408, Dec. 22, 1981, 95 Stat. 1300; Pub. L. 99–198, title XIV, § 1406, Dec. 23, 1985, 99 Stat. 1545; Pub. L. 101–624, title XVI, § 1604(b), Nov. 28, 1990, 104 Stat. 3709; Pub. L. 102–237, title IV, § 402(2), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–66, title I, §§ 1011(t), 1012(f), Dec. 21, 1995, 109 Stat. 710, 712; Pub. L. 104–127, title VIII, § 802(a), Apr. 4, 1996, 110 Stat. 1156;

Pub. L. 105–185, title II, § 222, June 23, 1998, 112 Stat. 538.)

REFERENCES IN TEXT

Act of July 2, 1862, referred to in subsec. (b)(3)(M), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (b)(3)(N), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

For definition of ''this chapter'', referred to in subsec. (d)(2), see note set out under section 3102 of this title.

Section 9 of the Federal Advisory Committee Act, referred to in subsec. (f), is section 9 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b)(7). Pub. L. 105–185, § 222(a), added par. (7).

Subsec. (d). Pub. L. 105–185, § 222(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsecs. (g), (h). Pub. L. 105–185, § 222(c), added subsec. (g) and redesignated former subsec. (g) as (h).

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions which established National Agricultural Research and Extension Users Advisory Board and provided for membership, chairperson and vice-chairperson, meetings, panels of the Board, responsibilities of the Board, reports by the Board, and a report by the Secretary of Agriculture on manner in which recommendations of Board had been incorporated into programs of Department of Agriculture.

1995—Subsec. (g)(1). Pub. L. 104–66, § 1012(f), inserted ''may provide'' before ''a written report'' in first sentence.

Subsec. (g)(2), (3). Pub. L. 104–66, § 1011(t), redesignated par. (3) as (2) and struck out former par. (2) which required Advisory Board to submit to the President and congressional committees a report containing appraisal by Board of President's proposed budget for food and agricultural sciences and recommendations of Secretary.

1991—Subsec. (e). Pub. L. 102–237, § 402(2)(A), substituted ''Government'' for ''government''.

Subsec. (g)(1). Pub. L. 102–237, § 402(2)(B), substituted ''federally'' for ''Federally''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which established National Agricultural Research and Extension Users Advisory Board to expire on Sept. 30, 1990, authorized membership of Board at 25 representatives, provided for selection of chairman and vice-chairman, provided for meetings at least once during each three month period, authorized establishment of panels to assist Board in meeting its responsibilities, and outlined general and specific responsibilities of Board, including the submission of reports.

1985—Subsec. (a). Pub. L. 99–198, § 1406(a), substituted ''1990'' for ''1985''.

Subsec. (f)(2)(G). Pub. L. 99–198, § 1406(b), added subpar. (G).

1981—Subsec. (a). Pub. L. 97–98, § 1408(a), substituted ''that expires September 30, 1985'' for ''of five years''.

Subsec. (b). Pub. L. 97–98, § 1408(b), in provision preceding par. (1) substituted ''twenty-five'' for ''twenty-one'' and inserted ''to serve staggered terms'' and in par. (1) substituted ''eight'' for ''four'' and ''agricultural, forestry, and aquacultural products, from various geographical regions'' for ''agricultural commodities, forest products, and aquacultural products''.

Subsec. (f)(2)(E). Pub. L. 97–98, § 1408(c)(1), substituted ''July 1'' for ''October 1''.

Subsec. (f)(2)(F). Pub. L. 97–98, § 1408(c)(2), substituted ''February 20 of'' for ''March 1 of''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 344, 361g, 390b, 450i, 2204f, 7601 of this title; title 16 section 1673.

§ 3123a. Repealed. Pub. L. 104–127, title VIII, § 853(a), Apr. 4, 1996, 110 Stat. 1172

Section, Pub. L. 95–113, title XIV, § 1408A, as added Pub. L. 101–624, title XVI, § 1605(a), Nov. 28, 1990, 104 Stat. 3711; amended Pub. L. 102–237, title IV, § 402(3), (4), Dec. 13, 1991, 105 Stat. 1863, related to establishment of Agricultural Science and Technology Review Board.

§ 3124. Existing research programs

It is the intent of Congress in enacting this chapter to augment, coordinate, and supplement the planning, initiation, and conduct of agricultural research programs existing prior to September 29, 1977, except that it is not the intent of Congress in enacting this title to limit the authority of the Secretary of Health and Human Services under any Act which the Secretary of Health and Human Services administers.

(Pub. L. 95–113, title XIV, § 1409, Sept. 29, 1977, 91 Stat. 989; Pub. L. 97–98, title XIV, § 1409, Dec. 22, 1981, 95 Stat. 1301.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 3102 of this title.

AMENDMENTS

1981—Pub. L. 97–98 substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare'' in two places.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3124a. Federal-State partnership and coordination

(a) Covered programs; statement of purposes

A unique partnership arrangement exists in food and agricultural research, extension, and teaching between the Federal Government and the governments of the several States whereby the States have accepted and have supported, through legislation and appropriations—

(1) research programs under—

(A) the Act of March 2, 1887 (7 U.S.C. 361a et seq.), commonly known as the Hatch Act of 1887;

(B) the Act of October 10, 1962 (16 U.S.C. 582a et seq.), commonly known as the McIntire-Stennis Act of 1962;

(C) subchapter V of this chapter; and

(D) subchapter VI of this chapter;

(2) extension programs under subchapter VI of this chapter and the Act of May 8, 1914 (7 U.S.C. 341 et seq.), commonly known as the Smith-Lever Act;

(3) teaching programs under—

(A) the Act of July 2, 1862 (7 U.S.C. 301 et seq.), commonly known as the First Morrill Act;

(B) the Act of August 30, 1890 (7 U.S.C. 321 et seq.), commonly known as the Second Morrill Act; and

(C) the Act of June 29, 1935 (7 U.S.C. 329, commonly known as the Bankhead-Jones Act; and

(4) international agricultural programs under title XII of the Foreign Assistance Act of 1961 (22 U.S.C. 2220a et seq.).

This partnership in publicly supported agricultural research, extension, and teaching involving the programs of Federal agencies and the programs of the States has played a major role in the outstanding successes achieved in meeting the varied, dispersed, and in many cases, site-specific needs of American agriculture. This partnership must be preserved and enhanced.

(b) Establishment, etc., of cooperative centers

In order to promote research and education in food and human nutrition, the Secretary may establish cooperative human nutrition centers to focus resources, facilities, and scientific expertise on particular high priority nutrition problems identified by the Department. Such centers shall be established at State cooperative institutions; and at other colleges and universities, having a demonstrable capacity to carry out human nutrition research and education.

(c) Designation of State cooperative institutions; reports; research grants

(1) To promote research for purposes of developing agricultural policy alternatives, the Secretary is encouraged—

(A) to designate at least one State cooperative institution to conduct research in an interdisciplinary fashion; and

(B) to report on a regular basis with respect to the effect of emerging technological, economic, sociological, and environmental developments on the structure of agriculture.

(2) Support for this effort should include grants to examine the role of various food production, processing, and distribution systems that may primarily benefit small- and medium-sized family farms, such as diversified farm plans, energy, water, and soil conservation technologies, direct and cooperative marketing, production and processing cooperatives, and rural community resource management.

(d) Designation of State agricultural experiment stations and Agricultural Research Service facilities; pilot projects; additional research

To address more effectively the critical need for reducing farm input costs, improving soil, water, and energy conservation on farms and in rural areas, using sustainable agricultural methods, adopting alternative processing and marketing systems, and encouraging rural resources management, the Secretary is encouraged to designate at least one State agricultural experiment station and one Agricultural Research Service facility to examine these issues in an integrated and comprehensive manner, while conducting ongoing pilot projects contributing additional research through the Federal-State partnership.

(e) Applicability of Federal Advisory Committee Act

(1) Public meetings

All meetings of any entity described in paragraph (3) shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of such an entity shall be kept and made available to the public on request.

(2) Exemption

The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act [7 U.S.C. 2281 et seq.] shall not apply to any entity described in paragraph (3).

(3) Entities described

This subsection shall apply to any committee, board, commission, panel, or task force, or similar entity that—

(A) is created for the purpose of cooperative efforts in agricultural research, extension, or teaching; and

(B) consists entirely of—

(i) full-time Federal employees; and

(ii) one or more individuals who are employed by, or are officials of—

(I) a State cooperative institution or State cooperative agency; or

(II) a public college or university or other postsecondary institution.

(Pub. L. 95–113, title XIV, § 1409A, as added Pub. L. 97–98, title XIV, § 1410(a), Dec. 22, 1981, 95 Stat. 1301; amended Pub. L. 99–198, title XIV, § 1407, Dec. 23, 1985, 99 Stat. 1545; Pub. L. 101–624, title XVI, § 1601(f)(1)(B), Nov. 28, 1990, 104 Stat. 3704; Pub. L. 104–127, title VIII, § 803, Apr. 4, 1996, 110 Stat. 1159.)

REFERENCES IN TEXT

Act of March 2, 1887, referred to in subsec. (a)(1)(A), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of October 10, 1962, referred to in subsec. (a)(1)(B), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of May 8, 1914, referred to in subsec. (a)(2), is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, popularly known as the Smith-Lever Act, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of July 2, 1862, referred to in subsec. (a)(3)(A), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in subsec. (a)(3)(B), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a)(4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Title XII of the Foreign Assistance Act of 1961 probably means title XII of chapter 2 of part I of the Act, which is classified generally to subpart XII (§ 2220a et seq.) of part II of subchapter I of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (e)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Title XVIII of this Act, referred to in subsec. (e)(2), is title XVIII of the Food and Agriculture Act of 1977, Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 1041, as amended, which is classified generally to chapter 55A (§ 2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–127 added subsec. (e).

1990—Subsecs. (c) to (e). Pub. L. 101–624 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: ''In order to meet the increasing needs of consumers and to promote the health and welfare of people, the Secretary shall ensure that the cooperative research, extension, and teaching programs of the various States adequately address the challenges described in paragraph (10) of section 3101 of this title. The Secretary may implement new cooperative initiatives in home economics and related disciplines to address such challenges.''

1985—Subsec. (a)(4). Pub. L. 99–198, § 1407(a), added par. (4).

Subsecs. (d), (e). Pub. L. 99–198, § 1407(b), added subsecs. (d) and (e).

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3125. Annual report of Secretary of Agriculture to President and Congress

The Secretary shall submit to the President and Congress by January 1 of each year a report on the Nation's agricultural research, extension, and teaching activities, and such report shall include—

(1) a review covering the following three categories of activities of the Department of Agriculture with respect to agricultural research, extension, and teaching activities and the relationship of these activities to similar activities of other departments and agencies of the Federal Government, the States, colleges and universities, and the private sector—

(A) a current inventory of such activities organized by statutory authorization and budget outlay;

(B) a current inventory of such activities organized by field of basic and applied science; and

(C) a current inventory of such activities organized by commodity and product category;

(2) any recommendations of the Advisory Board; and

(3) in the second and succeeding years, a five-year projection of national priorities with respect to agricultural research, extension, and teaching, taking into account both domestic and international needs.

(Pub. L. 95–113, title XIV, § 1410, Sept. 29, 1977, 91 Stat. 989; Pub. L. 97–98, title XIV, § 1411, Dec. 22, 1981, 95 Stat. 1302; Pub. L. 99–198, title XIV, § 1408, Dec. 23, 1985, 99 Stat. 1546; Pub. L. 101–624, title XVI, § 1605(b)(4), Nov. 28, 1990, 104 Stat. 3714; Pub. L. 104–127, title VIII, §§ 802(b)(2), 852(b)(2), 853(b)(3), Apr. 4, 1996, 110 Stat. 1159, 1171, 1172.)

AMENDMENTS

1996—Par. (2). Pub. L. 104–127 substituted ''any recommendations of the Advisory Board'' for ''the recommendations of the Joint Council developed under section 3122(f) of this title, the recommendations of the Advisory Board developed under section 3123(g) of this title, and the recommendations of the Technology Board developed under section 3123a(d) of this title''.

1990—Par. (2). Pub. L. 101–624 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the statements of recommendations of the Joint Council developed pursuant to the provisions of section 3122(d)(2)(G) of this title and the statement of recommendations of the Advisory Board developed pursuant to the provisions of section 3123(f)(2)(E) of this title; and''.

1985—Par. (4). Pub. L. 99–198 struck out par. (4) which provided for inclusion ''in the report of January 1, 1984, the Secretary's needs assessment developed pursuant to the provisions of section 3121(11) of this title''.

1981—Pub. L. 97–98 substituted in provision preceding par. (1) ''January 1'' for ''February 1'' and added par. (4).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3125a. National Agricultural Library

(a) Purpose

The purpose of this section is to consolidate and expand the statutory authority for the operation of the library of the Department of Agriculture established pursuant to section 2201 of this title as the primary agricultural information resource of the United States.

(b) Establishment

There is established in the Department of Agriculture the National Agricultural Library to serve as the primary agricultural information resource of the United States.

(c) Director

The Secretary shall appoint a Director for the National Agricultural Library who shall be subject to the direction of the Secretary.

(d) Functions of Director

The Director may—

(1) acquire, preserve, and manage information and information products and services in all phases of agriculture and allied sciences;

(2) organize agricultural information and information products and services by cataloging, indexing, bibliographical listing, and other appropriate techniques;

(3) provide agricultural information and information products and services to agencies of

the Department of Agriculture and the Federal Government, public and private organizations, and individuals, within the United States and internationally;

(4) plan for, coordinate, and evaluate information and library needs related to agricultural research and education;

(5) cooperate with and coordinate efforts among agricultural college and university libraries, in conjunction with private industry and other agricultural library and information centers, toward the development of a comprehensive agricultural library and information network; and

(6) coordinate the development of specialized subject information services among the agricultural and library information communities.

(e) Library products and services

The Director may—

(1) make copies of the bibliographies prepared by the National Agricultural Library;

(2) make microforms and other reproductions of books and other library materials in the Department;

(3) provide any other library and information products and services; and

(4) sell those products and services at such prices (not less than the estimated total cost of disseminating the products and services) as the Secretary may determine appropriate.

(f) Receipts

Funds received from sales under subsection (e) of this section shall be deposited in the Treasury of the United States to the credit of the applicable appropriation and shall remain available until expended.

(g) Agreements

(1) In general

The Director may enter into agreement with, and receive funds from any State, and other political subdivision, organization, business, or individual for the purpose of conducting activities to carry out this section.

(2) Funds

Funds received under this subsection for payments for library products and services or other activities shall be deposited to the miscellaneous contributed fund account, and shall remain available until expended.

(h) Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

(Pub. L. 95–113, title XIV, §1410A, as added Pub. L. 101–624, title XVI, §1606(a), Nov. 28, 1990, 104 Stat. 3714.)

§ 3125b. National Rural Information Center Clearinghouse

(a) Establishment

The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (in this section referred to as the ''Clearinghouse'') to perform the functions specified in subsection (b) of this section.

(b) Functions

The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling. To the extent possible, the National Agricultural Library shall use telecommunications technology to disseminate information to rural areas.

(c) Federal agencies

On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to enable the Clearinghouse to carry out subsection (b) of this section.

(d) State and local agencies and nonprofit organizations

The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) Limitation on authorization of appropriations

To carry out this section, there are authorized to be appropriated $500,000 for each of the fiscal years 1991 through 2002.

(Pub. L. 101–624, title XXIII, §2381, Nov. 28, 1990, 104 Stat. 4049; Pub. L. 104–127, title VIII, §842, Apr. 4, 1996, 110 Stat. 1170; Pub. L. 105–185, title III, §301(b)(3), June 23, 1998, 112 Stat. 563.)

CODIFICATION

Section was enacted as part of the Rural Economic Development Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Subsec. (e). Pub. L. 104–127 substituted ''1997'' for ''1995''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917 of this title.

§ 3125c. Repealed. Pub. L. 104–127, title VIII, § 859(a), Apr. 4, 1996, 110 Stat. 1173

Section, Pub. L. 101–624, title XIV, §1499A, as added Pub. L. 102–237, title II, §201(h)(1), Dec. 13, 1991, 105 Stat. 1847, related to education program regarding handling of agricultural chemicals and agricultural chemical containers.

§ 3126. Libraries and information network

(a) Congressional declaration of policy

It is declared to be the policy of Congress that—

(1) cooperation and coordination among, and the more effective utilization of, disparate agricultural libraries and information units be facilitated;

(2) information and library needs related to agricultural research and education be effectively planned for, coordinated, and evaluated;

(3) a structure for the coordination of the agricultural libraries of colleges and universities, Department of Agriculture libraries, and their closely allied information gathering and disseminating units be established in close conjunction with private industry and other research libraries;

(4) effective access by all colleges and universities and Department of Agriculture personnel to literature and information regarding the food and agricultural sciences be provided;

(5) programs for training in information utilization with respect to the food and agricultural sciences, including research grants for librarians, information scientists, and agricultural scientists be established or strengthened; and

(6) the Department of Agriculture establish mutually valuable working relationships with international and foreign information and data programs.

(b) Food and Nutrition and Education Resources Center

There is established within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center. Such Center shall be responsible for—

(1) assembling and collecting food and nutrition education materials, including the results of nutrition research, training methods, procedures, and other materials related to the purpose of this chapter;

(2) maintaining such information and materials in a library; and

(3) providing notification about these collections on a regular basis to the State cooperative extension services, State educational agencies, and other interested persons.

(c) Authorization of appropriations

Funds are authorized to be appropriated annually in such amounts as Congress may determine necessary to support the purposes of this section. The Secretary is authorized to carry out this section with existing facilities through the use of grants, contracts, or such other means as the Secretary deems appropriate and to require matching of funds. No funds appropriated to support the purposes of this section shall be used to purchase additional equipment unless specifically authorized by law subsequent to September 29, 1977.

(Pub. L. 95–113, title XIV, §1411, Sept. 29, 1977, 91 Stat. 990; Pub. L. 97–98, title XIV, §1412, Dec. 22, 1981, 95 Stat. 1302.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b)(1), see note set out under section 3102 of this title.

AMENDMENTS

1981—Subsec. (a)(6). Pub. L. 97–98, §1412(1)–(3), added par. (6).

Subsec. (b)(3). Pub. L. 97–98, §1412(4), substituted ''notification about these collections on a regular basis to the State cooperative extension services, State educational agencies, and other interested persons'' for ''for the dissemination of such information and materials on a regular basis to State educational agencies and other interested persons''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3127. Support for Advisory Board

(a) Appointment of staff

To assist the Advisory Board in the performance of its duties, the Secretary may appoint, after consultation with the chairperson of the Advisory Board—

(1) a full-time executive director who shall perform such duties as the chairperson of the Advisory Board may direct and who shall receive compensation at a rate not to exceed the rate payable for GS–18 of the General Schedule established in section 5332 of title 5; and

(2) a professional staff of not more than five full-time employees qualified in the food and agricultural sciences, of which one shall serve as the executive secretary to the Advisory Board.

(b) Additional clerical assistance and staff personnel

The Secretary shall provide such additional clerical assistance and staff personnel as may be required to assist the Advisory Board in carrying out its duties.

(c) Assistance of outside personnel

In formulating its recommendations to the Secretary, the Advisory Board may obtain the assistance of Department of Agriculture employees, and, to the maximum extent practicable, the assistance of employees of other Federal departments and agencies conducting related programs of agricultural research, extension, and teaching and of appropriate representatives of colleges and universities, including State agricultural experiment stations, cooperative extension services, and other non-Federal organizations conducting significant programs in the food and agricultural sciences.

(Pub. L. 95–113, title XIV, §1412, Sept. 29, 1977, 91 Stat. 991; Pub. L. 97–98, title XIV, §1413, Dec. 22, 1981, 95 Stat. 1302; Pub. L. 101–624, title XVI, §1605(b)(1), Nov. 28, 1990, 104 Stat. 3713; Pub. L. 102–237, title IV, §402(5), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, §§852(b)(3), 853(b)(4), Apr. 4, 1996, 110 Stat. 1171, 1172; Pub. L. 105–185, title VI, §606(c)(1), June 23, 1998, 112 Stat. 603.)

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–185, §606(c)(1)(A), substituted ''its duties'' for ''their duties''.

Subsec. (c). Pub. L. 105–185, §606(c)(1)(B), substituted ''its recommendations'' for ''their recommendations''.

1996—Pub. L. 104–127, §§852(b)(3)(A), 853(b)(4)(A), in section catchline, substituted ''Advisory Board'' for

''Joint Council, Advisory Board, and Technology Board''.

Subsec. (a). Pub. L. 104–127, §§ 852(b)(3)(B)(i), (ii), 853(b)(4)(B)(i), in introductory provisions, substituted ''To assist the Advisory Board in'' for ''To assist the Joint Council, the Advisory Board, and the Technology Board in'' and ''with the chairperson of the Advisory Board'' for ''with the cochairpersons of the Joint Council and the chairperson of the Advisory Board and the Technology Board''.

Subsec. (a)(1). Pub. L. 104–127, §§ 852(b)(3)(B)(ii), 853(b)(4)(B)(i), substituted ''the chairperson of the Advisory Board'' for ''the cochairpersons of the Joint Council and the chairperson of the Advisory Board and the Technology Board''.

Subsec. (a)(2). Pub. L. 104–127, §§ 852(b)(3)(B)(iii), 853(b)(4)(B)(ii), substituted ''one shall serve as the executive secretary to the Advisory Board'' for ''one shall serve as the executive secretary to the Joint Council, one shall serve as the executive secretary to the Advisory Board, and one shall serve as the executive secretary to the Technology Board''.

Subsecs. (b), (c). Pub. L. 104–127, §§ 852(b)(3)(C), 853(b)(4)(C), substituted ''Advisory Board'' for ''Joint Council, Advisory Board, and Technology Board''.

1991—Subsecs. (b) and (c). Pub. L. 102–237 substituted '', Advisory Board, and Technology Board'' for ''and Advisory Board''.

1990—Pub. L. 101–624, § 1605(b)(1)(A), amended section catchline generally.

Subsec. (a). Pub. L. 101–624, § 1605(b)(1)(B), in introductory provision, substituted '', the Advisory Board, and the Technology Board'' for ''and the Advisory Board'' and inserted ''and the Technology Board'' before the dash, in par. (1), inserted ''and the Technology Board'' before ''may direct'', and in par. (2), substituted ''Council,'' for ''Council and'' and inserted before period at end '', and one shall serve as the executive secretary to the Technology Board''.

Subsecs. (b), (c). Pub. L. 101–624, § 1605(b)(1)(C), (D), which directed the substitution of '', the Advisory Board, and the Technology Board'' for ''and the Advisory Board'', could not be executed because the phrase ''and the Advisory Board'' did not appear in text.

1981—Subsec. (a). Pub. L. 97–98 inserted in provision preceding par. (1) provision requiring consultation with the cochairpersons of the Joint Council and the chairperson of the Advisory Board, redesignated former par. (2) as (1) and substituted provision that a full-time executive director perform such duties as the cochairpersons of the Joint Council and chairperson of the Advisory Board direct for provision that an executive director perform such duties as the chairman of the Joint Council and the chairman of the Advisory Board direct, and redesignated former par. (1) as (2) and inserted provision that one of the full-time staff serve as the executive secretary to the Joint Council and one serve as executive secretary to the Advisory Board.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3128 of this title.

§ 3128. General provisions

(a) Vacancies in Advisory Board

Any vacancy in the Advisory Board shall not affect its duties under this title and shall be filled in the same manner as the original position.

(b) Compensation and expenses of members of Advisory Board

Members of the Advisory Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(c) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to carry out the provisions of section 3127 of this title and subsection (b) of this section.

(Pub. L. 95–113, title XIV, § 1413, Sept. 29, 1977, 91 Stat. 991; Pub. L. 97–98, title XIV, § 1414(a), Dec. 22, 1981, 95 Stat. 1303; Pub. L. 101–624, title XVI, § 1605(b)(2), Nov. 28, 1990, 104 Stat. 3713; Pub. L. 103–354, title II, § 218(e)(7), Oct. 13, 1994, 108 Stat. 3213; Pub. L. 104–127, title VIII, §§ 852(b)(4), 853(b)(5), Apr. 4, 1996, 110 Stat. 1171, 1172; Pub. L. 105–185, title VI, § 606(b), (c)(2), June 23, 1998, 112 Stat. 603, 604.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 3102 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 606(c)(2), substituted ''its duties'' for ''their powers''.

Subsec. (b). Pub. L. 105–185, § 606(b), substituted ''Advisory Board'' for ''Joint Council, the Advisory Board,''.

1996—Subsec. (a). Pub. L. 104–127, §§ 852(b)(4)(A), 853(b)(5)(A), substituted ''the Advisory Board'' for ''the Joint Council, the Advisory Board, or the Technology Board''.

Subsec. (b). Pub. L. 104–127, § 853(b)(5)(B), struck out ''and the Technology Board'' before ''shall serve without''.

Pub. L. 104–127, § 852(b)(4)(B), which directed substitution of ''Advisory Board'' for ''Joint Council, Advisory Board,'' could not be executed because those words did not appear in text.

1994—Subsec. (d). Pub. L. 103–354 struck out subsec. (d) which read as follows: ''The President shall appoint, by and with the advice and consent of the Senate, an Assistant Secretary of Agriculture who shall perform such duties as are necessary to carry out this chapter and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.''

1990—Subsec. (a). Pub. L. 101–624, § 1605(b)(2)(A), substituted '', the Advisory Board, or the Technology Board'' for ''or the Advisory Board''.

Subsec. (b). Pub. L. 101–624, § 1605(b)(2)(B), substituted '', the Advisory Board, and the Technology Board'' for ''and Advisory Board''.

Subsecs. (d), (e). Pub. L. 101–624, § 1605(b)(2)(C), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: ''The Subcommittee on Food,

Agricultural, and Forestry Research, the Joint Council, and the Advisory Board shall improve communication and interaction among themselves and with others in the agricultural science and education system through such mechanisms as the exchange of reports, joint meetings, and the use of liaison representatives.''

1981—Subsecs. (c) to (e). Pub. L. 97–98 added subsecs. (c) to (e).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3129. Accountability

(a) Review of information technology systems

The Secretary shall conduct a comprehensive review of state-of-the-art information technology systems that are available for use in developing the system required by subsection (b) of this section.

(b) Monitoring and evaluation system

The Secretary shall develop and carry out a system to monitor and evaluate agricultural research and extension activities conducted or supported by the Department of Agriculture that will enable the Secretary to measure the impact and effectiveness of research, extension, and education programs according to priorities, goals, and mandates established by law. In developing the system, the Secretary shall incorporate information transfer technologies to optimize public access to research information.

(c) Consistency with other requirements

The Secretary shall develop and implement the system in a manner consistent with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and amendments made by the Act.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 95–113, title XIV, §1413A, as added Pub. L. 104–127, title VIII, §804, Apr. 4, 1996, 110 Stat. 1160.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (c), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 3129, Pub. L. 95–113, title XIV, §1413A, as added Pub. L. 96–294, title II, §255(a), June 30, 1980, 94 Stat. 707, provided for biomass energy educational and technical assistance programs, prior to repeal by Pub. L. 101–624, title XVI, §1601(f)(1)(C), Nov. 28, 1990, 104 Stat. 3704.

§ 3129a. Federal Advisory Committee Act exemption for competitive research, extension, and education programs

The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act [7 U.S.C. 2281 et seq.] shall not apply to any committee, board, commission, panel, or task force, or similar entity, created solely for the purpose of reviewing applications or proposals requesting funding under any competitive research, extension, or education program carried out by the Secretary.

(Pub. L. 95–113, title XIV, §1413B, as added Pub. L. 104–127, title VIII, §804, Apr. 4, 1996, 110 Stat. 1160.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Title XVIII of this Act, referred to in text, is title XVIII of the Food and Agriculture Act of 1977, Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 1041, as amended, which is classified generally to chapter 55A (§2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

§ 3130. Repealed. Pub. L. 104–127, title VIII, § 858, Apr. 4, 1996, 110 Stat. 1173

Section, Pub. L. 101–624, title XIV, §1456, Nov. 28, 1990, 104 Stat. 3614, related to composting research and extension program.

SUBCHAPTER III—AGRICULTURAL RESEARCH AND EDUCATION GRANTS AND FELLOWSHIPS

§ 3151. Grants to enhance research capacity in schools of veterinary medicine

(a) Competitive grant program

The Secretary shall conduct a program of competitive grants to States for the purpose of meeting the costs of renovation, improving compliance with Federal regulations, employing faculty, acquiring equipment, and taking other action related to the improvement of schools of veterinary medicine to ensure agricultural competitiveness on a worldwide basis. This grant program shall be based on a matching formula of 50 per centum Federal and 50 per centum State funding.

(b) Preference

Except with respect to the States of Alaska and Hawaii, the Secretary shall give preference in awarding grants to States which file, with their application for funds under this section, assurances satisfactory to the Secretary that—

(1) the State has established a veterinary medical training program with one or more States without colleges of veterinary medicine which consists of appropriate cooperative agreements providing for a sharing of curriculum and costs by the individual States;

(2) the clinical training of the school to be improved shall emphasize care and preventive medical programs for food animals and companion animals (including horses) which support industries of major economic importance; and

(3) the Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving

the objective of full participation of minority groups in research in the Nation's schools of veterinary medicine.

Notwithstanding clause (1) of this subsection, no State which the Secretary determines has made a reasonable effort to establish appropriate cooperative agreements shall be denied a grant or otherwise prejudiced because of its failure to establish such cooperative agreements.

(c) Apportionment and distribution of funds

Funds appropriated to carry out this section for any fiscal year shall be apportioned and distributed as follows:

(1) Five per centum shall be retained by the Department of Agriculture for administration, program assistance to eligible States, and program coordination.

(2) The remainder shall be apportioned and distributed by the Secretary to those States which have applied for funds under this section on such basis as the Secretary may deem appropriate.

(Pub. L. 95–113, title XIV, §1415, Sept. 29, 1977, 91 Stat. 993; Pub. L. 97–98, title XIV, §1417, Dec. 22, 1981, 95 Stat. 1305; Pub. L. 99–198, title XIV, §1410, Dec. 23, 1985, 99 Stat. 1547; Pub. L. 101–624, title XVI, §1607(a), (b), Nov. 28, 1990, 104 Stat. 3716.)

AMENDMENTS

1990—Pub. L. 101–624, §1607(b)(1), amended section catchline generally.

Subsec. (a). Pub. L. 101–624, §1607(b)(1), inserted heading.

Pub. L. 101–624, §1607(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''The Secretary shall conduct a program of grants to States for the purpose of meeting the costs of construction, employing faculty, acquiring equipment, and taking other action relating to the initial establishment and initial operation of schools of veterinary medicine, or the expansion of existing schools of veterinary medicine, as determned [sic] by the Secretary by regulations.''

Subsec. (b). Pub. L. 101–624, §1607(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 101–624, §1607(a)(2), struck out '', or has made a reasonable effort to establish,'' after ''established'', and ''and'' after ''States;''.

Subsec. (b)(2). Pub. L. 101–624, §1607(a)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the clinical training of the school to be established or expanded shall emphasize care and preventive medical programs for food-producing animals.''

Subsec. (b)(3). Pub. L. 101–624, §1607(a)(3), added par. (3).

Subsec. (c). Pub. L. 101–624, §1607(b)(3), inserted heading.

1985—Subsec. (c)(1). Pub. L. 99–198 substituted ''Five'' for ''Four''.

1981—Subsec. (c)(2). Pub. L. 97–98 struck out proviso that not less than 50 per centum of such funds shall be made available to States which have accredited schools of veterinary medicine.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3152. Grants and fellowships for food and agricultural sciences education

(a) Higher education teaching programs

The Secretary shall promote and strengthen higher education in the food and agricultural sciences by formulating and administering programs to enhance college and university teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agricultural system.

(b) Grants

The Secretary may make competitive grants (or grants without regard to any requirement for competition) to land-grant colleges and universities, to colleges and universities having significant minority enrollments and a demonstrable capacity to carry out the teaching of food and agricultural sciences, and to other colleges and universities having a demonstrable capacity to carry out the teaching of food and agricultural sciences, for a period not to exceed 5 years—

(1) to strengthen institutional capacities, including curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

(2) to attract and support undergraduate and graduate students in order to educate the students in national need areas of the food and agricultural sciences;

(3) to facilitate cooperative initiatives between two or more eligible institutions, or between eligible institutions and units of State government or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs;

(4) to design and implement food and agricultural programs to build teaching and research capacity at colleges and universities having significant minority enrollments;

(5) to conduct undergraduate scholarship programs to meet national and international needs for training food and agricultural scientists and professionals; and

(6) to conduct graduate and postdoctoral fellowship programs to attract highly promising individuals to research or teaching careers in the food and agricultural sciences.

(c) Priorities

In awarding grants under subsection (b) of this section, the Secretary shall give priority to—

(1) applications for teaching enhancement projects that demonstrate enhanced coordination among all types of institutions eligible for funding under this section; and

(2) applications for teaching enhancement projects that focus on innovative, multidisciplinary education programs, material, and curricula.

(d) Eligibility for grants

(1) In general

To be eligible for a grant under subsection (b) of this section, a recipient institution must

have a significant demonstrable commitment to higher education teaching programs in the food and agricultural sciences and to each specific subject area for which the grant is to be used.

(2) Minority groups

The Secretary may set aside a portion of the funds appropriated for the awarding of grants under subsection (b) of this section, and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full representation of minority groups in the food and agricultural sciences workforce of the United States.

(3) Research foundations

An eligible college or university under subsection (b) includes a research foundation maintained by the college or university.

(e) Food and agricultural education information system

From amounts made available for grants under this section, the Secretary may maintain a national food and agricultural education information system that contains—

(1) information on enrollment, degrees awarded, faculty, and employment placement in the food and agricultural sciences; and

(2) such other similar information as the Secretary considers appropriate.

(f) Evaluation of teaching programs

The Secretary shall conduct programs to develop, analyze, and provide to colleges and universities data and information that are essential to the evaluation of the quality of teaching programs and to facilitate the design of more effective programs comprising the food and agricultural sciences higher education system of the United States.

(g) Continuing education

The Secretary shall conduct special programs with colleges and universities, and with organizations in the private sector, to support educational initiatives to enable food and agricultural scientists and professionals to maintain their knowledge of changing technology, the expanding knowledge base, societal issues, and other factors that impact the skills and competencies needed to maintain the expertise base available to the agricultural system of the United States. The special programs shall include grants and technical assistance.

(h) Transfers of funds and functions

Funds authorized in section 22 of the Act of June 29, 1935 (49 Stat. 439, chapter 338; 7 U.S.C. 329) are transferred to and shall be administered by the Secretary of Agriculture. There are transferred to the Secretary all the functions and duties of the Secretary of Education under such Act applicable to the activities and programs for which funds are made available under section 22 of such Act.

(i) National Food and Agricultural Sciences Teaching Awards

(1) Establishment

The Secretary shall establish a National Food and Agricultural Sciences Teaching Awards program to recognize and promote excellence in teaching food and agricultural sciences at a college or university. The Secretary shall make at least one cash award in each fiscal year to a nominee selected by the Secretary for excellence in teaching a food and agricultural science at a college or university.

(2) Funding

The Secretary may transfer funds from amounts appropriated for the conduct of any agricultural research, extension, or teaching program to an account established pursuant to this section for the purpose of making the awards. The Secretary may accept gifts in accordance with section 2269 of this title for the purpose of making the awards.

(j) Secondary education and 2-year postsecondary education teaching programs

(1) Definitions

In this subsection:

(A) Institution of higher education

The term ''institution of higher education'' has the meaning given the term in section 1001 of title 20.

(B) Secondary school

The term ''secondary school'' has the meaning given the term in section 8801(25) of title 20.

(2) Agriscience and agribusiness education

The Secretary shall—

(A) promote and strengthen secondary education and 2-year postsecondary education in agriscience and agribusiness in order to help ensure the existence in the United States of a qualified workforce to serve the food and agricultural sciences system; and

(B) promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.

(3) Grants

The Secretary may make competitive or noncompetitive grants, for grant periods not to exceed 5 years, to public secondary schools, and institutions of higher education that award an associate's degree, that the Secretary determines have made a commitment to teaching agriscience and agribusiness—

(A) to enhance curricula in agricultural education;

(B) to increase faculty teaching competencies;

(C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences;

(D) to promote the incorporation of agriscience and agribusiness subject matter into other instructional programs, particularly classes in science, business, and consumer education;

(E) to facilitate joint initiatives by the grant recipient with other secondary

schools, institutions of higher education that award an associate's degree, and institutions of higher education that award a bachelor's degree to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve agriscience and agribusiness education; and

(F) to support other initiatives designed to meet local, State, regional, or national needs related to promoting excellence in agriscience and agribusiness education.

(k) Administration

The Federal Advisory Committee Act and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications and proposals for grants or nominations for awards submitted under this section.

(*l*) Authorization of appropriations

There are authorized to be appropriated for carrying out this section $60,000,000 for each of the fiscal years 1990 through 2002.

(Pub. L. 95–113, title XIV, § 1417, Sept. 29, 1977, 91 Stat. 996; Pub. L. 97–98, title XIV, § 1418, Dec. 22, 1981, 95 Stat. 1305; Pub. L. 99–198, title XIV, § 1412, Dec. 23, 1985, 99 Stat. 1548; Pub. L. 101–624, title XVI, § 1608, Nov. 28, 1990, 104 Stat. 3716; Pub. L. 102–237, title IV, § 402(6), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, § 805, Apr. 4, 1996, 110 Stat. 1160; Pub. L. 105–185, title II, § 223, title III, § 301(a)(1), June 23, 1998, 112 Stat. 539, 562; Pub. L. 105–244, title I, § 102(a)(1)(B), Oct. 7, 1998, 112 Stat. 1617.)

REFERENCES IN TEXT

Act of June 29, 1935, referred to in subsec. (h), is act June 29, 1935, ch. 338, 49 Stat. 436, as amended, known as the Bankhead-Jones Act, which was classified principally to sections 329 and 427 to 427j of this title, and was repealed by act Aug. 11, 1966, ch. 790, § 2, 69 Stat. 674, except for sections 1, 10, and 22 of the Act, which are classified to sections 427, 427i, and 329 of this title, respectively. For complete classification of this Act to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Food and Agriculture Act of 1977, referred to in subsec. (k), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XVIII of the Act is classified generally to chapter 55A (§ 2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1998—Subsecs. (c), (d). Pub. L. 105–185, § 223(1), (2), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 105–185, § 223(3), added subsec. (e). Former subsec. (e) redesignated (g).

Subsecs. (f) to (i). Pub. L. 105–185, § 223(1), redesignated subsecs. (d) to (g) as (f) to (i), respectively. Former subsecs. (h) and (i) redesignated (j) and (k), respectively.

Subsec. (j). Pub. L. 105–185, § 223(1), redesignated subsec. (h) as (j). Former subsec. (j) redesignated (*l*).

Subsec. (j)(1)(A). Pub. L. 105–244 substituted ''section 1001 of title 20'' for ''section 1141(a) of title 20''.

Subsec. (k). Pub. L. 105–185, § 223(1), redesignated subsec. (i) as (k).

Subsec. (*l*). Pub. L. 105–185, § 301(a)(1), substituted ''2002'' for ''1997''.

Pub. L. 105–185, § 223(1), redesignated subsec. (j) as (*l*).

1996—Subsec. (b)(4). Pub. L. 104–127, § 805(a), added par. (4) and struck out former par. (4) which read as follows: ''to design and implement innovative food and agricultural educational programs;''.

Subsec. (c)(3). Pub. L. 104–127, § 805(b), added par. (3).

Subsec. (h). Pub. L. 104–127, § 805(d)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 104–127, § 805(d)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Pub. L. 104–127, § 805(c), substituted ''1997'' for ''1995''.

Subsec. (j). Pub. L. 104–127, § 805(d)(1), redesignated subsec. (i) as (j).

1991—Subsec. (i). Pub. L. 102–237 struck out at end ''Of amounts appropriated to carry out this section for a fiscal year, not less than $10,000,000 shall be used for the national needs graduate fellowship program referred to in subsection (b)(6) of this section.''

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which established grant categories for promotion and development of higher education in food and agricultural sciences, provided for program of predoctoral and postdoctoral fellowships in food and agricultural sciences, provided for transfer of funds, functions and duties to Secretary of Agriculture, authorized appropriations to carry out the section, and provided for nonapplicability of certain Federal laws to any panel or board created to review applications submitted under the section.

1985—Subsec. (a)(2). Pub. L. 99–198, § 1412(a)(1), substituted ''Each'' for ''Such grants shall be made without regard to matching funds, but each''.

Subsec. (a)(3). Pub. L. 99–198, § 1412(a)(2), substituted ''Each recipient institution shall have a significant ongoing commitment to the food and agricultural sciences generally and to the specific subject area for which such grant is to be used.'' for ''Such grants shall be made without regard to matching funds provided by recipients.''

Subsec. (d). Pub. L. 99–198, § 1412(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''There are hereby authorized to be appropriated for the purposes of carrying out the provisions of this section $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.''

Subsec. (e). Pub. L. 99–198, § 1412(c), added subsec. (e).

1981—Subsec. (a). Pub. L. 97–98, § 1418(a), substituted provisions authorizing the Secretary to promote and develop higher education in the food and agricultural science by formulating and administering higher education programs, to make grants to land-grant colleges and universities and other institutions capable of teaching food and agricultural education for specified purposes for a period not to exceed five years without regard to matching funds and to make competitive grants to colleges and universities to develop or administer programs to meet unique food and agricultural educational problems, and to administer and conduct specialized programs and graduate fellowship programs for a period not to exceed five years without regard to matching funds for provisions relating to competitive grants to all colleges and universities for the purpose of furthering education in the food and agricultural sciences in two specified categories.

Subsec. (c). Pub. L. 97–98 inserted provisions relating to the transfer to the Secretary of all the functions and duties of the Secretary of Education under the act of June 29, 1935, applicable to the activities and programs for which funds are made available under section 329 of this title.

Subsec. (d). Pub. L. 97–98, § 1418(c), inserted provisions relating to the authorization of appropriations for fis-

cal years ending Sept. 30, 1983, Sept. 30, 1984, and Sept. 30, 1985.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 3153. National Agricultural Science Award

(a) Establishment

The Secretary shall establish the National Agricultural Science Award for research or advanced studies in the food and agricultural sciences, including the social sciences. Two such awards, one for each of the categories described in subsection (d) of this section, shall be made in each fiscal year.

(b) Amount and term

The awards shall not exceed $50,000 per year for a period of not to exceed three years to support research or study by the recipient.

(c) Eligibility

The awards shall be open to persons in agricultural research, extension, teaching, or any combination thereof.

(d) Categories

Awards under this section shall be made in each fiscal year in two categories as follows:

(1) to a scientist in recognition of outstanding contributions to the advancement of the food and agricultural sciences; and

(2) to a research scientist in early career development or a graduate student, in recognition of demonstrated capability and promise of significant future achievement in the food and agricultural sciences.

(e) Nominating and selection committees

The Secretary may establish such nominating and selection committees, to consist of scientists and others, to receive nominations and make recommendations for awards under this section, as the Secretary deems appropriate.

(Pub. L. 95–113, title XIV, §1418, Sept. 29, 1977, 91 Stat. 997; Pub. L. 97–98, title XIV, §1420(a), Dec. 22, 1981, 95 Stat. 1306.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–98, §1420(a)(2), substituted ''Science Award'' for ''Research Award'', and ''subsection (d)'' for ''subsection (c)''.

Subsecs. (c) to (e). Pub. L. 97–98, §1420(a)(3), (4), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3154. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products

(a) Authority of Secretary

The Secretary may award grants under this section to colleges, universities, and Federal laboratories for the purpose of conducting research related to—

(1) alcohol fuels, including ethanol and methanol or their ethers;

(2) industrial oilseed crops for diesel fuel and petrochemical substitutes;

(3) other forms of biomass fuels, including gaseous and solid fuels;

(4) other industrial hydrocarbons made from agricultural commodities and forest products; and

(5) the development of the most economical and commercially feasible means of producing, collecting, and transporting agricultural crops, wastes, residues, and byproducts for use as feedstocks for the production of alcohol and other forms of biomass energy and the development of new markets for byproducts.

(b) Set aside of funds for certain grant projects

Of the amounts appropriated in any fiscal year pursuant to the authorization contained in subsection (d) of this section, not less than 50 percent of those amounts shall be made available for grants for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including—

(1) processes of cellulose conversion and membrane technology,

(2) research to improve the quality and value of byproducts to increase digestibility and performance of livestock, poultry, and fish, and

(3) development of new markets for byproducts.

(c) Minority groups

The Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full participation of minority groups in research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.

(d) Authorization of appropriations

There are authorized to be appropriated for the purposes of carrying out this section $20,000,000 for each of the fiscal years 1991 through 2002.

(Pub. L. 95–113, title XIV, §1419, Sept. 29, 1977, 91 Stat. 997; Pub. L. 96–294, title II, §252, June 30, 1980, 94 Stat. 705; Pub. L. 97–98, title XIV, §1422, Dec. 22, 1981, 95 Stat. 1306; Pub. L. 101–624, title XVI, §1609(a), Nov. 28, 1990, 104 Stat. 3718; Pub. L. 102–237, title IV, §402(7), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, §806, Apr. 4, 1996, 110 Stat. 1162; Pub. L. 105–185, title III, §301(a)(2), June 23, 1998, 112 Stat. 562.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Subsec. (d). Pub. L. 104–127 substituted ''1997'' for ''1995''.

1991—Subsec. (b). Pub. L. 102–237 substituted ''subsection (d)'' for ''subsection (c)''.

1990—Pub. L. 101–624 amended section generally, substituting present provisions for provisions which authorized grants to conduct research related to production and marketing of coal tar and other coal derivatives, alcohol and other forms of biomass energy, and other industrial hydrocarbons made from agricultural commodities and forest products, authorized appropriations for such activities, and defined terms ''biomass'', ''biomass energy'', and ''municipal wastes''.

1981—Subsec. (a). Pub. L. 97–98 inserted reference to Federal laboratories in two places, extended authorization of appropriations through fiscal years ending September 30, 1985, in first proviso, substituted ''$40,000,000 during the eight-year period beginning October 1, 1977, and shall not exceed such sums as may be authorized by law for any fiscal year subsequent to such period'' for ''$24,000,000 during the five-year period beginning October 1, 1977, and ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year'', and in second proviso, increased maximum amount awardable from $3,000,000 to $5,000,000.

1980—Pub. L. 96–294 designated existing provisions as subsec. (a), inserted provisions relating to grants to Government corporations for conducting research in production and marketing of agricultural chemicals, etc., and provisions relating to authority to conduct research under paragraph (2) and authorizations of appropriations for grants to conduct such research, substituted ''subsection'' for ''section'' wherever appearing, substituted ''and other forms of biomass energy as substitutes for petroleum or natural gas'' for ''made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products'', in par. (2), and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title; title 42 section 8852.

§ 3155. Policy research centers

(a) In general

Consistent with this section, the Secretary may make grants, competitive grants, and special research grants to, and enter into cooperative agreements and other contracting instruments with, policy research centers described in subsection (b) of this section to conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies and trade agreements on—

(1) the farm and agricultural sectors;

(2) the environment;

(3) rural families, households, and economies; and

(4) consumers, food, and nutrition.

(b) Eligible recipients

State agricultural experiment stations, colleges and universities, other research institutions and organizations, private organizations, corporations, and individuals shall be eligible to apply for funding under subsection (a) of this section.

(c) Activities

Under this section, funding may be provided for disciplinary and interdisciplinary research and education concerning policy research activities consistent with this section, including activities that—

(1) quantify the implications of public policies and regulations;

(2) develop theoretical and research methods;

(3) collect and analyze data for policymakers, analysts, and individuals; and

(4) develop programs to train analysts.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1996 through 2002.

(Pub. L. 95–113, title XIV, § 1419A, as added Pub. L. 104–127, title VIII, § 807, Apr. 4, 1996, 110 Stat. 1162; amended Pub. L. 105–185, title II, § 224, title III, § 301(a)(3), June 23, 1998, 112 Stat. 540, 562.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 224, inserted ''and trade agreements'' after ''public policies'' in introductory provisions.

Subsec. (d). Pub. L. 105–185, § 301(a)(3), substituted ''each of fiscal years 1996 through 2002'' for ''fiscal years 1996 and 1997''.

SUBCHAPTER IV—NATIONAL FOOD AND HUMAN NUTRITION RESEARCH AND EXTENSION PROGRAM

§ 3171. Congressional findings and declaration of policy

(a) Findings

Congress finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States: that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.

(b) Declaration of policy

It is declared to be the policy of the United States that the Department of Agriculture conduct research in the fields of human nutrition and the nutritive value of foods and conduct human nutrition education activities, as provided in this subchapter.

(Pub. L. 95–113, title XIV, § 1421, Sept. 29, 1977, 91 Stat. 999.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3172. Duties of Secretary of Agriculture

In order to carry out the policy of this subchapter, the Secretary shall develop and implement a national food and human nutrition research and extension program that shall include, but not be limited to—

(1) research on human nutritional requirements;

(2) research on the nutrient composition of foods and the effects of agricultural practices, handling, food processing, and cooking on the nutrients they contain;

(3) surveillance of the nutritional benefits provided to participants in the food programs administered by the Department of Agriculture;

(4) research on the factors affecting food preference and habits; and

(5) the development of techniques and equipment to assist consumers in the home or in institutions in selecting food that supplies a nutritionally adequate diet.

(Pub. L. 95–113, title XIV, § 1422, Sept. 29, 1977, 91 Stat. 999.)

§ 3173. Research by Department of Agriculture

(a) Increase in level of support

The Secretary shall establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the policy of this subchapter.

(b) Periodic consultation with administrators of other Federal departments and agencies

The Secretary, in administering the food and human nutrition research program, shall periodically consult with the administrators of the other Federal departments and agencies that have responsibility for programs dealing with human food and nutrition, as to the specific research needs of those departments and agencies.

(Pub. L. 95–113, title XIV, § 1423, Sept. 29, 1977, 91 Stat. 999.)

NATIONAL FOOD AND HUMAN NUTRITION RESEARCH PROGRAM; CONGRESSIONAL FINDINGS; COMPREHENSIVE PLAN; ANNUAL REPORT; JOINT DIETARY ASSESSMENT, STUDIES AND REPORTS; SUBMISSION OF PLAN AND REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 99–198, title XIV, subtitle B, §§ 1451–1453, Dec. 23, 1985, 99 Stat. 1561, 1562, as amended by Pub. L. 104–127, title VIII, § 872, Apr. 4, 1996, 110 Stat. 1175, provided that:

''FINDINGS

''SEC. 1451. Congress finds that—

''(1) nutrition and health considerations are important to United States agricultural policy;

''(2) section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) designates the Department of Agriculture as the lead agency of the Federal Government for human nutrition research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease);

''(3) section 1423 of such Act (7 U.S.C. 3173) requires the Secretary of Agriculture to establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture;

''(4) the Secretary has established a nutrition education program; and

''(5) nutrition research continues to be of great importance to those involved in agricultural production.

''[SEC. 1452. Repealed. Pub. L. 104–127, title VIII, § 872, Apr. 4, 1996, 110 Stat. 1175.]

''DIETARY ASSESSMENT AND STUDIES

''SEC. 1453. (a) The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly conduct an assessment of existing scientific literature and research relating to—

''(1) the relationship between dietary cholesterol and blood cholesterol and human health and nutrition; and

''(2) dietary calcium and its importance in human health and nutrition.

In conducting the assessments under this subsection, the Secretaries shall consult with agencies of the Federal Government involved in related research. On completion of such assessments, the Secretaries shall each recommend such further studies as the Secretaries consider useful.

''(b) Not later than 1 year after the date of enactment of this Act [Dec. 23, 1985], the Secretary of Agriculture and the Secretary of Health and Human Services shall each submit to the House Committees on Agriculture and Energy and Commerce and the Senate Committees on Agriculture, Nutrition, and Forestry and Labor and Human Resources a report that shall include the results of the assessments conducted under subsection (a) and recommendations made under such subsection, for more complete studies of the issues examined under such subsection, including a protocol, feasibility assessment, budget estimates and a timetable for such research as each Secretary shall consider appropriate.''

§ 3174. Human nutrition intervention and health promotion research program

(a) Authority of Secretary

The Secretary may establish, and award grants for projects for, a multi-year research initiative on human nutrition intervention and health promotion.

(b) Emphasis of initiative

In administering human nutrition research projects under this section, the Secretary shall give specific emphasis to—

(1) coordinated longitudinal research assessments of nutritional status; and

(2) the implementation of unified, innovative intervention strategies,

to identify and solve problems of nutritional inadequacy and contribute to the maintenance of health, well-being, performance, and productivity of individuals, thereby reducing the need of the individuals to use the health care system and social programs of the United States.

(c) Administration of funds

The Administrator of the Agricultural Research Service shall administer funds made available to carry out this section to ensure a coordinated approach to health and nutrition research efforts.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1996 through 2002.

(Pub. L. 95–113, title XIV, § 1424, as added Pub. L. 104–127, title VIII, § 808, Apr. 4, 1996, 110 Stat. 1162; amended Pub. L. 105–185, title III, § 301(a)(4), June 23, 1998, 112 Stat. 562.)

PRIOR PROVISIONS

A prior section 3174, Pub. L. 95–113, title XIV, §1424, as added Pub. L. 101–624, title XVI, §1610(a), Nov. 28, 1990, 104 Stat. 3719, provided for establishment of food science and nutrition research center for Southeast region of United States prior to repeal by Pub. L. 104–127, title VIII, §808, Apr. 4, 1996, 110 Stat. 1162.

Another prior section 3174, Pub. L. 95–113, title XIV, §1424, Sept. 29, 1977, 91 Stat. 1000, provided for a study assessing potential value and cost of establishing regional food and human nutrition research centers and a report thereon, with findings and recommendations, to be submitted to the Congress not later than one year after Oct. 1, 1977, prior to repeal by Pub. L. 99–198, title XIV, §1413, Dec. 23, 1985, 99 Stat. 1549.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185 substituted ''each of fiscal years 1996 through 2002'' for ''fiscal years 1996 and 1997''.

§ 3174a. Pilot research program to combine medical and agricultural research

(a) Findings

Congress finds the following:

(1) Although medical researchers in recent years have demonstrated that there are several naturally occurring compounds in many vegetables and fruits that can aid in the prevention of certain forms of cancer, coronary heart disease, stroke, and atherosclerosis, there has been almost no research conducted to enhance these compounds in food plants by modern breeding and molecular genetic methods.

(2) By linking the appropriate medical and agricultural research scientists in a highly-focused, targeted research program, it should be possible to develop new varieties of vegetables and fruits that would provide greater prevention of diet-related diseases that are a major cause of death in the United States.

(b) Pilot research program

The Secretary shall conduct, through the Cooperative State Research, Education, and Extension Service, a pilot research program to link major cancer and heart and other circulatory disease research efforts with agricultural research efforts to identify compounds in vegetables and fruits that prevent these diseases. Using information derived from such combined research efforts, the Secretary shall assist in the development of new varieties of vegetables and fruits having enhanced therapeutic properties for disease prevention.

(c) Agreements

The Secretary shall carry out the pilot program through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities. The Secretary shall enter into the agreements on a competitive basis.

(d) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for each of fiscal years 1997 through 2002 to carry out the pilot program.

(Pub. L. 95–113, title XIV, §1424A, as added Pub. L. 104–127, title VIII, §808, Apr. 4, 1996, 110 Stat. 1163; amended Pub. L. 105–185, title III, §301(a)(5), June 23, 1998, 112 Stat. 562.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185 substituted ''each of fiscal years 1997 through 2002'' for ''fiscal year 1997''.

§ 3175. Nutrition education program

(a) Establishment

The Secretary shall establish a national education program which shall include, but not be limited to, the dissemination of the results of food and human nutrition research performed or funded by the Department of Agriculture.

(b) Expansion of existing programs

In order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program presently conducted under section 343(d) of this title, shall provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education of low-income families and in other appropriate nutrition education programs. To the maximum extent practicable, program aides shall be hired from the indigenous target population.

(c) Funding requirements

Beginning with the fiscal year ending September 30, 1982—

(1) Any funds annually appropriated under section 343(d) of this title, for the conduct of the expanded food and nutrition education program, up to the amount appropriated under such section for such program for the fiscal year ending September 30, 1981, shall be allocated to each State in the same proportion as funds appropriated under such section for the conduct of the program for the fiscal year ending September 30, 1981, are allocated among the States; with the exception that the Secretary may retain up to 2 per centum of such amount for the conduct of such program in States that did not participate in such program in the fiscal year ending September 30, 1981.

(2) Any funds appropriated annually under section 343(d) of this title, for the conduct of the expanded food and nutrition education program in excess of the amount appropriated under such section for the conduct of the program for the fiscal year ending September 30, 1981, shall be allocated as follows:

(A) 4 per centum shall be available to the Secretary for administrative, technical, and other services necessary for the administration of the program.

(B) The remainder shall be allocated among the States as follows:

(i) 10 per centum shall be distributed equally among all States; and

(ii) the remainder shall be allocated to each State in an amount which bears the same ratio to the total amount to be allocated under this subparagraph as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted pursuant to

section 9902(2) of title 42), bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decennial census at the time each such additional amount is first appropriated. The provisions of this subparagraph shall not preclude the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subparagraph.

(3) There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 343(d) of this title and this section, $83,000,000 for each of fiscal years 1996 through 2002.

(Pub. L. 95–113, title XIV, §1425, Sept. 29, 1977, 91 Stat. 1000; Pub. L. 97–98, title XIV, §1423, Dec. 22, 1981, 95 Stat. 1307; Pub. L. 101–624, title XVII, §1776(b), Nov. 28, 1990, 104 Stat. 3814; Pub. L. 104–127, title VIII, §809, Apr. 4, 1996, 110 Stat. 1164; Pub. L. 105–185, title III, §301(a)(6), June 23, 1998, 112 Stat. 562.)

AMENDMENTS

1998—Subsec. (c)(3). Pub. L. 105–185 substituted ''through 2002'' for ''and 1997''.

1996—Subsec. (c)(3). Pub. L. 104–127 substituted '', $83,000,000 for each of fiscal years 1996 and 1997'' for ''$63,000,000 for fiscal year 1991, $68,000,000 for fiscal year 1992, $73,000,000 for fiscal year 1993, $78,000,000 for fiscal year 1994, and $83,000,000 for fiscal year 1995''.

1990—Subsec. (c)(3). Pub. L. 101–624 added par. (3).

1981—Subsec. (b). Pub. L. 97–98 substantially retained existing provisions of the subsection relating to expanded food and nutrition education programs and transferred remaining provisions relating to allocation of funds to States and the authority of the Secretary to develop educational materials and programs for persons in certain income ranges to a new subsec. (c).

Subsec. (c). Pub. L. 97–98 added subsec. (c), and included therein provisions relating to allocation of funds to States and the authority of the Secretary to develop educational materials and programs for persons in certain income ranges formerly contained in subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Oct. 1, 1990, see section 1781(b)(1) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3175e of this title.

§ 3175a. Nutrition and consumer education; Congressional findings

Congress finds that individuals in households eligible to participate in programs under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.] and other low-income individuals, including those residing in rural areas, should have greater access to nutrition and consumer education to enable them to use their food budgets, including food assistance, effectively and to select and prepare foods that satisfy their nutritional needs and improve their diets.

(Pub. L. 99–198, title XV, §1584, Dec. 23, 1985, 99 Stat. 1596.)

REFERENCES IN TEXT

The Food Stamp Act of 1977, referred to in text, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175b, 3175e of this title.

§ 3175b. Expansion of effective food, nutrition, and consumer education services

The purpose of the program provided for under sections 3175a through 3175e of this title is to expand effective food, nutrition, and consumer education services to the greatest practicable number of low-income individuals, including those participating in or eligible to participate in the programs under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], to assist them to—

(1) increase their ability to manage their food budgets, including food stamps and other food assistance;

(2) increase their ability to buy food that satisfies nutritional needs and promotes good health; and

(3) improve their food preparation, storage, safety, preservation, and sanitation practices.

(Pub. L. 99–198, title XV, §1585, Dec. 23, 1985, 99 Stat. 1596.)

REFERENCES IN TEXT

The Food Stamp Act of 1977, referred to in text, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175c, 3175e of this title.

§ 3175c. Program of food, nutrition, and consumer education by State cooperative extension services

The cooperative extension services of the States shall, with funds made available under this subtitle, carry out an expanded program of food, nutrition, and consumer education for low-income individuals in a manner designed to achieve the purpose set forth in section 3175b of this title. In operating the program, the cooperative extension services may use the expanded food and nutrition education program, and other food, nutrition, and consumer education activi-

ties of the cooperative extension services or similar activities carried out by them in collaboration with other public or private nonprofit agencies or organizations. In carrying out their responsibilities under the program, the cooperative extension services are encouraged to—

(1) provide effective and meaningful food, nutrition, and consumer education services to as many low-income individuals as possible;

(2) employ educational methodologies, including innovative approaches, that accomplish the purpose set forth in section 3175b of this title; and

(3) to the extent practicable, coordinate activities carried out under the program with the delivery to low-income individuals of benefits under food assistance programs.

(Pub. L. 99–198, title XV, § 1586, Dec. 23, 1985, 99 Stat. 1596.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle C (§§ 1581–1589) of title XV of Pub. L. 99–198 which is classified as follows: sections 1581 and 1582 are not classified to the Code; section 1583 is set out as a note under section 2011 of this title; sections 1584 through 1588 are classified, respectively, to sections 3175a to 3175e of this title; and section 1589 is classified to section 3178a of this title.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175b, 3175d, 3175e of this title.

§ 3175d. Administration of program of food, nutrition, and consumer education by State cooperative extension services

(a) Administration by Secretary of Agriculture

The program provided for under section 3175c of this title shall be administered by the Secretary of Agriculture through the Extension Service, in consultation with the Food and Nutrition Service and the Human Nutrition Information Service. The Secretary shall ensure that the Extension Service coordinates activities carried out under this subtitle with the ongoing food, nutrition, and consumer education activities of other agencies of the Department of Agriculture.

(b) Evaluation and report

The Secretary of Agriculture, not later than April 1, 1989, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report evaluating the effectiveness of the program provided for under section 3175c of this title.

(Pub. L. 99–198, title XV, § 1587, Dec. 23, 1985, 99 Stat. 1596.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (a), is subtitle C (§§ 1581–1589) of title XV of Pub. L. 99–198, which is classified as follows: sections 1581 and 1582 are not classified to the Code; section 1583 is set out as a note under section 2011 of this title; sections 1584 through 1588 are classified, respectively, to sections 3175a to 3175e of this title; and section 1589 is classified to section 3178a of this title.

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175b, 3175e of this title.

§ 3175e. Authorization of appropriations

(a) There are hereby authorized to be appropriated to carry out sections 3175a through 3175e of this title $8,000,000 for each of the fiscal years 1991 through 1995.

(b) Any funds appropriated under this section for a fiscal year shall be allocated in the manner specified in subparagraphs (A) and (B) of section 3175(c)(2) of this title.

(c) Any funds appropriated to carry out sections 3175a through 3175e of this title shall supplement any other funds appropriated to the Department of Agriculture for use by the Department and the cooperative extension services of the States for food, nutrition, and consumer education for low-income households.

(Pub. L. 99–198, title XV, § 1588, Dec. 23, 1985, 99 Stat. 1597; Pub. L. 101–624, title XVII, § 1776(a), Nov. 28, 1990, 104 Stat. 3814.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–624 substituted ''$8,000,000 for each of the fiscal years 1991 through 1995.'' for ''$5,000,000 for the fiscal year ending September 30, 1986; $6,000,000 for the fiscal year ending September 30, 1987; and $8,000,000 for each of the fiscal years ending September 30, 1988, September 30, 1989, and September 30, 1990.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective Oct. 1, 1990, see section 1781(b)(1) of Pub. L. 101–624, set out as a note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 3175b of this title.

§ 3176. Repealed. Pub. L. 97–98, title XIV, § 1424(a), Dec. 22, 1981, 95 Stat. 1308

Section, Pub. L. 95–113, title XIV, § 1426, Sept. 29, 1977, 91 Stat. 1000, related to preparation and distribution of a comprehensive set of educational materials on food and nutrition education by Secretary to State departments of education.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3177. Repealed. Pub. L. 99–198, title XIV, § 1413, Dec. 23, 1985, 99 Stat. 1549

Section, Pub. L. 95–113, title XIV, § 1427, Sept. 29, 1977, 91 Stat. 1000; Pub. L. 97–98, title XIV, § 1425(a), Dec. 22,

1981, 95 Stat. 1308, required submission to Congress of a plan for a human nutrition research management system.

§ 3178. Nutritional status monitoring

(a) Formulation of system

The Secretary and the Secretary of Health and Human Services shall formulate and submit to Congress, within ninety days after September 29, 1977, a proposal for a comprehensive nutritional status monitoring system, to include:

(1) an assessment system consisting of periodic surveys and continuous monitoring to determine: the extent of risk of nutrition-related health problems in the United States; which population groups or areas of the country face greatest risk; and the likely causes of risk and changes in the above risk factors over time;

(2) a surveillance system to identify remediable nutrition-related health risks to individuals or for local areas, in such a manner as to tie detection to direct intervention and treatment. Such system should draw on screening and other information from other health programs, including those funded under titles V, XVIII, and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1395 et seq., and 1396 et seq.] and section 330 of the Public Health Service Act;[1] and

(3) program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks to individuals and populations.

(b) Coordination of existing activities; recommendation for necessary additional authorities

The proposal shall provide for coordination of activities under existing authorities and contain recommendations for any additional authorities necessary to achieve a comprehensive monitoring system.

(Pub. L. 95–113, title XIV, §1428, Sept. 29, 1977, 91 Stat. 1001; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Social Security Act is classified principally to subchapter V (§701 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 330 of the Public Health Service Act, referred to in subsec. (a)(2), is section 330 of act July 1, 1944, which was classified to section 254c of Title 42, The Public Health and Welfare, and was omitted in the general amendment of subpart I (§254b et seq.) of part D of subchapter II of chapter 6A of Title 42 by Pub. L. 104–299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of Title 42.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5302 of this title.

[1] See References in Text note below.

§ 3178a. Nutrition monitoring

The Secretary of Agriculture shall—

(1) in conducting the Department of Agriculture's continuing survey of food intakes of individuals and any nationwide food consumption survey, include a sample that is representative of low-income individuals and, to the extent practicable, the collection of information on food purchases and other household expenditures by such individuals;

(2) to the extent practicable, continue to maintain the nutrient data base established by the Department of Agriculture; and

(3) encourage research by public and private entities relating to effective standards, methodologies, and technologies for accurate assessment of the nutritional and dietary status of individuals.

(Pub. L. 99–198, title XV, §1589, Dec. 23, 1985, 99 Stat. 1597.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SUBCHAPTER V—ANIMAL HEALTH AND DISEASE RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3103, 3124a of this title.

§ 3191. Purposes and findings relating to animal health and disease research

(a) Purposes

The purposes of this subchapter are to—

(1) promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals that are essential to the food supply of the United States and the welfare of producers and consumers of animal products;

(2) improve the health of horses;

(3) facilitate the effective treatment of, and, to the extent possible, prevent animal and poultry diseases in both domesticated and wild animals that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the food supply of the United States;

(4) improve methods for the control of organisms and residues in food products of animal origin that could endanger the human food supply;

(5) improve the housing and management of animals to improve the well-being of livestock production species;

(6) minimize livestock and poultry losses due to transportation and handling;

(7) protect human health through control of animal diseases transmissible to humans;

(8) improve methods of controlling the births of predators and other animals; and

(9) otherwise promote the general welfare through expanded programs of research and extension to improve animal health.

(b) Findings

Congress finds that—

(1) the total animal health and disease research and extension efforts of State colleges and universities and of the Federal Government would be more effective if there were close coordination between the efforts; and

(2) colleges and universities having accredited schools or colleges of veterinary medicine and State agricultural experiment stations that conduct animal health and disease research are especially vital in training research workers in animal health and related disciplines.

(Pub. L. 95–113, title XIV, § 1429, Sept. 29, 1977, 91 Stat. 1001; Pub. L. 97–98, title XIV, § 1426, Dec. 22, 1981, 95 Stat. 1309; Pub. L. 104–127, title VIII, § 810, Apr. 4, 1996, 110 Stat. 1164.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions which outlined congressional findings and declaration of purpose of subchapter.

1981—Pub. L. 97–98 substituted ''schools or colleges of veterinary medicine and State agricultural experiment stations that conduct animal health and disease research'' for ''colleges of veterinary medicine or departments of veterinary sciences or animal pathology, and similar units conducting animal health and disease research in the State agricultural experiment stations,''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3199 of this title.

§ 3192. Definitions

When used in this subchapter—

(1) the term ''eligible institution'' means an accredited school or college of veterinary medicine or a State agricultural experiment station that conducts animal health and disease research;

(2) the term ''dean'' means the dean of an accredited school or college of veterinary medicine;

(3) the term ''director'' means the director of a State agricultural experiment station which qualifies as an eligible institution; and

(4) the term ''animal health research capacity'' means the capacity of an eligible institution to conduct animal health and disease research, as determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1430, Sept. 29, 1977, 91 Stat. 1002; Pub. L. 97–98, title XIV, § 1427, Dec. 22, 1981, 95 Stat. 1309; Pub. L. 105–185, title VI, § 606(d)(1), June 23, 1998, 112 Stat. 604.)

AMENDMENTS

1998—Pars. (3) to (5). Pub. L. 105–185 inserted ''and'' at end of par. (3), redesignated par. (5) as (4), and struck out former par. (4) which read as follows: ''the term 'Board' means the Animal Health Science Research Advisory Board; and''.

1981—Par. (1). Pub. L. 97–98 substituted ''an accredited school or college of veterinary medicine or a State agricultural research experiment station that conducts animal health and disease research'' for ''any college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or a similar unit conducting animal health and disease research in a State agricultural experiment station''.

Par. (2). Pub. L. 97–98 substituted ''an accredited school or college of veterinary medicine'' for ''a college or university which qualifies as an eligible institution''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3193. Authorization to Secretary of Agriculture

(a) Authority to cooperate with, encourage, and assist States

In order to carry out the purpose of this subchapter, the Secretary is authorized to cooperate with, encourage, and assist the States in carrying out programs of animal health and disease research at eligible institutions in the manner hereinafter described in this subchapter.

(b) Study of animal care delivery system

(1) The Secretary shall commission the National Academy of Sciences, working through the Board on Agriculture of the National Research Council, to conduct a study of the delivery system utilized to provide farmers, including small and limited resource farmers, and ranchers with animal care and veterinary medical services, including animal drugs.

(2) The study required by this subsection shall assess opportunities to—

(A) improve the flow of information to producers regarding animal husbandry practices, and diagnostic and treatment methods, including the costs and conditions necessary for the effective use of such practices and methods;

(B) foster achievement of food safety goals; and

(C) advance the well-being and treatment of farm animals, with particular emphasis on disease prevention strategies.

(3) The study required by this subsection shall include recommendations for changes in research and extension policies or priorities, food safety programs and policies, and policies and procedures governing the approval, use, and monitoring of animal drugs.

(Pub. L. 95–113, title XIV, § 1431, Sept. 29, 1977, 91 Stat. 1002; Pub. L. 101–624, title XVI, § 1611(a), Nov. 28, 1990, 104 Stat. 3720.)

AMENDMENTS

1990—Pub. L. 101–624 amended section catchline generally, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 3194. Repealed. Pub. L. 104–127, title VIII, § 854, Apr. 4, 1996, 110 Stat. 1172

Section, Pub. L. 95–113, title XIV, § 1432, Sept. 29, 1977, 91 Stat. 1002; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–98, title XIV, § 1428, Dec. 22, 1981, 95 Stat. 1309; Pub. L. 99–198, title XIV, § 1414(a), Dec. 23, 1985, 99 Stat. 1549; Pub. L. 101–624, title XVI, § 1611(b), Nov. 28, 1990, 104 Stat. 3721; Pub. L. 102–237, title IV, § 402(8), Dec. 13, 1991, 105 Stat. 1863, related to establishment of Animal Health Science Research Advisory Board.

§ 3195. Continuing animal health and disease research programs

(a) Authorization of appropriations

There are authorized to be appropriated such funds as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions, but not to exceed $25,000,000 for each of the fiscal years 1991 through 2002, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year. Funds appropriated under this section shall be used: (1) to meet expenses of conducting animal health and disease research, publishing and disseminating the results of such research, and contributing to the retirement of employees subject to the provisions of section 331 of this title; (2) for administrative planning and direction; and (3) to purchase equipment and supplies necessary for conducting such research.

(b) Apportionment of appropriated funds

Funds appropriated under subsection (a) of this section for any fiscal year shall be apportioned as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to the eligible institutions, and program coordination.

(2) Forty-eight per centum shall be distributed among the several States in the proportion that the value of and income to producers from domestic livestock, poultry, and commercial aquaculture species in each State bears to the total value of and income to producers from domestic livestock, poultry, and commercial aquaculture species in all the States. The Secretary shall determine the total value of and income from domestic livestock, poultry, and commercial aquaculture species in all the States and the proportionate value of and income from domestic livestock, poultry, and commercial aquaculture species for each State, based on the most current inventory of all cattle, sheep, swine, horses, poultry, and commercial aquaculture species published by the Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the several States in the proportion that the animal health research capacity of the eligible institutions in each State bears to the total animal health research capacity in all the States. The Secretary shall determine the animal health research capacity of the eligible institutions.

(c) Development of program for each State

In each State with one or more accredited colleges of veterinary medicine, the deans of the accredited college or colleges and the director of the State agricultural experiment station shall develop a comprehensive animal health and disease research program for the State based on the animal health research capacity of each eligible institution in the State, which shall be submitted to the Secretary for approval and shall be used for the allocation of funds available to the State under this section.

(d) Use of excess funds

When the amount available under this section for allotment to any State on the basis of domestic livestock, poultry, and commercial aquaculture species values and income exceeds the amount for which the eligible institution or institutions in the State are eligible on the basis of animal health research capacity, the excess may be used, at the discretion of the Secretary, for remodeling of facilities, construction of new facilities, or increase in staffing, proportionate to the need for added research capacity.

(e) Reallocation of funds to new colleges of veterinary medicine

Whenever a new college of veterinary medicine is established in a State and is accredited, the Secretary, after consultation with the dean of such college and the director of the State agricultural experiment station and, where applicable, deans of other accredited colleges in the State, shall provide for the reallocation of funds available to the State pursuant to subsection (b) of this section between the new college and other eligible institutions in the State, based on the animal health research capacity of each eligible institution.

(f) Joint establishment or support of accredited regional college of veterinary medicine

Whenever two or more States jointly establish an accredited regional college of veterinary medicine or jointly support an accredited college of veterinary medicine serving the States involved, the Secretary is authorized to make funds which are available to such States pursuant to subsection (b)(2) of this section available for such college in such amount that reflects the combined relative value of and income from domestic livestock, poultry, and commercial aquaculture species in the cooperating States, such amount to be adjusted, as necessary, pursuant to the provisions of subsections (c) and (e) of this section.

(Pub. L. 95–113, title XIV, § 1433, Sept. 29, 1977, 91 Stat. 1003; Pub. L. 97–98, title XIV, § 1429, Dec. 22, 1981, 95 Stat. 1309; Pub. L. 99–198, title XIV, § 1414(b), Dec. 23, 1985, 99 Stat. 1549; Pub. L. 101–624, title XVI, § 1601(b)(1), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, § 811, Apr. 4, 1996, 110 Stat. 1165; Pub. L. 105–185, title III, § 301(a)(7), title VI, § 606(d)(2), June 23, 1998, 112 Stat. 562, 604.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 301(a)(7), substituted ''2002'' for ''1997'' in first sentence.

Subsec. (b)(3). Pub. L. 105–185, § 606(d)(2), struck out ''with the advice, when available, of the Board'' before period at end of second sentence.

1996—Subsec. (a). Pub. L. 104–127, § 811(1), substituted ''1997'' for ''1995'' in first sentence.

Subsec. (b)(2). Pub. L. 104–127, § 811(2), substituted ''domestic livestock, poultry, and commercial aquaculture species'' for ''domestic livestock and poultry'' wherever appearing, and ''horses, poultry, and commercial aquaculture species'' for ''horses, and poultry'' in second sentence.

Subsecs. (d), (f). Pub. L. 104–127, § 811(3), (4), substituted ''domestic livestock, poultry, and commercial aquaculture species'' for ''domestic livestock and poultry''.

1990—Subsec. (a). Pub. L. 101–624 substituted ''for each of the fiscal years 1991 through 1995,'' for ''annually for the period beginning October 1, 1981, and ending September 30, 1990,''.

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions, but not to exceed $25,000,000 annually for the period beginning October 1, 1981, and ending September 30, 1985, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year'' for '', not to exceed $25,000,000 annually, as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3198, 3199, 3311 of this title; title 40 section 483.

§ 3196. Research on national and regional animal health or disease problems

(a) Authorization of appropriations

There are authorized to be appropriated such funds as Congress may determine necessary to support research on specific national or regional animal health or disease problems, or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being, but not to exceed $35,000,000 for each of the fiscal years 1991 through 2002, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(b) Duration of grants

Notwithstanding the provisions of section 3197 of this title, funds appropriated under this section shall be awarded in the form of grants, for periods not to exceed five years, to State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals.

(c) Establishment of annual priority lists for allocation of funds

In order to establish a rational allocation of funds appropriated under this section, the Secretary shall establish annually priority lists of animal health and disease, food safety, and animal well-being problems of national or regional significance. Such lists shall be prepared after consultation with the Advisory Board. Any recommendations made in connection with such consultation shall not be controlling on the Secretary's determination of priorities. In establishing such priorities, the Secretary and the Advisory Board shall consider the following factors:

(1) any health or disease problem which causes or may cause significant economic losses to any part of the livestock production industry;

(2) any food safety problem that has a significant pre-harvest (on-farm) component and is recognized as posing a significant health hazard to the consuming public;

(3) issues of animal well-being related to production methods that will improve the housing and management of animals to improve the well-being of livestock production species;

(4) whether current scientific knowledge necessary to prevent, cure, or abate such a health or disease problem is adequate; and

(5) whether the status of scientific research is such that accomplishments may be anticipated through the application of scientific effort to such health or disease problem.

(d) Assignment of priorities for grants

Without regard to any consultation under subsection (c) of this section, the Secretary shall, to the extent feasible, award grants on the basis of the priorities assigned through a peer review system. Grantees shall be selected on a competitive basis in accordance with such procedures as the Secretary may establish.

(e) Distribution of multiyear grants

In the case of multiyear grants, the Secretary shall distribute funds to grant recipients on a schedule which is reasonably related to the timetable required for the orderly conduct of the research project involved.

(f) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act [7 U.S.C. 2281 et seq.] shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subchapter.

(Pub. L. 95–113, title XIV, § 1434, Sept. 29, 1977, 91 Stat. 1004; Pub. L. 97–98, title XIV, § 1430, Dec. 22, 1981, 95 Stat. 1309; Pub. L. 99–198, title XIV, § 1414(c), Dec. 23, 1985, 99 Stat. 1549; Pub. L. 101–624, title XVI, § 1601(b)(2), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, §§ 812, 852(b)(5), Apr. 4, 1996, 110 Stat. 1165, 1171; Pub. L. 105–185, title III, § 301(a)(8), title VI, § 606(d)(3), June 23, 1998, 112 Stat. 562, 604.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Title XVIII of this Act, referred to in subsec. (f), is title XVIII of the Food and Agriculture Act of 1977, Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 1041, as amended, which is classified generally to chapter 55A (§ 2281 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 301(a)(8), substituted ''2002'' for ''1997''.

Subsec. (c). Pub. L. 105–185, § 606(d)(3), struck out ''and the Board'' after ''Advisory Board'' in second sentence and substituted ''and the Advisory Board'' for '', the Advisory Board, and the Board'' in fourth sentence.

1996—Subsec. (a). Pub. L. 104–127, § 812(1), inserted ''or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being,'' after ''problems,'' and substituted ''1997'' for ''1995''.

Subsec. (b). Pub. L. 104–127, § 812(2), substituted ''State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals'' for ''eligible institutions''.

Subsec. (c). Pub. L. 104–127, § 852(b)(5), in introductory provisions, substituted ''after consultation with the Advisory Board'' for ''after consultation with the Joint Council, the Advisory Board,'' and ''the Secretary, the Advisory Board,'' for ''the Secretary, the Joint Council, the Advisory Board,''.

Pub. L. 104–127, § 812(3)(A), in introductory provisions, inserted '', food safety, and animal well-being'' after ''animal health and disease''.

Subsec. (c)(2) to (5). Pub. L. 104–127, § 812(3)(B), added pars. (2) and (3) and redesignated former pars. (2) and (3) as (4) and (5), respectively.

Subsec. (d). Pub. L. 104–127, § 812(4), struck out ''to eligible institutions'' after ''award grants''.

Subsec. (f). Pub. L. 104–127, § 812(5), added subsec. (f).

1990—Subsec. (a). Pub. L. 101–624 substituted ''for each of the fiscal years 1991 through 1995,'' for ''annually for the period beginning October 1, 1981, and ending September 30, 1990,''.

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990'' for ''1985''.

1981—Subsec. (a). Pub. L. 97–98, § 1430(a), substituted ''as Congress may determine necessary to support research on specific national or regional animal health or disease problems, but not to exceed $35,000,000 annually for the period beginning October 1, 1981, and ending September 30, 1985, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year'' for '', not to exceed $15,000,000 annually, as Congress may determine necessary to support research on specific national or regional animal health or disease problems''.

Subsec. (b). Pub. L. 97–98, § 1430(b), substituted provisions that funds appropriated under this section shall be awarded in the form of grants, for periods not to exceed five years, to eligible institutions for provisions that such funds shall be allocated by the Secretary to eligible institutions for work to be done, as mutually agreed upon between the Secretary and the eligible institution or institutions and that the Secretary shall consult the Board in developing plans for the use of these funds whenever possible.

Subsecs. (c) to (e). Pub. L. 97–98, § 1430(c), added subsecs. (c) to (e).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3200, 3311 of this title.

§ 3197. Availability of appropriated funds

Funds available for allocation under the terms of this subchapter shall be paid to each State or eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

(Pub. L. 95–113, title XIV, § 1435, Sept. 29, 1977, 91 Stat. 1004.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3196 of this title.

§ 3198. Withholding of appropriated funds

If the Secretary determines that a State is not entitled to receive its allocation of the annual appropriation under section 3195 of this title because of its failure to satisfy requirements of this subtitle or regulations issued under it, the Secretary shall withhold such amount. The facts and reasons concerning the determination and withholding shall be reported to the President; and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(Pub. L. 95–113, title XIV, § 1436, Sept. 29, 1977, 91 Stat. 1004.)

§ 3199. Requirements for use of funds

With respect to research projects on problems of animal health and disease to be performed at eligible institutions and supported with funds allocated to the States under section 3195 of this title, the dean or director of each eligible institution shall cause to be prepared and shall review proposals for such research projects, which contain data showing compliance with the purpose in section 3191 of this title and the provisions for use of funds specified in section 3195(a) of this title, and with general guidelines for project eligibility to be provided by the Secretary. Such research proposals that are approved by the dean or director shall be submitted to the Secretary prior to assignment of funds thereto with a brief summary showing compliance with the provisions of this subtitle and the Secretary's general guidelines.

(Pub. L. 95–113, title XIV, § 1437, Sept. 29, 1977, 91 Stat. 1004; Pub. L. 105–185, § 606(d)(4), June 23, 1998, 112 Stat. 604.)

AMENDMENTS

1998—Pub. L. 105–185 struck out ''with the advice, when available, of the Board'' after ''by the Secretary'' in first sentence.

§ 3200. Matching funds

No funds in excess of $100,000, exclusive of the funds provided for research on specific national or regional animal health and disease problems under the provisions of section 3196 of this title, shall be paid by the Federal Government to any State under this subchapter during any fiscal year in excess of the amount from non-Federal sources made available to and budgeted for expenditure by eligible institutions in the State during the same fiscal year for animal health and disease research. The Secretary is authorized to make such payments in excess of $100,000 on the certificate of the appropriate official of the eligible institution having charge of the animal health and disease research for which such payments are to be made. If any eligible institution certified for receipt of matching funds fails to make available and budget for expenditure for animal health and disease research in any fiscal year sums at least equal to the amount for which it is certified, the difference between the Federal matching funds available and the funds made available to and budgeted for expenditure by the eligible institution shall be reapportioned

by the Secretary among other eligible institutions of the same State, if there are any which qualify therefor, and, if there are none, the Secretary shall reapportion such difference among the other States.

(Pub. L. 95–113, title XIV, § 1438, Sept. 29, 1977, 91 Stat. 1005.)

§ 3201. Funds appropriated or otherwise made available pursuant to other provisions of law

The sums appropriated and allocated to States and eligible institutions under this subchapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to such States and institutions pursuant to other provisions of law.

(Pub. L. 95–113, title XIV, § 1439, Sept. 29, 1977, 91 Stat. 1005.)

SUBCHAPTER VI—1890 LAND-GRANT COLLEGE FUNDING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3103, 3124a of this title.

§ 3221. Extension at 1890 land-grant colleges, including Tuskegee University

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural and forestry extension at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee University (hereinafter in this section referred to as ''eligible institutions''). Beginning with the fiscal year ending September 30, 1979, and ending with the fiscal year ending September 30, 1981, there shall be appropriated under this section for each fiscal year an amount not less than 4 per centum of the total appropriations for such year under the Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349): *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available for the fiscal year ending September 30, 1978, to such eligible institutions under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, as amended; 7 U.S.C. 343(d). Beginning with the fiscal year ending September 30, 1982, there shall be appropriated under this section an amount not less than 5½ per centum, and for each fiscal year thereafter an amount not less than 6 per centum of the total appropriations for such year under the Act of May 8, 1914 (7 U.S.C. 341 et seq.), and related acts pertaining to cooperative extension work at the land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary. Funds appropriated under this section shall be used for expenses of conducting extension programs and activities, and for contributing to the retirement of employees subject to the provisions of section 331 of this title. No more than 20 per centum of the funds received by an institution in any fiscal year may be carried forward to the succeeding fiscal year.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979—

(1) any funds annually appropriated under this section up to the amount appropriated for the fiscal year ending September 30, 1978, pursuant to section 343(d) of this title, for eligible institutions, shall be allocated among the eligible institutions in the same proportion as funds appropriated under section 343(d) of this title for the fiscal year ending September 30, 1978, are allocated among the eligible institutions; and

(2) any funds appropriated annually under this section in excess of an amount equal to the amount appropriated under section 343(d) of this title, for the fiscal year ending September 30, 1978, for eligible institutions, shall be distributed as follows:

(A) A sum equal to 4 per centum of the total amount appropriated each fiscal year under this section shall be allotted to the Extension Service of the Department of Agriculture for administrative, technical, and other services, and for coordinating the extension work of the Department of Agriculture and the several States.

(B) Of the remainder, 20 per centum shall be allotted among the eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census current at the time each such additional sum is first appropriated.

In computing the distribution of funds allocated under paragraph (2) of this subsection, the allotments to Tuskegee University and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Comprehensive program of extension for each State

The State director of the cooperative extension service and the extension administrator at the eligible institution in each State where an eligible institution is located shall jointly develop, by mutual agreement, a comprehensive program of extension for such State to be submitted for approval by the Secretary within one year after September 29, 1977 and each five years thereafter.

(d) Ascertainment of entitlement to funds; time and manner of payment; State reporting requirements; plans of work

(1) Ascertainment of entitlement

On or about the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriation for extension work under this section and the amount which it is entitled to receive. Before the funds herein provided shall become available to any eligible institution for any fiscal year, plans for the work to be carried out under this section shall be submitted, as part of the State plan of work, and approved by the Secretary.

(2) Time and manner of payment; related reports

The amount to which an eligible institution is entitled shall be paid in equal quarterly payments on or about October 1, January 1, April 1, and July 1 of each year to the treasurer or other officer of the eligible institution duly authorized to receive such payments and such officer shall be required to report to the Secretary on or about the first day of December of each year a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary.

(3) Requirements related to plan of work

Each plan of work for an eligible institution required under this section shall contain descriptions of the following:

(A) The critical short-term, intermediate, and long-term agricultural issues in the State in which the eligible institution is located and the current and planned extension programs and projects targeted to address the issues.

(B) The process established to consult with extension users regarding the identification of critical agricultural issues in the State and the development of extension programs and projects targeted to address the issues.

(C) The efforts made to identify and collaborate with other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional extension efforts) to work with those other institutions.

(D) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

(E) The education and outreach programs already underway to convey currently available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research results.

(4) Extension protocols

(A) In general

The Secretary shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary extension activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under this section.

(B) Consultation

The Secretary shall develop the protocols in consultation with the Advisory Board and land-grant colleges and universities.

(5) Treatment of plans of work for other purposes

To the maximum extent practicable, the Secretary shall consider a plan of work submitted under this section to satisfy other appropriate Federal reporting requirements.

(e) Diminution, loss, or misapplication of funds

If any portion of the moneys received by any eligible institution for the support and maintenance of extension work as provided in this section shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be apportioned or paid to such institution. No portion of such moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college course teaching, lectures in college, or any other purpose not specified in this section. It shall be the duty of such institution, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary.

(f) Mailing of correspondence, bulletins, and reports

To the extent that the official mail consists of correspondence, bulletins, and reports for furtherance of the purposes of this section, it shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each item shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such items may be mailed from a principal place of business of each eligible institution or from an established subunit of such institution.

(Pub. L. 95–113, title XIV, §1444, Sept. 29, 1977, 91 Stat. 1007; Pub. L. 97–98, title XIV, §1431, Dec. 22,

1981, 95 Stat. 1310; Pub. L. 99–198, title XIV, § 1415, Dec. 23, 1985, 99 Stat. 1549; Pub. L. 104–127, title VIII, § 883(b), Apr. 4, 1996, 110 Stat. 1176; Pub. L. 105–185, title I, § 103(f)(3)(A), title II, §§ 225(a), 226(c)(2), June 23, 1998, 112 Stat. 528, 540, 543.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of May 8, 1914, 38 Stat. 372, as amended, referred to in subsec. (a), is popularly known as the ''Smith-Lever Act'', and is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–185, § 226(c)(2)(A), substituted ''University'' for ''Institute'' in section catchline.

Subsecs. (a), (b). Pub. L. 105–185, § 226(c)(2)(B), substituted ''Tuskegee University'' for ''Tuskegee Institute'' in first sentence of subsec. (a) and concluding provisions of subsec. (b).

Subsec. (d). Pub. L. 105–185, § 225(a), inserted subsec. heading, designated existing provisions as pars. (1) and (2) and inserted par. headings, in par. (2) substituted ''The amount to which an eligible institution is entitled'' for ''Such sums'', and added pars. (3) to (5).

Subsecs. (f), (g). Pub. L. 105–185, § 103(f)(3)(A), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''If the Secretary finds that an eligible institution is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the next Congress in order that the institution may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.''

1996—Subsec. (a). Pub. L. 104–127 inserted before period at end of third sentence '', except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary''.

1985—Subsec. (a). Pub. L. 99–198 in third sentence, struck out '', through the fiscal year ending September 30, 1985,'' after ''fiscal year thereafter'' and inserted at end '', and related acts pertaining to cooperative extension work at the land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.)''.

1981—Subsec. (a). Pub. L. 97–98, § 1431(1), (2), inserted provisions designating the fiscal year ending Sept. 30, 1981, as the last of the fiscal years for which the appropriation under this section had to be 4 per centum or more of the total appropriation for each year under the Act of May 8, 1914, and inserted provisions that, beginning with the fiscal year ending Sept. 30, 1982, there must be appropriated under this section an amount not less than 5½ per centum and for each fiscal year thereafter, through the fiscal year ending Sept. 30, 1985, an amount not less than 6 per centum of the total appropriations for such year under the Act of May 8, 1914.

Subsec. (b)(2)(B). Pub. L., 97–98, § 1431(3), inserted ''current at the time each such additional sum is first appropriated'' after ''the last preceding decennial census'' in two places.

Subsec. (c). Pub. L. 97–98, § 1431(4), substituted ''extension administrator'' for ''administrative head for extension'' and inserted provision for the submission of a comprehensive program of extension for approval by the Secretary each five years after Sept. 29, 1977.

Subsec. (d). Pub. L. 97–98, § 1431(5), substituted ''submitted, as part of the State plan of work,'' for ''submitted by the proper officials of each institution''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–185, title II, § 225(c), June 23, 1998, 112 Stat. 542, provided that: ''The amendments made by this section [amending this section and section 3222 of this title] take effect on October 1, 1999.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

WEST VIRGINIA STATE COLLEGE, INSTITUTE, WEST VIRGINIA

Pub. L. 106–78, title I, Oct. 22, 1999, 113 Stat. 1141, provided in part that West Virginia State College in Institute, West Virginia: ''for fiscal year 2000 and thereafter shall be designated as an eligible institution under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3222d of this title; title 40 section 483.

§ 3222. Agricultural research at 1890 land-grant colleges, including Tuskegee University

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural research at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee University (hereinafter referred to in this section as ''eligible institutions''). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 15 per centum of the total appropriations for such year under section 361c of this title: *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available in the fiscal year ending September 30, 1978, to such eligible institutions under the Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i). Funds appropriated under this section shall be used for expenses of conducting agricultural research, printing, disseminating the results of such research, contributing to the retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. The eligible institutions are authorized to plan and con-

duct agricultural research in cooperation with each other and such agencies, institutions, and individuals as may contribute to the solution of agricultural problems, and moneys appropriated pursuant to this section shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research. No more than 5 percent of the funds received by an institution in any fiscal year, under this section, may be carried forward to the succeeding fiscal year.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

(1) Three per centum shall be available to the Secretary for administration of this section. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

(2) The remainder shall be allotted among the eligible institutions as follows:

(A) Funds up to the total amount made available to all eligible institutions in the fiscal year ending September 30, 1978, under section 450i of this title, shall be allocated among the eligible institutions in the same proportion as funds made available under section 450i of this title, for the fiscal year ending September 30, 1978, are allocated among the eligible institutions.

(B) Of funds in excess of the amount allocated under subparagraph (A) of this paragraph, 20 per centum shall be allotted among eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census current at the time each such additional sum is first appropriated; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census current at the time each such additional sum is first appropriated.

In computing the distribution of funds allocated under this subparagraph, the allotments to Tuskegee University and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Program and plans of work

(1) Initial comprehensive program of agricultural research

The director of the State agricultural experiment station in each State where an eligible institution is located and the research director specified in subsection (d) of this section in each of the eligible institutions in such State shall jointly develop, by mutual agreement, a comprehensive program of agricultural research in such State, to be submitted for approval by the Secretary within one year after September 29, 1977.

(2) Plan of work required

Before funds may be provided to an eligible institution under this section for any fiscal year, a plan of work to be carried out under this section shall be submitted by the research director specified in subsection (d) of this section and shall be approved by the Secretary.

(3) Requirements related to plan of work

Each plan of work required under paragraph (2) shall contain descriptions of the following:

(A) The critical short-term, intermediate, and long-term agricultural issues in the State in which the eligible institution is located and the current and planned research programs and projects targeted to address the issues.

(B) The process established to consult with users of agricultural research regarding the identification of critical agricultural issues in the State and the development of research programs and projects targeted to address the issues.

(C) Other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State.

(D) The current and emerging efforts to work with those other institutions to build on each other's experience and take advantage of each institution's unique capacities.

(E) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

(4) Research protocols

(A) In general

The Secretary shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary research activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under paragraph (2).

(B) Consultation

The Secretary shall develop the protocols in consultation with the Advisory Board and land-grant colleges and universities.

(5) Treatment of plans of work for other purposes

To the maximum extent practicable, the Secretary shall consider a plan of work submitted under paragraph (2) to satisfy other appropriate Federal reporting requirements.

(d) Payment of funds to eligible institutions

Sums available for allotment to the eligible institutions under the terms of this section shall

be paid to such institutions in equal quarterly payments beginning on or about the first day of October of each year upon vouchers approved by the Secretary. The President of each eligible institution shall appoint a research director who shall be responsible for administration of the program authorized herein. Each eligible institution shall designate a treasurer or other officer who shall receive and account for all funds allotted to such institution under the provisions of this section and shall report, with the approval of the research director, to the Secretary on or before the first day of December of each year a detailed statement of the amount received under the provisions of this section during the preceding fiscal year and its disbursement on schedules prescribed by the Secretary. If any portion of the allotted moneys received by any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be allotted or paid to such institution. Funds made available to eligible institutions shall not be used for payment of negotiated overhead or indirect cost rates.

(e) Mailing of bulletins, reports, periodicals, reprints, articles, and other publications

Bulletins, reports, periodicals, reprints or articles, and other publications necessary for the dissemination of results of the research and experiments funded under this section, including lists of publications available for distribution by the eligible institutions, shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each publication shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such publications may be mailed from the principal place of business of each eligible institution or from an established subunit of such institution.

(f) Administration; rules and regulations; cooperation by and between institutions

The Secretary shall be responsible for the proper administration of this section, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of this section, including participation in coordination of research initiated under this section by the eligible institutions, from time to time to indicate such lines of inquiry as to the Secretary seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several eligible institutions, the State agricultural experiment stations, and between them and the Department of Agriculture.

(g) Entitlement

On or before the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriations under this section and the amount which thereupon each is entitled, respectively, to receive.

(h) Existing legal relationships not impaired or modified

Nothing in this section shall be construed to impair or modify the legal relationship existing between any of the eligible institutions and the government of the States in which they are respectively located.

(Pub. L. 95–113, title XIV, § 1445, Sept. 29, 1977, 91 Stat. 1009; Pub. L. 95–547, Oct. 28, 1978, 92 Stat. 2063; Pub. L. 97–98, title XIV, § 1432(a), Dec. 22, 1981, 95 Stat. 1311; Pub. L. 99–198, title XIV, § 1417, Dec. 23, 1985, 99 Stat. 1550; Pub. L. 105–185, title I, § 103(f)(3)(B), title II, §§ 225(b), 226(b), (c)(3), June 23, 1998, 112 Stat. 528, 541, 543; Pub. L. 105–362, title I, § 101(e), Nov. 10, 1998, 112 Stat. 3281.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i), referred to in subsec. (a), is Pub. L. 89–106, Aug. 4, 1965, 79 Stat. 431, which enacted sections 450i, 2250a, 2262, and 2263 of this title, amended sections 1704, 1762, 1884, and 2235 of this title, and repealed section 608f of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Pub. L. 105–185, § 226(c)(3)(A), substituted ''University'' for ''Institute'' in section catchline.

Subsec. (a). Pub. L. 105–185, § 226(c)(3)(B), substituted ''Tuskegee University'' for ''Tuskegee Institute'' in first sentence.

Subsec. (b)(2). Pub. L. 105–185, § 226(c)(3)(B), which directed substitution of ''Tuskegee University'' for ''Tuskegee Institute'' in subpar. (B), was executed to concluding provisions following subpar. (B) to reflect probable intent of Congress.

Subsec. (c). Pub. L. 105–185, § 225(b), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, and added pars. (2) to (5).

Subsec. (g). Pub. L. 105–362, § 101(e)(1), struck out ''(1)'' before ''On or before''.

Subsec. (g)(2). Pub. L. 105–362, § 101(e)(2), struck out par. (2) which read as follows: ''The Secretary shall make an annual report to Congress during the first regular session of each year of the receipts and expenditures and work of the eligible institutions under the provisions of this section and also whether any portion of the appropriation available for allotment to any institution has been withheld and if so the reasons therefor.''

Pub. L. 105–185, § 226(b) redesignated par. (4) as (2) and struck out former par. (2) which read as follows: ''If it appears to the Secretary from the annual statement of receipts and expenditures of funds by any eligible institution that an amount in excess of 5 percent of the preceding annual appropriation allotted to that institution under this section remains unexpended, such amount in excess of 5 percent of the preceding annual appropriation allotted to that institution shall be deducted from the next succeeding annual allotment to the institution.''

Subsec. (g)(3). Pub. L. 105–185, § 103(f)(3)(B), struck out par. (3) which read as follows: ''If the Secretary withholds from any eligible institution any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the

next Congress does not direct such sum to be paid, it shall be carried to surplus.''

Subsec. (g)(4). Pub. L. 105–185, §226(b)(2), redesignated par. (4) as (2).

1985—Subsec. (a). Pub. L. 99–198, §1417(a), provided that not more than 5 percent of the funds received by an institution in any fiscal year, under this section, may be carried forward to the succeeding fiscal year.

Subsec. (g)(2). Pub. L. 99–198, §1417(b), in amending par. (2) generally, substituted ''If it appears'' for ''Whenever it shall appear'' before ''to the Secretary'' and ''that an amount in excess of 5 percent'' for ''that any portion'' before ''of the preceding annual appropriation'' and inserted ''in excess of 5 percent of the preceding annual appropriation allotted to that institution'' before ''shall be deducted''.

1981—Subsec. (b)(1). Pub. L. 97–98, §1432(a)(1), inserted provision authorizing use of administrative funds for transportation of scientists to research meetings convened for purpose of assessing research opportunities or research planning.

Subsec. (b)(2)(B). Pub. L. 97–98, §1432(a)(2), inserted ''current at the time each such additional sum is first appropriated'' after ''the last preceding decennial census'' in two places.

Subsecs. (c), (d). Pub. L. 97–98, §1432(a)(3), substituted ''research director'' for ''chief administrative officer'' wherever appearing.

1978—Subsec. (b)(2)(A). Pub. L. 95–547 substituted provisions relating to allocation of funds among eligible institutions in same proportion as funds made available under section 450i of this title, for fiscal year ending Sept. 30, 1978, are allocated among eligible institutions for provisions relating to allocation of $100,000 to each eligible institution.

Subsec. (b)(2)(B). Pub. L. 95–547 substituted provisions relating to allocation among eligible institutions of 20 per centum of the excess funds in equal proportions, 40 per centum in proportion that the rural population of the State in which each eligible institution is located bears to total rural population of all States in which such institutions are located, and balance in proportion that farm population of State in which each eligible institution is located bears to total farm population of all States in which such institutions are located for provisions relating to allocation among eligible institutions of one-half of remaining funds in an amount which bore same ratio to total amount to be allocated as rural population of State in which eligible institution was located bore to total rural population of all States in which such institutions were located, and one-half in an amount which bore same ratio to total amount to be allocated as farm population of State in which eligible institution was located bore to total farm population of all States in which such institutions were located.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 225(b) of Pub. L. 105–185 effective Oct. 1, 1999, see section 225(c) of Pub. L. 105–185, set out as a note under section 3221 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

WEST VIRGINIA STATE COLLEGE, INSTITUTE, WEST VIRGINIA

Pub. L. 106–78, title I, Oct. 22, 1999, 113 Stat. 1140, provided in part that West Virginia State College in Institute, West Virginia: ''for fiscal year 2000 and thereafter shall be designated as an eligible institution under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222)''.

GRANT FOR DAIRY GOAT RESEARCH PROGRAM

Section 1432(b) of Pub. L. 97–98, as amended by Pub. L. 99–198, title XIV, §1432, Dec. 23, 1985, 99 Stat. 1557; Pub. L. 101–624, title XVI, §1601(c), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, §887, Apr. 4, 1996, 110 Stat. 1180, authorized grant for dairy goat research, described uses for grant and times of payment, and authorized appropriations for fiscal years 1991 through 1997, prior to repeal by Pub. L. 105–185, title III, §302(b), June 23, 1998, 112 Stat. 563.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450i, 3222d of this title; title 40 section 483.

§ 3222a. Repealed. Pub. L. 104–127, title VIII, § 855, Apr. 4, 1996, 110 Stat. 1172

Section, Pub. L. 95–113, title XIV, §1446, as added Pub. L. 101–624, title XVI, §1612(a), Nov. 28, 1990, 104 Stat. 3721; amended Pub. L. 102–237, title IV, §402(9), (10), Dec. 13, 1991, 105 Stat. 1863, related to resident instruction at 1890 land-grant colleges, including Tuskegee University.

§ 3222b. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University

(a) Purpose

It is hereby declared to be the intent of Congress to assist the institutions eligible to receive funds under the Act of August 30, 1890 [7 U.S.C. 321 et seq.], including Tuskegee University (hereafter referred to in this section as ''eligible institutions'') in the acquisition and improvement of agricultural and food sciences facilities and equipment, including libraries, so that the eligible institutions may participate fully in the production of human capital.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of Agriculture for the purposes of carrying out the provisions of this section, $15,000,000 for each of fiscal years 1996 through 2002, and such sums shall remain available until expended.

(c) Use of grant funds

Four percent of the sums appropriated pursuant to this section shall be available to the Secretary for administration of this grants program. The remaining funds shall be available for grants to eligible institutions for the purpose of assisting them in the purchase of equipment and land, the planning, construction, alteration, or renovation of buildings to strengthen their capacity in the production of human capital in the food and agricultural sciences and can be used at the discretion of the eligible institutions in the areas of research, extension, and resident instruction or any combination thereof.

(d) Method of awarding grants

Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary shall determine necessary for carrying out the purposes of this section.

(e) Prohibition of certain uses

Federal funds provided under this section may not be utilized for the payment of any overhead costs of the eligible institutions.

(f) Regulations

The Secretary may promulgate such rules and regulations as the Secretary may consider nec-

essary to carry out the provisions of this section.

(Pub. L. 95–113, title XIV, § 1447, as added Pub. L. 101–624, title XVI, § 1612(b), Nov. 28, 1990, 104 Stat. 3722; amended Pub. L. 104–127, title VIII, § 813, Apr. 4, 1996, 110 Stat. 1166; Pub. L. 105–185, title III, § 301(a)(9), June 23, 1998, 112 Stat. 562.)

REFERENCES IN TEXT

Act of August 30, 1890, referred to in subsec. (a), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

PRIOR PROVISIONS

A prior section 1447 of Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 1011, amended sections 341 and 342 of this title, prior to repeal by Pub. L. 101–624, title XVI, § 1601(f)(1)(D), Nov. 28, 1990, 104 Stat. 3704.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–185 substituted ''through 2002'' for ''and 1997''.

1996—Subsec. (b). Pub. L. 104–127 substituted '', $15,000,000 for each of fiscal years 1996 and 1997'' for ''$8,000,000 for each of the fiscal years 1991 through 1995''.

§ 3222c. National research and training centennial centers

(a) Competitive grants authorized

The Secretary of Agriculture may make a competitive grant to five national research and training centennial centers located at colleges (or a consortia of such colleges) eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, that—

(1) have been designated by the Secretary for the fiscal years 1991 through 1995, or fiscal years 1996 through 2002, as national research and training centennial centers; and

(2) have the best demonstrable capacity, as determined by the Secretary, to provide administrative leadership as—

(A) a National Center for Goat Research and Training;

(B) a National Center for Agricultural Engineering Development, Research, and Training;

(C) a National Center for Water Quality and Agricultural Production Research and Training;

(D) a National Center for Sustainable Agriculture Research and Training; and

(E) a National Center for Domestic and International Trade and Development Research and Training.

(b) Use of grants

A grant made under subsection (a) of this section may be expended by a center to—

(1) pay expenses incurred in conducting research for which the center was designated;

(2) print and disseminate the results of such research;

(3) plan, administer, and direct such research; and

(4) alter or repair buildings necessary to conduct such research.

(c) Priority

In making a grant determination under subsection (a) of this section, the Secretary shall give priority to those centers that—

(1) will assure dissemination of information between eligible institutions described in subsection (a) of this section and among agricultural producers; and

(2) will attract students and needed professionals in the food and agricultural sciences.

(d) Payments

(1) Under the terms of a grant made under subsection (a) of this section, funds appropriated under subsection (f) of this section for a fiscal year shall be paid (upon vouchers approved by the Secretary) to a center receiving the grant in equal quarterly installments beginning on or about the first day of October of such year.

(2) Not later than 60 days after the end of each fiscal year for which funds are paid under this section to a center, the research director of such center shall submit to the Secretary a detailed statement of the disbursements in such fiscal year of funds received by such center under this section.

(3) If any of the funds received by a center under this section are misapplied, lost, or diminished by any action or contingency on the part of the center—

(A) the center shall replace such funds; and

(B) the Secretary shall not distribute to such center any other funds under this subsection until such funds are replaced.

(e) Prohibited uses of funds

Funds provided under this section may not be used—

(1) to acquire or construct a building; or

(2) to pay the overhead costs of the college (or consortia of colleges) receiving the grant.

(f) Authorization of appropriations

There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991 through 2002 for grants under this section.

(g) "Center" defined

For purposes of this section, the term ''center'' means a national research and training centennial center that receives a grant under this subsection.

(h) Coordination of center activities

(1) The center designated under subsection (a)(2)(C) of this section shall coordinate its activities with the water quality research activities conducted under subtitle G of title XIV of the Food, Agriculture, Conservation, and Trade Act of 1990.[1]

(2) The center designated under subsection (a)(2)(D) of this section shall coordinate its activities with the sustainable agriculture research and education program established under subtitle B of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 [7 U.S.C. 5801 et seq.].

(Pub. L. 95–113, title XIV, § 1448, as added Pub. L. 101–624, title XVI, § 1612(c), Nov. 28, 1990, 104 Stat.

[1] See References in Text note below.

3723; amended Pub. L. 104–127, title VIII, § 814, Apr. 4, 1996, 110 Stat. 1166; Pub. L. 105–185, title III, § 301(a)(10), June 23, 1998, 112 Stat. 562.)

REFERENCES IN TEXT

Act of August 30, 1890, referred to in subsec. (a), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the ''Agricultural College Act of 1890'' and also as the ''Second Morrill Act'', which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (h), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. Subtitle G of title XIV of the Act, popularly known as the ''Agriculture and Water Policy Coordination Act'', was classified generally to chapter 86 (§ 5501 et seq.) of this title, prior to repeal by Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563. Subtitle B of title XVI of the Act enacted subchapter I (§ 5801 et seq.) of chapter 88 of this title and repealed chapter 78 (§ 4701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1448 of Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 1011, amended sections 1923 and 1942 of this title, prior to repeal by Pub. L. 101–624, title XVI, § 1601(f)(1)(D), Nov. 28, 1990, 104 Stat. 3704.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–185, § 301(a)(10)(A), substituted ''through 2002'' for ''and 1997''.

Subsec. (f). Pub. L. 105–185, § 301(a)(10)(B), substituted ''2002'' for ''1997''.

1996—Subsec. (a)(1). Pub. L. 104–127, § 814(1), inserted '', or fiscal years 1996 and 1997,'' after ''1995''.

Subsec. (f). Pub. L. 104–127, § 814(2), substituted ''1997'' for ''1995''.

§ 3222d. Matching funds requirement for research and extension activities at eligible institutions

(a) Definitions

In this section:

(1) Eligible institution

The term ''eligible institution'' means a college eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.) (commonly known as the ''Second Morrill Act''), including Tuskegee University.

(2) Formula funds

The term ''formula funds'' means the formula allocation funds distributed to eligible institutions under sections 3221 and 3222 of this title.

(b) Determination of non-Federal sources of funds

Not later than September 30, 1999, each eligible institution shall submit to the Secretary a report describing for fiscal year 1999—

(1) the sources of non-Federal funds made available by the State to the eligible institution for agricultural research, extension, and education to meet the requirements of this section; and

(2) the amount of such funds generally available from each source.

(c) Matching formula

Notwithstanding any other provision of this subchapter, the distribution of formula funds to an eligible institution shall be subject to the following matching requirements:

(1) For fiscal year 2000, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 30 percent of the formula funds to be distributed to the eligible institution.

(2) For fiscal year 2001, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 45 percent of the formula funds to be distributed to the eligible institution.

(3) For fiscal year 2002 and each fiscal year thereafter, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds to be distributed to the eligible institution.

(d) Limited waiver authority

(1) Fiscal year 2000

Notwithstanding subsection (f) of this section, the Secretary may waive the matching funds requirement under subsection (c)(1) of this section for fiscal year 2000 for an eligible institution of a State if the Secretary determines that, based on the report received under subsection (b) of this section, the State will be unlikely to satisfy the matching requirement.

(2) Future fiscal years

The Secretary may not waive the matching requirement under subsection (c) of this section for any fiscal year other than fiscal year 2000.

(e) Use of matching funds

Under terms and conditions established by the Secretary, matching funds provided as required by subsection (c) of this section may be used by an eligible institution for agricultural research, extension, and education activities.

(f) Redistribution of funds

(1) Redistribution required

Federal funds that are not matched by a State in accordance with subsection (c) of this section for a fiscal year shall be redistributed by the Secretary to eligible institutions whose States have satisfied the matching funds requirement for that fiscal year.

(2) Administration

Any redistribution of funds under this subsection shall be subject to the applicable matching requirement specified in subsection (c) of this section and shall be made in a manner consistent with sections 3221 and 3222 of this title, as determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1449, as added Pub. L. 105–185, title II, § 226(a), June 23, 1998, 112 Stat. 542.)

REFERENCES IN TEXT

Act of August 30, 1890, referred to in subsec. (a)(1), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 361c of this title.

§ 3223. Grants for acquisition and improvement of research facilities and equipment

(a) Eligible institutions; statement of purposes

It is hereby declared to be the intent of Congress to assist the institutions eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee Institute (hereinafter referred to in this section as ''eligible institutions''), in the acquisition and improvement of research facilities and equipment, including agricultural libraries, so that eligible institutions may participate fully with the State agricultural experiment stations in a balanced attack on the research needs of the people of their States.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of Agriculture for the purpose of carrying out the provisions of this section $10,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987, such sums to remain available until expended.

(c) Allocation of funds

Four per centum of the sums appropriated pursuant to this section shall be available to the Secretary for administration of this grants program. The remaining funds shall be available for grants to the eligible institutions for the purpose of assisting them in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity to conduct research in the food and agricultural sciences.

(d) Amount, terms, and conditions

Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary shall determine necessary for carrying out the purposes of this section.

(e) Restrictions

Federal funds provided under this section may not be utilized for the payment of any overhead costs of the eligible institutions.

(f) Rules and regulations

The Secretary may promulgate such rules and regulations as the Secretary may deem necessary to carry out the provisions of this section.

(Pub. L. 97–98, title XIV, § 1433, Dec. 22, 1981, 95 Stat. 1312; Pub. L. 99–198, title XIV, § 1433, Dec. 23, 1985, 99 Stat. 1557.)

REFERENCES IN TEXT

Act of August 30, 1890, referred to in subsec. (a), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the National Agricultural Research Extension and Teaching Policy Act of 1977 which comprises this chapter.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–198, § 1432(a), inserted '', including agricultural libraries,'' after ''equipment''.

Subsec. (b). Pub. L. 99–198, § 1432(b), authorized appropriations for fiscal year ending Sept. 30, 1987.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3224. Repealed. Pub. L. 104–127, title VIII, § 873, Apr. 4, 1996, 110 Stat. 1175; Pub. L. 105–185, title VI, § 606(g), June 23, 1998, 112 Stat. 604

Section, Pub. L. 99–198, title XIV, § 1416, Dec. 23, 1985, 99 Stat. 1549; Pub. L. 101–624, title XVI, § 1601(d)(1), Nov. 28, 1990, 104 Stat. 3704, provided for grants to upgrade 1890 land-grant college extension facilities.

CODIFICATION

Pub. L. 105–185, title VI, § 606(g), June 23, 1998, 112 Stat. 604, provided that the technical amendment made by section 606(g) to section 873 of Pub. L. 104–127, which repealed this section, is effective Apr. 6, 1996.

SUBCHAPTER VII—PROGRAMS FOR HISPANIC, ALASKA NATIVE, AND NATIVE HAWAIIAN SERVING INSTITUTIONS

PRIOR PROVISIONS

A prior subchapter VII, consisting of parts A (§ 3241), B (§§ 3251, 3252), C (§§ 3261 to 3263), D (§ 3271), and E (§§ 3281, 3282), related to solar energy research and development, prior to repeal by Pub. L. 101–624, title XVI, § 1601(f)(1)(D), Nov. 28, 1990, 104 Stat. 3704.

Section 3241, Pub. L. 95–113, title XIV, § 1449, Sept. 29, 1977, 91 Stat. 1012, related to farm and forest uses of solar energy and nonrenewable fuel and petrochemical substitutes.

Section 3251, Pub. L. 95–113, title XIV, § 1450, Sept. 20, 1977, 91 Stat. 1012, provided for a solar energy research information system.

Section 3252, Pub. L. 95–113, title XIV, § 1451, Sept. 29, 1977, 91 Stat. 1013, provided for assistance from an advisory committee respecting functions of Secretary on model farms and demonstration projects.

Section 3261, Pub. L. 95–113, title XIV, § 1452, Sept. 29, 1977, 91 Stat. 1013, provided for model farms.

Section 3262, Pub. L. 95–113, title XIV, § 1453, Sept. 29, 1977, 91 Stat. 1014, provided for demonstration projects.

Section 3263, Pub. L. 95–113, title XIV, § 1454, Sept. 29, 1977, 91 Stat. 1015; Pub. L. 97–98, title XIV, § 1434, Dec. 22, 1981, 95 Stat. 1312, authorized appropriation of funds.

Section 3271, Pub. L. 95–113, title XIV, § 1455, Sept. 29, 1977, 91 Stat. 1015, provided for establishment of regional solar energy research, development, and demonstration centers.

Section 3281, Pub. L. 95–113, title XIV, § 1456, Sept. 29, 1977, 91 Stat. 1015, authorized appropriation of funds.

Section 3282, Pub. L. 95–113, title XIV, § 1457, Sept. 29, 1977, 91 Stat. 1015; Pub. L. 97–98, title XIV, § 1435, Dec. 22, 1981, 95 Stat. 1313, defined ''solar energy''.

§ 3241. Education grants programs for Hispanic-serving institutions

(a) Grant authority

The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Hispanic-serving institu-

tions for the purpose of promoting and strengthening the ability of Hispanic-serving institutions to carry out education, applied research, and related community development programs.

(b) Use of grant funds

Grants made under this section shall be used—

(1) to support the activities of consortia of Hispanic-serving institutions to enhance educational equity for underrepresented students;

(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

(4) to facilitate cooperative initiatives between 2 or more Hispanic-serving institutions, or between Hispanic-serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

(c) Authorization of appropriations

There are authorized to be appropriated to make grants under this section $20,000,000 for each of fiscal years 1997 through 2002.

(Pub. L. 95–113, title XIV, § 1455, as added Pub. L. 104–127, title VIII, § 815(a), Apr. 4, 1996, 110 Stat. 1166; amended Pub. L. 105–185, title III, § 301(a)(11), June 23, 1998, 112 Stat. 562.)

PRIOR PROVISIONS

For prior section 3241 and prior section 1455 of Pub. L. 95–113, see note set out preceding this section.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–185 substituted ''each of fiscal years 1997 through 2002'' for ''fiscal year 1997''.

§ 3242. Education grants to Alaska Native serving institutions and Native Hawaiian serving institutions

(a) Education grants program for Alaska Native serving institutions

(1) Grant authority

The Secretary of Agriculture may make competitive grants (or grants without regard to any requirement for competition) to Alaska Native serving institutions for the purpose of promoting and strengthening the ability of Alaska Native serving institutions to carry out education, applied research, and related community development programs.

(2) Use of grant funds

Grants made under this section shall be used—

(A) to support the activities of consortia of Alaska Native serving institutions to enhance educational equity for under represented students;

(B) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agriculture sciences;

(C) to attract and support undergraduate and graduate students from under represented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level including by village elders and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

(D) to facilitate cooperative initiatives between two or more Alaska Native serving institutions, or between Alaska Native serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

(3) Authorization of appropriations

There are authorized to be appropriated to make grants under this subsection $10,000,000 in fiscal years 2001 through 2006.

(b) Education grants program for Native Hawaiian serving institutions

(1) Grant authority

The Secretary of Agriculture may make competitive grants (or grants without regard to any requirement for competition) to Native Hawaiian serving institutions for the purpose of promoting and strengthening the ability of Native Hawaiian serving institutions to carry out education, applied research, and related community development programs.

(2) Use of grant funds

Grants made under this section shall be used—

(A) to support the activities of consortia of Native Hawaiian serving institutions to enhance educational equity for under represented students;

(B) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agriculture sciences;

(C) to attract and support undergraduate and graduate students from under represented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level and continuing with the provision of financial support

for students through their attainment of a doctoral degree; and

(D) to facilitate cooperative initiatives between two or more Native Hawaiian serving institutions, or between Native Hawaiian serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

(3) Authorization of appropriations

There are authorized to be appropriated to make grants under this subsection $10,000,000 for each of fiscal years 2001 through 2006.

(Pub. L. 106–78, title VII, § 759, Oct. 22, 1999, 113 Stat. 1172.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SUBCHAPTER VIII—INTERNATIONAL RESEARCH, EXTENSION, AND TEACHING

§ 3291. International agricultural research, extension, and teaching

(a) Authority of Secretary

To carry out the policy of this subchapter, the Secretary (in consultation with the Agency for International Development and subject to such coordination with other Federal officials, Departments, and agencies as the President may direct) may—

(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research, extension, and teaching activities by—

(A) exchanging research materials and results with the institutions or persons; and

(B) conducting with the institutions or persons joint or coordinated research, extension, and teaching activities that address problems of significance to food and agriculture in the United States;

(2) enter into cooperative arrangements with Departments and Ministries of Agriculture in other nations to conduct research, extension, and teaching activities in support of the development of a viable and sustainable global agricultural system, including efforts to establish a global system for plant genetic resources conservation;

(3) enter into agreements with land-grant colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, World Bank, regional development banks, the International Agricultural Research Center), or other organizations, institutions or individuals with comparable goals, to promote and support the development of a viable and sustainable global agricultural system;

(4) further develop within the Department highly qualified and experienced science and education experts who specialize in international programs, to be available to carry out the activities described in this section;

(5) work with transitional and more advanced countries in food, agricultural, and related research, development, teaching, and extension (including providing technical assistance, training, and advice to persons from the countries engaged in the activities and the stationing of scientists and other specialists at national and international institutions in the countries);

(6) expand collaboration and coordination with the Agency for International Development regarding food and agricultural research, extension, and teaching programs in developing countries;

(7) assist colleges and universities in strengthening their capabilities for food, agricultural, and related research, extension, and teaching programs relevant to agricultural development activities in other countries through—

(A) the provision of support to State universities and land-grant colleges and universities to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

(B) the provision of support for cooperative extension education in global agriculture and to promote the application of new technology developed in foreign countries to United States agriculture; and

(C) the provision of support for the internationalization of resident instruction programs of the universities and colleges described in subparagraph (A);

(8) continue, in cooperation with the Secretary of State, a program, coordinated through the International Arid Land Consortium, to enhance collaboration and cooperation between institutions possessing research, extension, and teaching capabilities applied to the development, management, and reclamation of arid lands; and

(9) make competitive grants for collaborative projects that—

(A) involve Federal scientists or scientists from land-grant colleges and universities or other colleges and universities with scientists at international agricultural research centers in other nations, including the international agricultural research centers of the Consultative Group on International Agriculture Research;

(B) focus on developing and using new technologies and programs for—

(i) increasing the production of food and fiber, while safeguarding the environment worldwide and enhancing the global competitiveness of United States agriculture; or

(ii) training scientists;

(C) are mutually beneficial to the United States and other countries; and

(D) encourage private sector involvement and the leveraging of private sector funds.

(b) Enhancing linkages

The Secretary shall draw upon and enhance the resources of the land-grant colleges and uni-

versities, and other colleges and universities, for developing linkages among these institutions, the Federal Government, international research centers, and counterpart research, extension, and teaching agencies and institutions in both the developed and less-developed countries to serve the purposes of agriculture and the economy of the United States and to make a substantial contribution to the cause of improved food and agricultural progress throughout the world.

(c) Provision of specialized or technical services

The Secretary may provide specialized or technical services, on an advance of funds or a reimbursable basis, to United States colleges and universities and other nongovernmental organizations carrying out international food, agricultural, and related research, extension, and teaching development projects and activities. All funds received in payment for furnishing such specialized or technical services shall be deposited to the credit of the appropriation from which the cost of providing such services has been paid or is to be charged.

(d) Reports

The Secretary shall provide biennial reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on efforts of the Federal Government—

(1) to coordinate international agricultural research within the Federal Government; and

(2) to more effectively link the activities of domestic and international agricultural researchers, particularly researchers of the Agricultural Research Service.

(e) Full payment of funds made available for certain binational projects

Notwithstanding any other provision of law, the full amount of any funds appropriated or otherwise made available to carry out cooperative projects under the arrangement entered into between the Secretary and the Government of Israel to support the Israel-United States Binational Agricultural Research and Development Fund shall be paid directly to the Fund.

(Pub. L. 95–113, title XIV, §1458, Sept. 29, 1977, 91 Stat. 1015; Pub. L. 97–98, title XIV, §1436, Dec. 22, 1981, 95 Stat. 1313; Pub. L. 99–198, title XIV, §1418, Dec. 23, 1985, 99 Stat. 1550; Pub. L. 101–624, title XVI, §1613(a), (b), (d)(1), Nov. 28, 1990, 104 Stat. 3724, 3726; Pub. L. 102–237, title IV, §402(11), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, §816, Apr. 4, 1996, 110 Stat. 1167; Pub. L. 105–185, title II, §227(a)–(d), June 23, 1998, 112 Stat. 543–545.)

AMENDMENTS

1998—Pub. L. 105–185, §227(a)(1), substituted ''research, extension, and teaching'' for ''research and extension'' in section catchline.

Subsec. (a)(1). Pub. L. 105–185, §227(a)(2)(A)(i), substituted ''related research, extension, and teaching'' for ''related research and extension'' in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 105–185, §227(a)(2)(A)(ii), substituted ''research, extension, and teaching activities that address'' for ''research and extension on''.

Subsec. (a)(2). Pub. L. 105–185, §227(a)(2)(B), substituted ''teaching'' for ''education''.

Subsec. (a)(4). Pub. L. 105–185, §227(a)(2)(C), substituted ''science and education experts'' for ''scientists and experts''.

Subsec. (a)(5). Pub. L. 105–185, §227(a)(2)(D), inserted ''teaching,'' after ''development,''.

Subsec. (a)(6). Pub. L. 105–185, §227(a)(2)(B), substituted ''teaching'' for ''education''.

Subsec. (a)(7). Pub. L. 105–185, §227(a)(2)(E), substituted ''research, extension, and teaching programs'' for ''research and extension that is''.

Subsec. (a)(8). Pub. L. 105–185, §227(a)(2)(F), substituted ''research, extension, and teaching capabilities'' for ''research capabilities''.

Subsec. (a)(9). Pub. L. 105–185, §227(b), added par. (9).

Subsec. (b). Pub. L. 105–185, §227(a)(3), substituted ''counterpart research, extension, and teaching agencies'' for ''counterpart agencies''.

Subsec. (d). Pub. L. 105–185, §227(c), added subsec. (d).

Subsec. (e). Pub. L. 105–185, §227(d), added subsec. (e).

1996—Subsec. (a)(8). Pub. L. 104–127 substituted ''continue'' for ''establish'' after ''(8)'' and struck out ''to be'' before ''coordinated''.

1991—Subsec. (a)(3). Pub. L. 102–237 substituted a semicolon for period at end.

1990—Pub. L. 101–624, §1613(d)(1)(A), inserted section catchline.

Subsec. (a). Pub. L. 101–624, §1613(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

''(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

''(2) assist the Agency for International Development with food, agricultural, research and extension programs in developing countries;

''(3) work with developed and transitional countries on food, agricultural and related research and extension, including providing technical assistance, training, and advice to persons from such countries engaged in such activities and the stationing of scientists at national and international institutions in such countries;

''(4) assist United States colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension relevant to agricultural development activities in other countries through the development of highly qualified scientists with specialization in international development; and

''(5) further develop within the Department of Agriculture highly qualified and experienced scientists who specialize in international programs, to be available for the activities described in this section.''

Subsec. (b). Pub. L. 101–624, §1613(d)(1)(B), inserted heading.

Subsec. (c). Pub. L. 101–624, §1613(b), (d)(1)(C), inserted heading and ''and other nongovernmental organizations'' after ''universities''.

1985—Subsec. (a)(3). Pub. L. 99–198 substituted ''providing technical assistance, training, and advice to'' for ''the training of''.

Subsec. (a)(4). Pub. L. 99–198 inserted ''through the development of highly qualified scientists with specialization in international development'' after ''countries''.

1981—Pub. L. 97–98 designated existing provisions as subsec. (a), inserted provisions authorizing Secretary to work with transitional countries as well as developed countries on agricultural research and extension and establishing that agricultural research includes food, agricultural, and related research, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3292. Repealed. Pub. L. 104–127, title VIII, § 856, Apr. 4, 1996, 110 Stat. 1172

Section, Pub. L. 95–113, title XIV, § 1458A, as added Pub. L. 99–198, title XIV, § 1419(a), Dec. 23, 1985, 99 Stat. 1550; amended Pub. L. 101–624, title XVI, § 1613(c), (d)(2), Nov. 28, 1990, 104 Stat. 3726, related to grants to States for international trade development centers.

§ 3292a. United States-Mexico joint agricultural research

(a) Research and development program

The Secretary may provide for an agricultural research and development program with the George E. Brown United States/Mexico Foundation for Science. The program shall focus on binational problems facing agricultural producers and consumers in the 2 countries, in particular pressing problems in the areas of food safety, plant and animal pest control, and the natural resources base on which agriculture depends.

(b) Administration

Grants under the research and development program shall be awarded competitively through the Foundation.

(c) Matching requirements

The provision of funds to the Foundation by the United States Government shall be subject to the condition that the Government of Mexico match, on at least a dollar-for-dollar basis, any funds provided by the United States Government.

(d) Limitation on use of funds

Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(Pub. L. 95–113, title XIV, § 1459, as added Pub. L. 105–185, title II, § 228, June 23, 1998, 112 Stat. 545; amended Pub. L. 106–74, title IV, § 423, Oct. 20, 1999, 113 Stat. 1095.)

PRIOR PROVISIONS

A prior section 1459 of Pub. L. 95–113 was classified to section 3301 of this title, prior to repeal by Pub. L. 99–198.

CHANGE OF NAME

''George E. Brown United States/Mexico Foundation for Science'' substituted in subsec. (a) for ''United States/Mexico Foundation for Science'' pursuant to section 423 of Pub. L. 106–74, set out below.

Pub. L. 106–74, title IV, § 423, Oct. 20, 1999, 113 Stat. 1095, provided in part: ''That the United States/Mexico Foundation for Science is renamed the 'George E. Brown United States/Mexico Foundation for Science'.''

§ 3292b. Competitive grants for international agricultural science and education programs

(a) Competitive grants authorized

The Secretary may make competitive grants to colleges and universities in order to strengthen United States economic competitiveness and to promote international market development.

(b) Purpose of grants

Grants under this section shall be directed to agricultural research, extension, and teaching activities that will—

(1) enhance the international content of the curricula in colleges and universities so as to ensure that United States students acquire an understanding of the international dimensions and trade implications of their studies;

(2) ensure that United States scientists, extension agents, and educators involved in agricultural research and development activities outside of the United States have the opportunity to convey the implications of their activities and findings to their peers and students in the United States and to the users of agricultural research, extension, and teaching;

(3) enhance the capabilities of colleges and universities to do collaborative research with other countries, in cooperation with other Federal agencies, on issues relevant to United States agricultural competitiveness;

(4) enhance the capabilities of colleges and universities to provide cooperative extension education to promote the application of new technology developed in foreign countries to United States agriculture; and

(5) enhance the capability of United States colleges and universities, in cooperation with other Federal agencies, to provide leadership and educational programs that will assist United States natural resources and food production, processing, and distribution businesses and industries to compete internationally, including product market identification, international policies limiting or enhancing market production, development of new or enhancement of existing markets, and production efficiencies.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 95–113, title XIV, § 1459A, as added Pub. L. 105–185, title II, § 229, June 23, 1998, 112 Stat. 545.)

§ 3293. Agricultural fellowship program for middle income countries, emerging democracies, and emerging markets

(a) Establishment

The Secretary of Agriculture shall establish a fellowship program for,[1] to be known as the ''Cochran Fellowship Program'', to provide fellowships to individuals from eligible countries (as determined under subsection (b) of this section) who specialize in agriculture for study in the United States.

(b) Eligible countries

Countries described in any of the following paragraphs shall be eligible to participate in the program established under this section:

(1) Middle-income country

A country that has developed economically to the point where it no longer qualifies for bi-

[1] So in original. The word ''for'' probably should not appear.

lateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereafter referred to in this section as a ''middle-income'' country).

(2) Ongoing relationship

A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States.

(3) Type of government

A country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

(4) Independent states of the former Soviet Union

A country that is an independent state of the former Soviet Union (as defined in section 5602(8) of this title), to the extent that the Secretary of Agriculture determines that such country should be eligible to participate in the program established under this section.

(5) Emerging market

Any emerging market, as defined in section 1542(f).

(c) Purpose of fellowships

Fellowships under this section shall be provided to permit the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food and fiber needs of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) Individuals who may receive fellowships

The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participating countries to help identify program candidates for fellowships under this section from both the public and private sectors of those countries. The Secretary may provide fellowships under the program authorized by this section to private agricultural producers from eligible countries.

(e) Program implementation

The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the objectives of the program established under this section.

(f) Authorization of appropriations

There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program established under this section, except that the amount of such funds in any fiscal year shall not exceed—

(1) for eligible countries that meet the requirements of subsection (b)(1) of this section, $3,000,000;

(2) for eligible countries that meet the requirements of subsection (b)(2) of this section, $2,000,000; and

(3) for eligible countries that meet the requirements of subsection (b)(3) of this section, $5,000,000.

(g) Complementary funds

If the Secretary of Agriculture determines that it is advisable in furtherance of the purposes of the program established under this section, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposition as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

(Pub. L. 101–624, title XV, § 1543, Nov. 28, 1990, 104 Stat. 3694; Pub. L. 102–237, title X, § 1002, Dec. 13, 1991, 105 Stat. 1894; Pub. L. 102–511, title VII, § 705, Oct. 24, 1992, 106 Stat. 3349; Pub. L. 104–127, title II, § 277(b), Apr. 4, 1996, 110 Stat. 978.)

REFERENCES IN TEXT

Section 1542(f), referred to in subsec. (b)(5), is section 1542(f) of Pub. L. 101–624, which is set out as a note under section 5622 of this title.

CODIFICATION

Section was enacted as part of the Agricultural Development and Trade Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104–127, § 277(b)(1), in section catchline, substituted ''middle income countries, emerging democracies, and emerging markets'' for ''middle income countries and emerging democracies''.

Subsec. (b)(5). Pub. L. 104–127, § 277(b)(2), added par. (5).

Subsec. (c)(1). Pub. L. 104–127, § 277(b)(3), substituted ''food and fiber needs'' for ''food needs''.

1992—Subsec. (a). Pub. L. 102–511, § 705(a)(1), struck out ''middle income countries and emerging democracies'' after ''fellowship program for'' and inserted ''(as determined under subsection (b) of this section)'' after ''eligible countries''.

Subsec. (b). Pub. L. 102–511, § 705(a)(2), substituted ''described in any of the following paragraphs'' for ''that meet the following requirements'' in introductory provisions and added par. (4).

Subsec. (d). Pub. L. 102–511, § 705(b), inserted at end ''The Secretary may provide fellowships under the program authorized by this section to private agricultural producers from eligible countries.''

1991—Subsec. (e). Pub. L. 102–237 substituted ''program'' for ''Program''.

§ 3294. Center For North American Studies

(a) Establishment

The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States

through cooperative study, training, and research.

(b) Location

The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) Authorization of appropriations

To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

(Pub. L. 102–532, § 4, Oct. 27, 1992, 106 Stat. 3512.)

CODIFICATION

Section was enacted as part of the Enterprise for the Americas Initiative Act of 1992, and not as part of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 which comprises this chapter.

SUBCHAPTER IX—STUDIES

§§ 3301 to 3304. Repealed. Pub. L. 99–198, title XIV, § 1421, Dec. 23, 1985, 99 Stat. 1552

Section 3301, Pub. L. 95–113, title XIV, § 1459, Sept. 29, 1977, 91 Stat. 1016, required Secretary of Agriculture to transmit to Congress, not later than March 31, 1979, an evaluation of economic and social consequences of programs of Extension Service and cooperative extension services.

Section 3302, Pub. L. 95–113, title XIV, § 1460, Sept. 29, 1977, 91 Stat. 1016, required Secretary to conduct a comprehensive study of effects of changing climate and weather on crop and livestock productivity and submit a report, with recommendations, to President and Congress within twelve months after Sept. 29, 1977.

Section 3303, Pub. L. 95–113, title XIV, § 1461, Sept. 29, 1977, 91 Stat. 1016, required Secretary to conduct, and, within twelve months after September 29, 1977, submit to President and Congress a report containing results of and Secretary's recommendations concerning an investigation and analysis of practicability, desirability, and feasibility of collecting organic waste materials.

Section 3304, Pub. L. 95–113, title XIV, § 1462, Sept. 29, 1977, 91 Stat. 1017, required Secretary to conduct a comprehensive study of status and future needs of agricultural research facilities and, within fourteen months after September 29, 1977, submit to President and Congress a report on this study, with recommendations.

SUBCHAPTER X—FUNDING AND MISCELLANEOUS PROVISIONS

§ 3310. Limitation on indirect costs for agricultural research, education, and extension programs

Except as otherwise provided in law, indirect costs charged against a competitive agricultural research, education, or extension grant awarded under this Act or any other Act pursuant to authority delegated to the Under Secretary of Agriculture for Research, Education, and Economics shall not exceed 19 percent of the total Federal funds provided under the grant award, as determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1462, as added Pub. L. 105–185, title II, § 230(a), June 23, 1998, 112 Stat. 546.)

PRIOR PROVISIONS

A prior section 1462 of Pub. L. 95–113 was classified to section 3304 of this title, prior to repeal by Pub. L. 99–198.

§ 3311. Authorization of appropriations

(a) Existing programs

Notwithstanding any authorization for appropriations for agricultural research in any Act enacted prior to September 29, 1977, there are hereby authorized to be appropriated for the purposes of carrying out the provisions of this chapter, except sections 3152, 3154, and 2669 of this title, and the competitive grants program provided for in section 450i of this title, and except that the authorization for moneys provided under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), is excluded and is provided for in subsection (b) of this section, $850,000,000 for each of the fiscal years 1991 through 2002.

(b) Agricultural research at State agricultural experiment stations

Notwithstanding any authorization for appropriations for agricultural research at State agricultural experiment stations in any Act enacted prior to September 29, 1977, there are authorized to be appropriated for the purpose of conducting agricultural research at State agricultural experiment stations pursuant to the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), $310,000,000 for each of the fiscal years 1991 through 2002.

(c) Funding requirements for programs

Notwithstanding any other provision of law effective beginning October 1, 1983, not less than 25 per centum of the total funds appropriated to the Secretary in any fiscal year for the conduct of the cooperative research program provided for under the Act of March 2, 1887, commonly known as the Hatch Act (7 U.S.C 361a et seq.); the cooperative forestry research program provided for under the Act of October 10, 1962, commonly known as the McIntire-Stennis Act (16 U.S.C. 582a et seq.); the special and competitive grants programs provided for in sections 2(b) and 2(c) of the Act of August 4, 1965 (7 U.S.C. 450i); the animal health research program provided for under sections 3195 and 3196 of this title; the native latex research program provided for in the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178 et seq.); and the research provided for under various statutes for which funds are appropriated under the Agricultural Research heading or a successor heading, shall be appropriated for research at State agricultural experiment stations pursuant to the provision of the Act of March 2, 1887.

(Pub. L. 95–113, title XIV, § 1463, Sept. 29, 1977, 91 Stat. 1017; Pub. L. 97–98, title XIV, § 1437, Dec. 22, 1981, 95 Stat. 1314; Pub. L. 99–198, title XIV, § 1422, Dec. 23, 1985, 99 Stat. 1552; Pub. L. 101–624, title XVI, § 1601(b)(3), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 102–237, title IV, § 402(12), Dec. 13, 1991, 105 Stat. 1863; Pub. L. 104–127, title VIII, §§ 817, 884(d), Apr. 4, 1996, 110 Stat. 1167, 1179; Pub. L. 105–185, title III, § 301(a)(12), June 23, 1998, 112 Stat. 562.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 3102 of this title.

Act of March 2, 1887, referred to in text, is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly

known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

Act of October 10, 1962, referred to in subsec. (c), is Pub. L. 87–788, Oct. 10, 1962, 76 Stat. 806, as amended, known as the McIntire-Stennis Act of 1962, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

The Native Latex Commercialization and Economic Development Act of 1978, referred to in subsec. (c), is Pub. L. 95–592, Nov. 4, 1978, 92 Stat. 2529, as amended, which, as amended by Pub. L. 98–284, May 16, 1984, 98 Stat. 181, is known as the Critical Agricultural Materials Act and is classified principally to subchapter II (§ 178 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 178 of this title and Tables.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Subsec. (a). Pub. L. 104–127, § 884(d), struck out ''390 to 390j,'' before ''3152, 3154''.

Pub. L. 104–127, § 817, substituted ''1997'' for ''1995''.

Subsec. (b). Pub. L. 104–127, § 817, substituted ''1997'' for ''1995''.

1991—Subsec. (a). Pub. L. 102–237 struck out ''subchapter VII of this chapter and'' after ''chapter, except''.

1990—Subsec. (a). Pub. L. 101–624, § 1601(b)(3)(A), substituted ''$850,000,000 for each of the fiscal years 1991 through 1995'' for ''$600,000,000 for the fiscal year ending September 30, 1986, $610,000,000 for the fiscal year ending September 30, 1987, $620,000,000 for the fiscal year ending September 30, 1988, $630,000,000 for the fiscal year ending September 30, 1989, and $640,000,000 for the fiscal year ending September 30, 1990.''

Subsec. (b). Pub. L. 101–624, § 1601(b)(3)(B), substituted ''$310,000,000 for each of the fiscal years 1991 through 1995'' for ''$270,000,000 for the fiscal year ending September 30, 1986, $280,000,000 for the fiscal year ending September 30, 1987, $290,000,000 for the fiscal year ending September 30, 1988, $300,000,000 for the fiscal year ending September 30, 1989, and $310,000,000 for the fiscal year ending September 30, 1990.''

1985—Subsec. (a). Pub. L. 99–198, § 1422(a), substituted ''$600,000,000 for the fiscal year ending September 30, 1986, $610,000,000 for the fiscal year ending September 30, 1987, $620,000,000 for the fiscal year ending September 30, 1988, $630,000,000 for the fiscal year ending September 30, 1989, and $640,000,000 for the fiscal year ending September 30, 1990'' for ''$505,000,000 for the fiscal year ending September 30, 1978, $575,000,000 for the fiscal year ending September 30, 1979, $645,000,000 for the fiscal year ending September 30, 1980, $715,000,000 for the fiscal year ending September 30, 1981, $780,000,000 for the fiscal year ending September 30, 1982, $780,000,000 for the fiscal year ending September 30, 1983, $835,000,000 for the fiscal year ending September 30, 1984, and $890,000,000 for the fiscal year ending September 30, 1985, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year''.

Subsec. (b). Pub. L. 99–198, § 1422(b), substituted ''$270,000,000 for the fiscal year ending September 30, 1986, $280,000,000 for the fiscal year ending September 30, 1987, $290,000,000 for the fiscal year ending September 30, 1988, $300,000,000 for the fiscal year ending September 30, 1989, and $310,000,000 for the fiscal year ending September 30, 1990'' for ''$120,000,000 for the fiscal year ending September 30, 1978, $145,000,000 for the fiscal year ending September 30, 1979, $170,000,000 for the fiscal year ending September 30, 1980, $195,000,000 for the fiscal year ending September 30, 1981, $220,000,000 for the fiscal year ending September 30, 1982, $230,000,000 for the fiscal year ending September 30, 1983, $240,000,000 for the fiscal year ending September 30, 1984, and $250,000,000 for the fiscal year ending September 30, 1985, and not in excess of such sums as may after September 29, 1977 be authorized by law for any subsequent fiscal year''.

1981—Subsec. (a). Pub. L. 97–98, § 1437(1), inserted provisions authorizing appropriations of $780,000,000 for fiscal year ending Sept. 30, 1983, $835,000,000 for fiscal year ending Sept. 30, 1984, and $890,000,000 for fiscal year ending Sept. 30, 1985.

Subsec. (b). Pub. L. 97–98, § 1437(2), inserted provisions authorizing appropriations of $230,000,000 for fiscal year ending Sept. 30, 1983, $240,000,000 for fiscal year ending Sept. 30, 1984, and $250,000,000 for fiscal year ending Sept. 30, 1985.

Subsec. (c). Pub. L. 97–98, § 1437(3), added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1422(a) and (b) of Pub. L. 99–198 provided that the amendments made by that section are effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3312. Authorization of appropriations for extension education

Notwithstanding any authorization for appropriations for the Cooperative Extension Service in any Act enacted prior to September 29, 1977, there are hereby authorized to be appropriated for the purposes of carrying out the extension programs of the Department of Agriculture $420,000,000 for fiscal year 1991, $430,000,000 for fiscal year 1992, $440,000,000 for fiscal year 1993, $450,000,000 for fiscal year 1994, and $460,000,000 for each of fiscal years 1995 through 2002.

(Pub. L. 95–113, title XIV, § 1464, Sept. 29, 1977, 91 Stat. 1018; Pub. L. 97–98, title XIV, § 1438, Dec. 22, 1981, 95 Stat. 1314; Pub. L. 99–198, title XIV, § 1423, Dec. 23, 1985, 99 Stat. 1552; Pub. L. 101–624, title XVI, § 1601(b)(4), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, § 818, Apr. 4, 1996, 110 Stat. 1167; Pub. L. 105–185, title III, § 301(a)(13), June 23, 1998, 112 Stat. 562.)

AMENDMENTS

1998—Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Pub. L. 104–127 substituted ''each of fiscal years 1995 through 1997'' for ''fiscal year 1995''.

1990—Pub. L. 101–624 substituted ''$420,000,000 for fiscal year 1991, $430,000,000 for fiscal year 1992, $440,000,000 for fiscal year 1993, $450,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995'' for ''$370,000,000 for the fiscal year ending September 30, 1986, $380,000,000 for the fiscal year ending September 30, 1987, $390,000,000 for the fiscal year ending September 30, 1988, $400,000,000 for the fiscal year ending September 30, 1989, and $420,000,000 for the fiscal year ending September 30, 1990.''

1985—Pub. L. 99–198 substituted ''$370,000,000 for the fiscal year ending September 30, 1986, $380,000,000 for the fiscal year ending September 30, 1987, $390,000,000 for the fiscal year ending September 30, 1988, $400,000,000 for the fiscal year ending September 30, 1989, and $420,000,000 for the fiscal year ending September 30, 1990'' for ''$260,000,000 for the fiscal year ending September 30, 1978, $280,000,000 for the fiscal year ending September 30, 1979, $300,000,000 for the fiscal year ending September 30, 1980, $320,000,000 for the fiscal

year ending September 30, 1981, $350,000,000 for the fiscal year ending September 30, 1982, $360,000,000 for the fiscal year ending September 30, 1983, $370,000,000 for the fiscal year ending September 30, 1984, and $380,000,000 for the fiscal year ending September 30, 1985, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year''.

1981—Pub. L. 97–98 inserted provisions authorizing appropriations of $360,000,000 for fiscal year ending Sept. 30, 1983, $370,000,000 for fiscal year ending Sept. 30, 1984, and $380,000,000 for fiscal year ending Sept. 30, 1985.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1423 of Pub. L. 99–198 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 3313. Payment of funds

Except as provided elsewhere in this Act or any other Act of Congress, funds available for allotment under this chapter shall be paid to each eligible institution or State at such time and in such amounts as shall be determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1467, Sept. 29, 1977, 91 Stat. 1018.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 3102 of this title.

§ 3314. Repealed. Pub. L. 105–185, title I, § 103(f)(3)(C), June 23, 1998, 112 Stat. 528

Section, Pub. L. 95–113, title XIV, § 1468, Sept. 29, 1977, 91 Stat. 1018, related to withholding of funds if Secretary determines institution or State is not entitled to allotment under this chapter.

§ 3315. Auditing, reporting, bookkeeping, and administrative requirements

(a) In general

Except as provided elsewhere in this Act or any other Act of Congress—

(1) assistance provided under this chapter shall be subject to the provisions of sections 450i(e), 450i(f), and 450i(h)[1] of this title;

(2) the Secretary shall provide that each recipient of assistance under this chapter shall submit an annual report, at such times and on such forms as the Secretary shall prescribe, stating the accomplishments of projects (on a project-by-project basis) for which such assistance was used and accounting for the use of all such assistance. If the Secretary determines that any portion of funds made available under this chapter has been lost or applied in a manner inconsistent with the provisions of this chapter or regulations issued thereunder the recipient of such funds shall reimburse the Federal Government for the funds lost or so applied, and the Secretary shall not make available to such recipient any additional funds under this Act until the recipient has so reimbursed the Federal Government;

(3) the Secretary may retain up to 4 percent of amounts appropriated for agricultural research, extension, and teaching assistance programs for the administration of those programs authorized under this Act or any other Act; and

(4) the Secretary shall establish appropriate criteria for grant and assistance approval and necessary regulations pertaining thereto.

(b) Community food projects

The Secretary may retain, for the administration of community food projects under section 2034 of this title, 4 percent of amounts available for the projects, notwithstanding the availability of any appropriation for administrative expenses of the projects.

(c) Peer panel expenses

Notwithstanding any other provision of law regarding a competitive research, education, or extension grant program of the Department of Agriculture, the Secretary may use grant program funds, as necessary, to supplement funds otherwise available for program administration, to pay for the costs associated with peer review of grant proposals under the program.

(d) "In-kind support" defined

In any law relating to agricultural research, education, or extension activities administered by the Secretary, the term ''in-kind support'', with regard to a requirement that the recipient of funds provided by the Secretary match all or part of the amount of the funds, means contributions such as office space, equipment, and staff support.

(Pub. L. 95–113, title XIV, § 1469, Sept. 29, 1977, 91 Stat. 1019; Pub. L. 105–185, title II, § 230(b), June 23, 1998, 112 Stat. 547.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 3102 of this title.

Sections 450i(e), 450i(f), and 450i(h) of this title, referred to in subsec. (a)(1), were redesignated as sections 450i(f), 450i(g), and 450i(i), respectively, by Pub. L. 101–624, title XIV, § 1497(1), Nov. 28, 1990, 104 Stat. 3630.

AMENDMENTS

1998—Pub. L. 105–185, § 230(b)(1), reenacted section catchline without change, designated existing provisions as subsec. (a), and inserted heading.

Subsec. (a)(3). Pub. L. 105–185, § 230(b)(2), added par. (3) and struck out former par. (3) which read as follows: ''three per centum of the appropriations shall be retained by the Secretary for the administration of the programs authorized under this chapter; and''.

Subsecs. (b) to (d). Pub. L. 105–185, § 230(b)(3), added subsecs. (b) to (d).

§ 3316. Rules and regulations

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this chapter.

(Pub. L. 95–113, title XIV, § 1470, Sept. 29, 1977, 91 Stat. 1019.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 3102 of this title.

[1] See References in Text note below.

§ 3317. Program evaluation studies

(a) The Secretary shall regularly conduct program evaluations to meet the purposes of this chapter and the responsibilities assigned to the Secretary and the Department of Agriculture in this chapter. Such evaluations shall be designed to provide information that may be used to improve the administration and effectiveness of agricultural research, extension, and teaching programs in achieving their stated objectives.

(b) The Secretary is authorized to encourage and foster the regular evaluation of agricultural research, extension, and teaching programs within the State agricultural experiment stations, cooperative extension services, and colleges and universities, through the development and support of cooperative evaluation programs and program evaluation centers and institutes.

(Pub. L. 95–113, title XIV, § 1471, as added Pub. L. 97–98, title XIV, § 1439(a), Dec. 22, 1981, 95 Stat. 1314.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 3102 of this title.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3318. Contract, grant, and cooperative agreement authorities

(a) Purposes, nature and construction

The purpose of this section is to confer upon the Secretary general authority to enter into contracts, grants, and cooperative agreements to further the research, extension, or teaching programs in the food and agricultural sciences of the Department of Agriculture. This authority supplements all other laws relating to the Department of Agriculture and is not to be construed as limiting or repealing any existing authorities.

(b) Authority of Secretary; legal effect of agreement; participation by other Federal agencies

(1) Notwithstanding chapter 63 of title 31, the Secretary may use a cooperative agreement as the legal instrument reflecting a relationship between the Secretary and a State cooperative institution, State department of agriculture, college, university, other research or educational institution or organization, Federal or private agency or organization, individual, or any other party, if the Secretary determines that—

(A) the objectives of the agreement will serve a mutual interest of the parties to the agreement in agricultural research, extension, and teaching activities, including statistical reporting; and

(B) all parties will contribute resources to the accomplishment of those objectives.

(2) Notwithstanding any other provision of law, any Federal agency may participate in any such cooperative agreement by contributing funds through the appropriate agency of the Department of Agriculture or otherwise if it is mutually agreed that the objectives of the agreement will further the authorized programs of the contributing agency.

(c) Duration and eligibility

The Secretary may enter into contracts, grants, or cooperative agreements, for periods not to exceed five years, with State agricultural experiment stations, State cooperative extension services, all colleges and universities, other research or education institutions and organizations, Federal and private agencies and organizations, individuals, and any other contractor or recipient, either foreign or domestic, to further research, extension, or teaching programs in the food and agricultural sciences of the Department of Agriculture.

(d) Vesting of title

The Secretary may vest title to expendable and nonexpendable equipment and supplies and other tangible personal property in the contractor or recipient when the contractor or recipient purchases such equipment, supplies, and property with contract, grant, or cooperative agreement funds and the Secretary deems such vesting of title a furtherance of the agricultural research, extension, or teaching objectives of the Department of Agriculture.

(e) Applicable requirements

Unless otherwise provided in this chapter, the Secretary may enter into contracts, grants, or cooperative agreements, as authorized by this section, without regard to any requirements for competition, the provisions of section 5 of title 41, and the provisions of section 3324(a) and (b) of title 31.

(Pub. L. 95–113, title XIV, § 1472, as added Pub. L. 97–98, title XIV, § 1439(a), Dec. 22, 1981, 95 Stat. 1315; amended Pub. L. 99–198, title XIV, § 1424, Dec. 23, 1985, 99 Stat. 1552.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (e), see note set out under section 3102 of this title.

CODIFICATION

In subsec. (e), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 of the Revised Statutes (31 U.S.C. 529) on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1985—Subsecs. (b) to (e). Pub. L. 99–198 added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5924 of this title.

§ 3319. Restriction on treatment of indirect costs and tuition remission

Funds made available by the Secretary under established Federal-State partnership arrangements to State cooperative institutions under the Acts referred to in section 3103(16) of this

title and funds made available under subsection (c)(1)(B) and subsection (d) of section 450i of this title shall not be subject to reduction for indirect costs or for tuition remission. No indirect costs or tuition remission shall be charged against funds in connection with cooperative agreements between the Department of Agriculture and State cooperative institutions if the cooperative program or project involved is of mutual interest to all the parties and if all the parties contribute to the cooperative agreement involved. The prohibition on the use of such funds for the reimbursement of indirect costs shall not apply to funds for international agricultural programs conducted by a State cooperative institution and administered by the Secretary or to funds provided by a Federal agency for such cooperative program or project through a fund transfer, advance, or reimbursement. The Secretary shall limit the amount of such reimbursement to an amount necessary to carry out such program or agreement.

(Pub. L. 95–113, title XIV, §1473, as added Pub. L. 97–98, title XIV, §1439(a), Dec. 22, 1981, 95 Stat. 1315; amended Pub. L. 99–198, title XIV, §1425, Dec. 23, 1985, 99 Stat. 1553; Pub. L. 102–237, title IV, §402(13), Dec. 13, 1991, 105 Stat. 1863.)

REFERENCES IN TEXT

See notes set out under section 3103 of this title for Acts enumerated in par. (16) of that section.

AMENDMENTS

1991—Pub. L. 102–237 substituted ''subsection (c)(1)(B)'' for ''subsection (c)(2)''.

1985—Pub. L. 99–198 inserted provisions making prohibition on use of funds for reimbursement of indirect costs inapplicable to funds for international agricultural programs but required the Secretary to limit the reimbursement to amounts necessary to carry out the programs.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3319a. Cost-reimbursable agreements

Notwithstanding any other provision of law, the Secretary of Agriculture may enter into cost-reimbursable agreements with State cooperative institutions or other colleges and universities without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research, extension, or teaching activities of mutual interest. Reimbursable costs under such agreements shall include the actual direct costs of performance, as mutually agreed on by the parties, and the indirect costs of performance, not exceeding 10 percent of the direct cost.

(Pub. L. 95–113, title XIV, §1473A, as added Pub. L. 99–198, title XIV, §1426, Dec. 23, 1985, 99 Stat. 1553; amended Pub. L. 105–185, title II, §231, June 23, 1998, 112 Stat. 547.)

AMENDMENTS

1998—Pub. L. 105–185 inserted ''or other colleges and universities'' after ''institutions'' in first sentence.

§§ 3319b, 3319c. Repealed. Pub. L. 101–624, title XVI, § 1601(f)(1)(E), (F), Nov. 28, 1990, 104 Stat. 3704

Section 3319b, Pub. L. 95–113, title XIV, §1473B, as added Pub. L. 99–198, title XIV, §1427, Dec. 23, 1985, 99 Stat. 1553, provided for technology development for small- and medium-sized farming operations.

Section 3319c, Pub. L. 95–113, title XIV, §1473C, as added Pub. L. 99–198, title XIV, §1427, Dec. 23, 1985, 99 Stat. 1554, provided for a special technology development research program.

§ 3319d. Supplemental and alternative crops

(a) Research and pilot project program

Notwithstanding any other provision of law, during the period beginning October 1, 1986, and ending September 30, 2002, the Secretary shall develop and implement a research project program for the development of supplemental and alternative crops, using such funds as are appropriated to the Secretary each fiscal year under this chapter.

(b) Importance to producers

The development of supplemental and alternative crops is of critical importance to producers of agricultural commodities whose livelihood is threatened by the decline in demand experienced with respect to certain of their crops due to changes in consumption patterns or other related causes.

(c) Research funding, special or competitive grants, etc.; program requirements; agreements, grants and other arrangements

(1) The Secretary shall use such research funding, special or competitive grants, or other means, as the Secretary determines, to further the purposes of this section in the implementation of a comprehensive and integrated program.

(2) The program developed and implemented by the Secretary shall include—

(A) an examination of the adaptation of supplemental and alternative crops;

(B) the establishment and extension of various methods of planting, cultivating, harvesting, and processing supplemental and alternative crops;

(C) the transfer of such applied research to on-farm practice as soon as practicable;

(D) the establishment through grants, cooperative agreements, or other means of such processing, storage, and transportation facilities for supplemental and alternative crops as the Secretary determines will facilitate the achievement of a successful program; and

(E) the application of such other resources and expertise as the Secretary considers appropriate to support the program.

(3) The program may include, but shall not be limited to, agreements, grants, and other arrangements—

(A) to conduct comprehensive resource and infrastructure assessments;

(B) to develop and introduce supplemental and alternative income-producing crops;

(C) to develop and expand domestic and export markets for such crops;

(D) to provide technical assistance to farm owners and operators, marketing cooperatives, and others;

(E) to conduct fundamental and applied research related to the development of new commercial products derived from natural plant material for industrial, medical, and agricultural applications; and

(F) to participate with colleges and universities, other Federal agencies, and private sector entities in conducting research described in subparagraph (E).

(d) Use of expertise and resources of other Federal agencies and land-grant colleges and universities

The Secretary shall use the expertise and resources of the Agricultural Research Service, the Cooperative State Research Service, the Extension Service, and the land-grant colleges and universities for the purpose of carrying out this section.

(Pub. L. 95–113, title XIV, §1473D, as added Pub. L. 99–198, title XIV, §1428, Dec. 23, 1985, 99 Stat. 1554; amended Pub. L. 101–624, title XVI, §1601(b)(5), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, §819, Apr. 4, 1996, 110 Stat. 1167; Pub. L. 105–185, title III, §301(a)(14), title VI, §606(a), June 23, 1998, 112 Stat. 562, 603.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 3102 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, §301(a)(14), substituted ''2002'' for ''1997''.

Subsec. (c)(3). Pub. L. 105–185, §606(a), made technical amendment to directory language of Pub. L. 104–127, §819(b)(5). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–127, §819(a), (b)(1), substituted ''1997'' for ''1995'' and struck out ''and pilot'' after ''research''.

Subsec. (c)(2)(B). Pub. L. 104–127, §819(b)(2), struck out ''at pilot sites in areas adversely affected by declining demand for crops grown in the area'' after ''alternative crops''.

Subsec. (c)(2)(C). Pub. L. 104–127, §819(b)(3), struck out ''from pilot sites'' after ''research''.

Subsec. (c)(2)(D). Pub. L. 104–127, §819(b)(4), struck out ''near such pilot sites'' after ''facilities'' and ''pilot'' after ''successful''.

Subsec. (c)(3). Pub. L. 104–127, §819(b)(5), as amended by Pub. L. 105–185, §606(a), struck out ''pilot'' before ''program'' in introductory provisions.

Subsec. (c)(3)(E), (F). Pub. L. 104–127, §819(c), added subpars. (E) and (F).

1990—Subsec. (a). Pub. L. 101–624 substituted ''1995'' for ''1990''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–185, title VI, §606(a), June 23, 1998, 112 Stat. 603, provided that the amendment made by section 606(a) is effective Apr. 6, 1996.

§ 3319e. Repealed. Pub. L. 102–237, title IV, § 402(14), Dec. 13, 1991, 105 Stat. 1863

Section, Pub. L. 95–113, title XIV, §1473E, as added Pub. L. 101–220, §5, Dec. 12, 1989, 103 Stat. 1878, related to research into new commercial products from natural plant materials.

SUBCHAPTER XI—AQUACULTURE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3103 of this title.

§ 3321. Statement of purpose

It is the purpose of this subchapter to promote research and extension activities of the institutions hereinafter referred to in section 3322(b) of this title, and to coordinate their efforts as an integral part in the implementation of the National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) by encouraging landowners, individuals, and commercial institutions to develop aquaculture production and facilities and sound aquacultural practices that will, through research and technology transfer programs, provide for the increased production and marketing of aquacultural food products.

(Pub. L. 95–113, title XIV, §1474, as added Pub. L. 97–98, title XIV, §1440(a), Dec. 22, 1981, 95 Stat. 1316.)

REFERENCES IN TEXT

The National Aquaculture Act of 1980, referred to in text, is Pub. L. 96–362, Sept. 26, 1980, 94 Stat. 1198, which is classified generally to chapter 48 (§2801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 2801 of Title 16 and Tables.

EFFECTIVE DATE

Subchapter effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3322. Assistance programs

(a) Research and extension program

The Secretary may develop and implement a cooperative research and extension program to encourage the development, management, and production of important aquatic food species within the several States and territories of the United States and to enhance further the safety of food products derived from the aquaculture industry, in accordance with the national aquaculture development plan, and revisions thereto, developed under the National Aquaculture Act of 1980 [16 U.S.C. 2801 et seq.].

(b) Grants

The Secretary may make grants to—

(1) land-grant and sea grant colleges and universities;

(2) State agricultural experiment stations;

(3) colleges, universities, and Federal laboratories having a demonstrable capacity to conduct aquacultural research, as determined by the Secretary; and

(4) nonprofit private research institutions;

for research and extension to facilitate or expand promising advances in the production and marketing of aquacultural food species and products and to enhance further the safety and wholesomeness of those species and products, including the development of reliable supplies of seed stock and therapeutic compounds. Except in the case of Federal laboratories, no grant may be made under this subsection unless the State in which the grant recipient is located makes a matching grant (of which amount an in-kind contribution may not exceed 50 percent) to such recipient equal to the amount of the grant to be made under this subsection, and unless the grant is in implementation of the na-

tional aquaculture development plan, and revisions thereto, developed under the National Aquaculture Act of 1980 [16 U.S.C. 2801 et seq.].

(c) Aquaculture development plans

The Secretary may assist States to formulate aquaculture development plans for the enhancement of the production and marketing of aquacultural species and products from such States and may make grants to States on a matching basis, as determined by the Secretary. The aggregate amount of the grants made to any one State under this subsection may not exceed $50,000. The plans shall be consistent with the national aquaculture development plan, and revisions thereto, developed under the National Aquaculture Act of 1980 [16 U.S.C. 2801 et seq.].

(d) Aquacultural centers

To provide for aquacultural research, development, and demonstration projects having a national or regional application, the Secretary may establish in existing Federal facilities or in cooperation with any of the non-Federal entities specified in subsection (b) of this section up to five aquacultural research, development, and demonstration centers in the United States for the performance of aquacultural research, extension work, and demonstration projects. Funds made available for the operation of such regional centers may be used for the rehabilitation of existing buildings or facilities to house such centers, but may not be used for the construction or acquisition of new buildings or facilities. To the extent practicable, the aquaculture research, development, and demonstration centers established under this subsection shall be geographically located so that they are representative of the regional aquaculture opportunities in the United States. To the extent practicable, the Secretary shall ensure that equitable efforts are made at these centers in addressing the research needs of those segments of the domestic aquaculture industry located within that region.

(e) Listing of laws on aquaculture

The interagency aquaculture coordinating group established under section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)) shall, in consultation with appropriate Federal and State agencies, compile a listing of Federal and State laws, rules, and regulations materially affecting the production, processing, marketing, and transportation of aquaculturally produced commodities and the products thereof. The interagency aquaculture coordinating group shall make such listing available to the public not later than January 1, 1992, and shall update and revise such listing not later than January 1, 1996, to show such laws, rules, and regulations as in effect on that date.

(f) Fish disease program

The Secretary shall implement, in consultation with the Joint Subcommittee on Aquaculture referred to in section 6 of the National Aquaculture Act of 1980 (16 U.S.C. 2805), a fish disease program to include the development of new diagnostic procedures for fish diseases, the determination of the effect of water environment on the development of the fish immune system, and the development of therapeutic, synthetic, or natural systems, for the control of fish diseases.

(Pub. L. 95–113, title XIV, § 1475, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1316; amended Pub. L. 99–198, title XIV, § 1429(a), Dec. 23, 1985, 99 Stat. 1555; Pub. L. 101–624, title XVI, § 1614(a), Nov. 28, 1990, 104 Stat. 3727; Pub. L. 104–66, title I, § 1011(u), Dec. 21, 1995, 109 Stat. 711; Pub. L. 104–127, title VIII, § 820(b), Apr. 4, 1996, 110 Stat. 1168.)

REFERENCES IN TEXT

The National Aquaculture Act of 1980, referred to in subsecs. (a), (b), and (c), is Pub. L. 96–362, Sept. 26, 1980, 94 Stat. 1198, which is classified generally to chapter 48 (§ 2801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 2801 of Title 16 and Tables.

AMENDMENTS

1996—Subsecs. (e) to (g). Pub. L. 104–127 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out heading and text of former subsec. (e). Text read as follows: ''Not later than March 1 of each year, the Secretary shall submit a report to the President, the House Committee on Agriculture, the House Committee on Merchant Marine and Fisheries, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations, containing a summary outlining the progress of the Department of Agriculture in meeting the purposes of the programs established under this subchapter.''

1995—Subsec. (e). Pub. L. 104–66 struck out ''(1)'' before ''Not later than'' and struck out par. (2) which required Secretary to conduct a study assessing economic impact of animal damage to the United States aquaculture industry.

1990—Subsec. (a). Pub. L. 101–624, § 1614(a)(1), inserted heading and substituted ''United States and to enhance further the safety of food products derived from the aquaculture industry,'' for ''United States,''.

Subsec. (b). Pub. L. 101–624, § 1614(a)(2), inserted heading, inserted ''and sea grant'' after ''land-grant'' in par. (1), and inserted before period at end ''and to enhance further the safety and wholesomeness of those species and products, including the development of reliable supplies of seed stock and therapeutic compounds''.

Subsec. (c). Pub. L. 101–624, § 1614(a)(3), inserted heading.

Subsec. (d). Pub. L. 101–624, § 1614(a)(4), inserted heading, substituted ''five aquacultural'' for ''four aquacultural'', and inserted at end ''To the extent practicable, the Secretary shall ensure that equitable efforts are made at these centers in addressing the research needs of those segments of the domestic aquaculture industry located within that region.''

Subsec. (e). Pub. L. 101–624, § 1614(a)(5), inserted heading, designated existing provisions as par. (1), substituted ''Not later than March 1 of each year,'' for ''Not later than one year after the effective date of this subchapter and not later than March 1 of each subsequent year,'', and added par. (2).

Subsecs. (f), (g). Pub. L. 101–624, § 1614(a)(6), added subsecs. (f) and (g).

1985—Subsec. (b). Pub. L. 99–198, § 1429(a)(1), (2), added par. (4) and inserted ''(of which amount an in-kind contribution may not exceed 50 percent)'' after ''matching grant''.

Subsec. (d). Pub. L. 99–198, § 1429(a)(3), (4), substituted in first sentence ''any of the non-Federal entities specified in subsection (b) of this section'' for ''State agencies (including State departments of agriculture), and land-grant colleges and universities,'' and inserted provision respecting geographic location of aquaculture research, development, and demonstration centers.

Subsec. (e). Pub. L. 99–198, § 1429(a)(5), inserted ''the House Committee on Merchant Marine and Fisheries,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3321 of this title.

§ 3323. Repealed. Pub. L. 105–185, title III, § 302(a), June 23, 1998, 112 Stat. 563

Section, Pub. L. 95–113, title XIV, § 1476, as added Pub. L. 101–624, title XVI, § 1614(b)(1), Nov. 28, 1990, 104 Stat. 3728; amended Pub. L. 104–127, title VIII, § 820(c), Apr. 4, 1996, 110 Stat. 1168, authorized grants and appropriations for acquaculture research facilities.

A prior section 3323, Pub. L. 95–113, title XIV, § 1476, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1317, related to establishment, duration, and meetings of Aquaculture Advisory Board, and appointment and compensation of Board members, prior to repeal by Pub. L. 99–198, title XIV, § 1429(b), Dec. 23, 1985, 99 Stat. 1556.

§ 3324. Authorization of appropriations

There is authorized to be appropriated $7,500,000 for each of the fiscal years 1991 through 2002. Funds appropriated under this section or section 3323[1] of this title may not be used to acquire or construct a building.

(Pub. L. 95–113, title XIV, § 1477, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1318; amended Pub. L. 99–198, title XIV, § 1429(c), Dec. 23, 1985, 99 Stat. 1556; Pub. L. 101–624, title XVI, § 1614(c), Nov. 28, 1990, 104 Stat. 3728; Pub. L. 104–127, title VIII, § 820(d), Apr. 4, 1996, 110 Stat. 1168; Pub. L. 105–185, title III, § 301(a)(15), June 23, 1998, 112 Stat. 562.)

REFERENCES IN TEXT

Section 3323 of this title, referred to in text, was repealed by Pub. L. 105–185, title III, § 302(a), June 23, 1998, 112 Stat. 563.

AMENDMENTS

1998—Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Pub. L. 104–127 substituted ''1997'' for ''1995''.

1990—Pub. L. 101–624 substituted ''each of the fiscal years 1991 through 1995'' for ''each fiscal year beginning after the effective date of this subchapter, and ending with the fiscal year ending September 30, 1990'' and inserted at end ''Funds appropriated under this section or section 3323 of this title may not be used to acquire or construct a building.''

1985—Pub. L. 99–198 in amending section generally, struck out subsec. (a) designation, substituted ''fiscal year ending September 30, 1990'' for ''fiscal year ending September 30, 1985, and not in excess of such sums as may after December 22, 1981, be authorized by law for any subsequent fiscal year'', and struck out subsec. (b) relating to allocation of funds and consultations by Secretary with Board in development of plans for use of funds.

SUBCHAPTER XII—RANGELAND RESEARCH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3103 of this title.

§ 3331. Congressional statement of purpose

It is the purpose of this subchapter to promote the general welfare through improved productivity of the Nation's rangelands, which comprise 60 per centum of the land area of the United States. Most of these rangelands are unsuited for cultivation, but produce a great volume of forage that is inedible by humans but readily converted, through an energy efficient process, to high quality food protein by grazing animals. These native grazing lands are located throughout the United States and are important resources for major segments of the Nation's livestock industry. In addition to the many livestock producers directly dependent on rangelands, other segments of agriculture are indirectly dependent on range-fed livestock and on range-produced forage that can be substituted for grain in times of grain scarcity. Recent resource assessments indicate that forage production of rangeland can be increased at least 100 per centum through development and application of improved range management practices while simultaneously enhancing wildlife, watershed, recreational, and aesthetic values and reducing hazards of erosion and flooding.

(Pub. L. 95–113, title XIV, § 1478, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1318.)

EFFECTIVE DATE

Subchapter effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 3332. Program; development, purposes, scope, etc.

The Secretary may develop and implement a cooperative rangeland research program in coordination with the program carried out under the Renewable Resources Extension Act of 1978 [16 U.S.C. 1671 et seq.], to improve the production and quality of desirable native forages or introduced forages which are managed in a similar manner to native forages for livestock and wildlife. The program shall include studies of: (1) management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) methods of managing rangeland watersheds to maximize efficient use of water and improve water yield, water quality, and water conservation, to protect against onsite and offsite damage of rangeland resources from floods, erosion, and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; (3) revegetation and rehabilitation of rangelands including the control of undesirable species of plants; and (4) such other matters as the Secretary considers appropriate.

(Pub. L. 95–113, title XIV, § 1479, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1318.)

REFERENCES IN TEXT

The Renewable Resources Extension Act of 1978, referred to in text, is Pub. L. 95–306, June 30, 1978, 92 Stat. 349, which is classified generally to subchapter III (§ 1671 et seq.) of chapter 36 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 1600 of Title 16 and Tables.

§ 3333. Grants; eligible institutions; amounts

The Secretary may make grants to land-grant colleges and universities, State agricultural

[1] See References in Text note below.

experiment stations, and to colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary, to carry out rangeland research. Except in the case of Federal laboratories, this grant program shall be based on a matching formula of 50 per centum Federal and 50 per centum non-Federal funding.

(Pub. L. 95–113, title XIV, § 1480, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1319.)

§§ 3334, 3335. Repealed. Pub. L. 104–127, title VIII, § 857, Apr. 4, 1996, 110 Stat. 1173

Section 3334, Pub. L. 95–113, title XIV, § 1481, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1319, required Secretary to submit annual report to President and congressional committees outlining progress of Department of Agriculture in meeting program requirements set forth in section 3332 of this title.

Section 3335, Pub. L. 95–113, title XIV, § 1482, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1319; amended Pub. L. 99–198, title XIV, § 1430(a), Dec. 23, 1985, 99 Stat. 1556; Pub. L. 101–624, title XVI, § 1601(b)(6), Nov. 28, 1990, 104 Stat. 3703, related to establishment of Rangeland Research Advisory Board.

§ 3336. Authorization of appropriations; allocation of funds

(a) There are authorized to be appropriated, to implement the provisions of this subchapter, such sums not to exceed $10,000,000 for each of the fiscal years 1991 through 2002.

(b) Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done as mutually agreed upon between the Secretary and the eligible institution or institutions.

(Pub. L. 95–113, title XIV, § 1483, as added Pub. L. 97–98, title XIV, § 1440(a), Dec. 22, 1981, 95 Stat. 1319; amended Pub. L. 99–198, title XIV, § 1430(b), Dec. 23, 1985, 99 Stat. 1556; Pub. L. 101–624, title XVI, § 1601(b)(7), Nov. 28, 1990, 104 Stat. 3703; Pub. L. 104–127, title VIII, § 821, Apr. 4, 1996, 110 Stat. 1168; Pub. L. 105–185, title III, § 301(a)(16), title VI, § 606(e), June 23, 1998, 112 Stat. 562, 604.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 301(a)(16), substituted ''2002'' for ''1997''.

Subsec. (b). Pub. L. 105–185, § 606(e), which directed that the second sentence of subsec. (b) be amended by striking out the last sentence, was executed by striking out ''The Secretary shall, whenever possible, consult with the Board in developing plans for the use of these funds.'', which is both the second and last sentence of subsec. (b), to reflect the probable intent of Congress.

1996—Subsec. (a). Pub. L. 104–127 substituted ''1997'' for ''1995''.

1990—Subsec. (a). Pub. L. 101–624 substituted ''for each of the fiscal years 1991 through 1995'' for ''annually for the period beginning October 1, 1981, and ending September 30, 1990''.

1985—Subsec. (a). Pub. L. 99–198 substituted ''1990'' for ''1985, and thereafter such sums as may after the date of enactment of this subchapter be authorized by law for any subsequent fiscal year''.

CHAPTER 65—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION

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§ 3401. Congressional findings and declaration of policy

(a) Wheat is basic to the American diet and the American economy. It is grown by thousands of farmers and consumed, in various forms, by millions of people in the United States.

(b) The size of the American wheat crop and how it is marketed and ultimately consumed determines whether many Americans receive adequate nourishment. Wheat has a strong impact on the Nation's well-being. Additional research on the optimal use of wheat products can improve the American diet. Consumer education about the nutritional value and economic use of wheat products can enhance the national welfare.

(c) It has long been recognized that it is in the national interest to have a regular, adequate, and high quality wheat supply. It would be extremely difficult, without an effective coordi-

nated research and nutrition education effort, to accomplish this objective. A programed effort of research and nutrition education is of great importance to wheat producers, processors, end product manufacturers, and consumers.

(d) It is the purpose of this chapter and in the public interest to authorize and enable the creation of an orderly procedure, adequately financed through an assessment, for the development and initiation of an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products to ensure an adequate diet for the people of the United States. The maximum rate of assessment authorized hereunder represents an infinitesimal proportion of the overall cost of manufacturing wheat end products. Therefore, such assessment will not significantly affect the retail prices of those products. Furthermore, any price effect will be more than offset by the increased efficiency in end product manufacture and increased consumer acceptance, due to nutritional improvements in wheat products, which may be expected to follow from adoption of a plan under this chapter. Nothing in this chapter shall be construed to provide for control of production or otherwise limit the right of individual wheat producers to produce wheat.

(Pub. L. 95–113, title XVII, §1702, Sept. 29, 1977, 91 Stat. 1031.)

EFFECTIVE DATE

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SHORT TITLE

Section 1701 of title XVII of Pub. L. 95–113 provided that: ''This title [enacting this chapter] may be cited as the 'Wheat and Wheat Foods Research and Nutrition Education Act'.''

SEPARABILITY

Section 1718 of Pub. L. 95–113 provided that: ''If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.''

§ 3402. Definitions

For the purposes of this chapter:

(a) The term ''wheat'' means all classes of wheat grains grown in the United States.

(b) The term ''processed wheat'' means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) The term ''end product'' means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) The term ''wheat producer'' means any person who grows wheat within the United States for market.

(e) The term ''processor'' means any person who commercially produces processed wheat within the United States.

(f) The term ''end product manufacturer'' means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

(g) The term ''research'' means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

(h) The term ''nutrition education'' means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(i) The term ''Council'' means the Wheat Industry Council established pursuant to section 3405 of this title.

(j) The term ''Department'' means the United States Department of Agriculture.

(k) The term ''Secretary'' means the Secretary of Agriculture of the United States.

(*l*) The term ''person'' means any individual, partnership, corporation, association, or other entity.

(m) The term ''United States'' means the several States and the District of Columbia, including any territory or possession.

(Pub. L. 95–113, title XVII, §1703, Sept. 29, 1977, 91 Stat. 1032.)

§ 3403. Issuance of orders

(a) Notice and hearing

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 3413 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(b) Effectuation of Congressional policy

After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 95–113, title XVII, §1704, Sept. 29, 1977, 91 Stat. 1033.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3413 of this title.

§ 3404. Permissive terms and conditions of orders

Any order issued pursuant to this chapter shall contain one or more of the following terms

and conditions, and, except as provided in section 3405 of this title, no others:

(a) Nutrition education plans

providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets with respect to wheat, processed wheat, and end products, and for the disbursement of necessary funds for such purposes: *Provided*, That in carrying out any such plan or project, no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against wheat, processed wheat, and end products of other person: *Provided further*, That no such plans or projects shall make use of unfair or deceptive acts or practices in behalf of wheat, processed wheat, and end products or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product;

(b) Research and studies

providing for the establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization, or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that the marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable, and for the disbursement of necessary funds for such purposes;

(c) Records and reports; confidential information; penalties

providing that processors, distributors of processed wheat, and end product manufacturers shall maintain and make available for inspection by the Secretary or the Council such books and records as may be required by any order issued pursuant to this title and for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information shall be made available to the Council and to the Secretary which are appropriate or necessary to the effectuation, administration, or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (3) the publication by direction of the Secretary of the name of any person who has been adjudged to have violated any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee of the Department, the Council, or a contracting agency violating the provisions of this clause shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office;

(d) Assessment exemption

providing for exemption of specified end products, or types or categories thereof, from the assessments required to be paid under section 3405 of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder; and

(e) Miscellaneous terms and conditions

terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 95–113, title XVII, § 1705, Sept. 29, 1977, 91 Stat. 1033.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3405. Wheat Industry Council

Any order issued pursuant to this chapter shall contain such terms and conditions as to provide—

(a) Establishment; powers

for the establishment and appointment by the Secretary of a Wheat Industry Council which shall consist of not more than twenty members and alternates therefor, and for the definition of its powers and duties which shall include only the powers enumerated in this section, and shall specifically include the powers to (1) administer such order in accordance with its terms and provisions, (2) make rules and regulations to effectuate the terms and provisions of such order, (3) receive, investigate, and report to the Secretary complaints of violations of such order, and (4) recommend to the Secretary amendments to such order. The term of an appointment to the Council shall be for two years with no member serving more than three consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms;

(b) Membership

that the Council and alternates therefor shall be composed of wheat producers or representatives of wheat producers, processors or representatives of processors, end product manufacturers or representatives of end product manufacturers, and consumers or representatives of consumers appointed by the Secretary from nominations submitted by eligible organizations or associations certified pursuant to section 3413 of this title, or, if the Secretary determines that a substantial num-

ber of wheat producers, processors, end product manufacturers, or consumers are not members of, or their interests are not represented by any such eligible organizations or associations then from nominations made by such wheat producers, processors, end product manufacturers, and consumers in the manner authorized by the Secretary, so that the representation of wheat producers, processors, end product manufacturers, and consumers on the Council shall be equal: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of wheat producers, processors, end product manufacturers, and consumers throughout the United States;

(c) Research and nutrition education plans

that the Council shall, subject to the provisions of clause (g) of this section, develop and submit to the Secretary for approval any research plans or projects and nutrition education plans or projects resulting from research, and that any such plan or project must be approved by the Secretary before becoming effective;

(d) Budgets

that the Council shall, subject to the provisions of clause (g) of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of research and nutrition education projects;

(e) Processed wheat assessment; payment by end product manufacturers

that, except as provided in sections 3404(d) and 3406 of this title, each end product manufacturer shall pay to the Council, pursuant to regulations issued under the order, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products, from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of the same company. Such assessment shall be used for such expenses and expenditures defined above, including provisions for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary and the Council under this chapter, as the Secretary finds are reasonable and likely to be incurred under the order during any period specified by the Secretary. The circumstances under which such a purchase or intra-company transfer will be deemed to have occurred will be prescribed by the Secretary in the order. Such assessment shall be calculated and set aside on the books and records of the end product manufacturer at the time of each purchase or intra-company transfer of processed wheat, and shall be remitted to the Council in the manner prescribed by the order. In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products, shall disclose to such end product manufacturers, as prescribed by the Secretary in the order, the amount or proportion of processed wheat contained in such products. The rate of assessment shall not exceed five cents per hundredweight of processed wheat purchased or transferred. The Secretary may maintain a suit against any person subject to such assessment for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy;

(f) Maintenance of records

that the Council shall maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Council, with respect to the receipt and disbursement of all funds entrusted to it;

(g) Contracts

that the Council, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order pursuant to terms and conditions specified in clauses (a) and (b) of section of this title and for the payment of the cost thereof with funds collected through the assessments pursuant to the order. Any such contract or agreement shall provide that the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) Investment of assessment funds

that the Council, with the approval of the Secretary, may invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under this title in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) Lobbying restriction

that no funds collected by the Council under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by clause (a)(4) of this section; and

(j) Reimbursement of expenses

that the Council members, and alternates therefor, shall serve without compensation,

but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

(Pub. L. 95–113, title XVII, § 1706, Sept. 29, 1977, 91 Stat. 1034.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3402, 3404, 3413 of this title.

§ 3406. Exemption for retail bakers

Any end product manufacturer who is a retail baker shall be exempt from the provisions of this chapter. For the purposes of this section, the term ''retail baker'' shall be deemed to include all end product manufacturers who sell end products directly to the ultimate consumer: *Provided*, That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food products sales revenues from the sale of such products manufactured or produced by others.

(Pub. L. 95–113, title XVII, § 1707, Sept. 29, 1977, 91 Stat. 1036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3407. Referendum

The Secretary shall conduct a referendum as soon as practicable among end product manufacturers not exempt hereunder who, during a representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the manufacture of end products, for the purpose of ascertaining whether the issuance of an order is approved or favored by such manufacturers. Qualified end product manufacturers may register with the Secretary by mail to vote in such referendum during a period ending not less than thirty days prior to the date of the referendum. Within ten days thereafter, the Secretary shall determine which end product manufacturers are eligible to vote in such referendum and cause to be published the list of such eligible voters. The Secretary shall issue ballots to all such persons who have so registered and been declared eligible to vote. No order issued pursuant to this chapter shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of such registered end product manufacturers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the end product manufacturers voting in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured by those voting in the referendum, during the representative period defined by the Secretary: *Provided*, That at the time of the registration provided under this section each end product manufacturer so registering shall certify to the Secretary the amount of processed wheat contained in the end products manufactured by such end product manufacturer during such representative period. The Secretary shall be reimbursed from assessments collected by the Council for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate.

(Pub. L. 95–113, title XVII, § 1708, Sept. 29, 1977, 91 Stat. 1036.)

§ 3408. Refund of processed wheat assessment

(a) Election of end product manufacturers to seek refunds

Subsequent to the approval by the Secretary of the annual budget of the Council or amendments thereto, a summary of such budget or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, shall be published in the Federal Register. All end product manufacturers not exempt hereunder shall have sixty days from the date of such publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under subsection (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such sixty-day period.

(b) Refund demand; rules and regulations

Notwithstanding any other provision of this chapter, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under subsection (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided*, That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

(Pub. L. 95–113, title XVII, § 1709, Sept. 29, 1977, 91 Stat. 1037.)

§ 3409. Petition and review

(a) Petition; hearing; ruling

Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or for an ex-

emption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) Judicial review; jurisdiction; process; remand

The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

(Pub. L. 95–113, title XVII, §1710, Sept. 29, 1977, 91 Stat. 1037.)

§ 3410. Enforcement of orders and regulations

(a) Jurisdiction; reference of civil actions to Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever the Secretary believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Penalties

Any end product manufacturer or other person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) Other remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

(Pub. L. 95–113, title XVII, §1711, Sept. 29, 1977, 91 Stat. 1038.)

§ 3411. Suspension and termination of orders

(a) Authority and responsibility of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) Referendum

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to the order, to determine whether such manufacturers favor the termination or suspension of the order, and the Secretary shall suspend or terminate such order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

(c) Suspension or termination of order not to be considered an order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 95–113, title XVII, §1712, Sept. 29, 1977, 91 Stat. 1038.)

§ 3412. Investigations; power to subpena and take oaths and affirmations; aid of courts

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this chapter or to determine whether any person subject to the provisions of this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

(Pub. L. 95–113, title XVII, § 1713, Sept. 29, 1977, 91 Stat. 1039.)

§ 3413. Certification of organizations

The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 3403(a) of this title and to participate in the making of nominations under section 3405(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,

(c) evidence of stability and permanency of the organization,

(d) sources from which the organization's operating funds are derived,

(e) functions of the organization, and

(f) the organization's ability and willingness to further the aims and objectives of this title: *Provided*, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further*, That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this chapter.

(Pub. L. 95–113, title XVII, § 1714, Sept. 29, 1977, 91 Stat. 1039.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3403, 3405 of this title.

§ 3414. Other programs relating to wheat or wheat food research or nutrition education

Nothing in this chapter shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

(Pub. L. 95–113, title XVII, § 1715, Sept. 29, 1977, 91 Stat. 1040.)

§ 3415. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 95–113, title XVII, § 1716, Sept. 29, 1977, 91 Stat. 1040.)

§ 3416. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 95–113, title XVII, § 1717, Sept. 29, 1977, 91 Stat. 1040.)

§ 3417. Authorization of appropriations

There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 95–113, title XVII, § 1719, Sept. 29, 1977, 91 Stat. 1040.)

CHAPTER 66—AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE

Sec.

3501. Reporting requirements.
(a) Acquisitions or transfers of certain agricultural land interests by foreign persons.
(b) Agricultural land interests presently held by foreign persons.
(c) Change in foreign person status of interest holders.
(d) Conversion of land to agricultural uses.
(e) Additional reports by foreign persons other than individuals or governments.
(f) Persons holding interests under subsection (e).
3502. Civil penalty.
3503. Investigative actions.
3504. Repealed.
3505. Reports to the States.
3506. Public inspection.
3507. Regulations.
3508. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 section 3142.

§ 3501. Reporting requirements

(a) Acquisitions or transfers of certain agricultural land interests by foreign persons

Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days

after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;

(8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and

(9) such other information as the Secretary may require by regulation.

(b) Agricultural land interests presently held by foreign persons

Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Change in foreign person status of interest holders

Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Conversion of land to agricultural uses

Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) Additional reports by foreign persons other than individuals or governments

With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) Persons holding interests under subsection (e)

With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may re-

quire such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principle[1] place of business of such holder.

(Pub. L. 95–460, § 2, Oct. 14, 1978, 92 Stat. 1263.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (b) to (d), see section 10(b) of Pub. L. 95–460, set out as an Effective Date note below.

EFFECTIVE DATE

Section 10 of Pub. L. 95–460 provided that:

''(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall become effective on the date of the enactment of this Act [Oct. 14, 1978].

''(b) Section 2 [section 3501 of this title] shall become effective on the date on which regulations prescribed by the Secretary under section 8 [section 3507 of this title] become effective.''

SHORT TITLE

Section 1 of Pub. L. 95–460 provided that: ''This Act [enacting this chapter] may be cited as the 'Agricultural Foreign Investment Disclosure Act of 1978'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3502, 3503, 3505, 3506 of this title.

§ 3502. Civil penalty

(a) If the Secretary determines that a person—

(1) has failed to submit a report in accordance with the provisions of section 3501 of this title, or

(2) has knowingly submitted a report under section 3501 of this title—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this chapter, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

[1] So in original. Probably should be ''principal''.

(Pub. L. 95–460, § 3, Oct. 14, 1978, 92 Stat. 1265.)

§ 3503. Investigative actions

The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this chapter and to determine whether the information contained in any report submitted under section 3501 of this title accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

(Pub. L. 95–460, § 4, Oct. 14, 1978, 92 Stat. 1265.)

§ 3504. Repealed. Pub. L. 105–362, title I, § 101(f), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 95–460, § 5, Oct. 14, 1978, 92 Stat. 1265; Pub. L. 104–66, title I, § 1012(g), Dec. 21, 1995, 109 Stat. 712, provided for reports to Congress and the President.

§ 3505. Reports to the States

Not later than 30 days after the end of each 6-month period beginning after the effective date of section 3501 of this title, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 3501 of this title during such 6-month period and which involved agricultural land located in such State.

(Pub. L. 95–460, § 6, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

For the effective date of section 3501 of this title, referred to in text, see section 10(b) of Pub. L. 95–460, set out as an Effective Date note under section 3501 of this title.

§ 3506. Public inspection

Any report submitted to the Secretary under section 3501 of this title shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

(Pub. L. 95–460, § 7, Oct. 14, 1978, 92 Stat. 1266.)

§ 3507. Regulations

Not later than 90 days after October 14, 1978, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this chapter.

(Pub. L. 95–460, § 8, Oct. 14, 1978, 92 Stat. 1266.)

§ 3508. Definitions

For purposes of this chapter—

(1) the term ''agricultural land'' means any land located in one or more States and used for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term ''foreign government'' means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term ''foreign person'' means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.];

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term ''person'' includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term ''Secretary'' means the Secretary of Agriculture; and

(6) the term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 95–460, § 9, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in par. (3)(A)(iii), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 608c of this title.

CHAPTER 67—IMPLEMENTATION OF INTERNATIONAL SUGAR AGREEMENT, 1977

Sec.
3601. Definitions.
3602. Implementation of Agreement.
3603. Delegation of powers and duties.
3604. Criminal offenses.
3605, 3606. Repealed.

§ 3601. Definitions

For purposes of this chapter—

(1) The term ''Agreement'' means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term ''sugar'' has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

(3) The term ''entry'' means entry, or withdrawal from warehouse, for consumption in the customs territory of the United States.

(Pub. L. 96–236, § 1, Apr. 22, 1980, 94 Stat. 336.)

§ 3602. Implementation of Agreement

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1985, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

(Pub. L. 96–236, § 2, Apr. 22, 1980, 94 Stat. 336; Pub. L. 97–446, title I, § 153, Jan. 12, 1983, 96 Stat. 2344.)

AMENDMENTS

1983—Pub. L. 97–446 substituted ''1985'' for ''1983''.

ELIMINATION OF SUGAR QUOTA ALLOCATION OF PANAMA

Pub. L. 101–167, title V, § 562, Nov. 21, 1989, 103 Stat. 1241, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act [Nov. 21, 1989] during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

''(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries (but, primarily, among beneficiary countries of the Caribbean Basin Initiative and Bolivia) the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act [Nov. 21, 1989] under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period: *Provided*, That no one country may receive more than 20 per centum of such reallocation.

''(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988 [section 101(e) [title V, § 571] of Pub. L. 100–202, formerly set out below], shall cease to apply if the President certifies to Congress pursuant to section 561(a) of this Act [section 561(a) of Pub. L. 101–167, which is set out as a note under section 2151 of Title 22, Foreign Relations and Intercourse].''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–461, title V, § 565, Oct. 1, 1988, 102 Stat. 2268–42.

Pub. L. 100–202, § 101(e) [title V, § 571], Dec. 22, 1987, 101 Stat. 1329–131, 1329–175.

EX. ORD. NO. 12224. IMPLEMENTATION OF THE INTERNATIONAL SUGAR AGREEMENT

Ex. Ord. No. 12224, July 1, 1980, 45 F.R. 45243, provided:

By the authority vested in me as President of the United States of America by an Act providing for the Implementation of the International Sugar Agreement, 1977, and for Other Purposes (P.L. 96–236; 94 Stat. 336) [this chapter] and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. The functions vested in the President by Public Law 96–236 (94 Stat. 336) are delegated to the United States Trade Representative.

1–102. In carrying out the functions delegated to him, the United States Trade Representative shall consult with the Secretary of Agriculture and the Secretary of State. The United States Trade Representative may, with the consent of the head of another Executive agency, redelegate some or all of those functions to the head of such agency.

1–103. This Order is effective July 1, 1980.

JIMMY CARTER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3604 of this title.

§ 3603. Delegation of powers and duties

The President may exercise any power or duty conferred on him by this chapter through such agencies or offices of the United States as he shall designate. Such agencies or offices shall issue such regulations as they determine are necessary to implement this chapter.

(Pub. L. 96–236, § 3, Apr. 22, 1980, 94 Stat. 336.)

§ 3604. Criminal offenses

Any person who—

(1) knowingly fails to keep any information, or to submit any report, required under section 3602 of this title;

(2) submits any report under section 3602 of this title knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this chapter;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

(Pub. L. 96–236, § 4, Apr. 22, 1980, 94 Stat. 337.)

§ 3605. Repealed. Pub. L. 105–277, div. G, subdiv. B, title XXII, § 2219(a)(5), Oct. 21, 1998, 112 Stat. 2681–817

Section, Pub. L. 96–236, § 5, Apr. 22, 1980, 94 Stat. 337, provided for reports to Congress.

§ 3606. Repealed. Pub. L. 105–362, title I, § 101(g), Nov. 10, 1998, 112 Stat. 3281

Section, Pub. L. 96–236, § 6, Apr. 22, 1980, 94 Stat. 337, related to protection of interests of United States consumers.

CHAPTER 68—AGRICULTURAL SUBTERMINAL FACILITIES

Sec.
3701. Congressional findings and declarations.
3702. Definitions.
3703. State and regional plans.
(a) Grants; requisite provisions of plans.
(b) Plan review commissions.
(c) Recommendations of need.
(d) Prerequisites for receipt of grant.
(e) Approved State plans; approved regional plans.
(f) Authorization of appropriations.

§ 3701. Congressional findings and declarations

Congress finds and declares that—

(1) an adequate system for the efficient transient storage and movement of bulk agricultural commodities is essential to the overall success of the agricultural industry of the Nation, the development of rural areas of the Nation, and the economic stability of the Nation;

(2) the movement and storage of bulk agricultural commodities has been seriously and repeatedly impeded by shortages of transient storage facilities, adequate rail rolling stock, and the deterioration of many railroad track beds and rural highways throughout the United States;

(3) the efficient movement and storage of bulk agricultural commodities may be achieved and facilitated by the joint location at strategic points throughout the United States of transient storage facilities and multimodal terminal facilities constructed especially for the efficient shipment and receipt of agricultural commodities; and

(4) the location of such facilities must be carefully planned to assure maximum benefits to producers of agricultural commodities and unprocessed agricultural products and utilization of the most efficient means of transporting bulk agricultural commodities for domestic and export markets.

(Pub. L. 96–358, § 2, Sept. 25, 1980, 94 Stat. 1184.)

EFFECTIVE DATE

Section 6 of Pub. L. 96–358 provided that: ''The provisions of this Act [enacting this chapter and amending section 1932 of this title] shall become effective October 1, 1980.''

SHORT TITLE

Section 1 of Pub. L. 96–358 provided: ''That this Act [enacting this chapter and amending section 1932 of this title] may be cited as the 'Agricultural Subterminal Facilities Act of 1980'.''

§ 3702. Definitions

As used in this chapter, the term—

(1) ''bulk agricultural commodity'' means any agricultural commodity that can be transported in bulk and can be temporarily stored in bulk quantities without undergoing processing or packaging. Such term also includes any commodity or product that is used by producers in the production of agricultural commodities and that can be stored or shipped in bulk, such as fertilizer and fuel;

(2) ''unprocessed agricultural products'' means food, fiber, and other agricultural products that have not been packaged or otherwise prepared for retail sale, including animal products and unfinished cotton, wool, leather, or any other unfinished natural material;

(3) ''Secretary'' means Secretary of Agriculture;

(4) ''subterminal facility'' means any facility that is located in the area of production or consumption of agricultural commodities or any major storage or major export point for such commodities and is located at a place that conveniently serves the needs of producers, purchasers, and consumers of bulk agricultural commodities, and is—

(A) used for the transient storage of bulk agricultural commodities and may include equipment or structures necessary for the transportation, upgrading, receiving, drying, or loading out of such commodities; or

(B) any rail siding, loading, or unloading facility that can accommodate unit railroad trains or multiple car trains and other appropriate transportation modes designed for the transport of bulk agricultural commodities and production materials; and

(5) ''region'' means two or more States acting together to develop a coordinated regional subterminal facilities plan.

(Pub. L. 96–358, § 3, Sept. 25, 1980, 94 Stat. 1184.)

REFERENCES IN TEXT

This chapter, referred to in the introductory phrase, was in the original ''this Act,'' meaning Pub. L. 96–358, Sept. 25, 1980, 94 Stat. 1184, known as the Agricultural Subterminal Facilities Act of 1980, which enacted this chapter and amended section 1932 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

§ 3703. State and regional plans

(a) Grants; requisite provisions of plans

(1) The Secretary shall, beginning not more than one hundred and eighty days after October 1, 1980, make financial assistance available to any State that makes application therefor, and that otherwise meets the requirements of this section, for the purpose of assisting such State in the development of a subterminal facilities plan (hereinafter in this chapter referred to as the ''State plan'') for such State. Assistance under this section shall be made available in the form of a grant. No grant may be made to any State unless the Governor of such State or the appropriate agency of such State makes an application therefor as provided in this section. To the maximum extent practicable, the personnel and resources of the colleges or universities in the State which are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee Institute, shall be utilized in developing the subterminal facilities plan for that State pursuant to this section.

(2) The Secretary may also make grants under this section available to two or more States acting together to develop a coordinated regional subterminal facilities plan (hereinafter in this chapter referred to as the ''regional plan'') for such region.

(3) Grants made under this section to any State or region may not exceed 80 per centum of the cost of preparing the State or regional plan.

(4) The State or regional plan shall prescribe in detail the actions such State or region proposes to take in order to (A) facilitate the efficient and competitive movement of bulk agricultural commodities from the points of production within such State or region to major market or export points, (B) provide adequate storage facilities for such commodities between points of production and market, (C) provide adequate receiving, storage, and loading facilities for any bulk agricultural commodity, and (D) assure that such facilities will be located at sites that will result in maximum benefits to local producers.

(5) Each State or regional plan shall include the following:

(A) an analysis of the marketing, shipping, storage, and production of bulk agricultural commodities produced in that State or region and the short- and long-range projections with respect to the marketing, shipping, storage, and production of such commodities in that State or region;

(B) a determination, on the basis of the analysis and projections required under clause (A) of this paragraph, of the needs of the State or region for subterminal facilities;

(C) an assessment of the use of existing on-farm storage facilities located within the State or region and an assessment of the ways in which subterminal facilities can benefit the continued use of on-farm storage facilities;

(D) an evaluation of the effect of the development of new subterminal facilities on small capacity rural shipping and storage facilities within the State or region;

(E) an evaluation of ways to ensure adequate rail service for subterminal facilities described in clause (D) of this paragraph, including an evaluation of the use and feasibility of contract rates;

(F) an assessment of the ways that subterminal facilities can enhance the operation of small capacity shipping and storage facilities within the State or region;

(G) an assessment of other actions being taken or considered in such State or region for the improvement of agricultural transpor-

tation, including an evaluation of the use being made of shuttle or collector trains and combinations of rail and barge service;

(H) an evaluation of the potential benefits of subterminal ownership and leasing arrangements for rail rolling stock (including locomotive power), motor trucks, barge equipment, and other bulk agricultural commodity transport equipment that may help achieve maximum benefits from the operation of subterminal facilities within the State or region;

(I) an assessment of the overall transportation system in the State or region and future plans for that overall system, including the adequacy of highways and bridges; and

(J) consideration of the feasibility and advisability of the ownership and operation of rail branch lines by farmer-owned cooperatives, and the role that such cooperatives might play in any overall planning for the restructuring and rehabilitation of rail service and marketing facilities within the State or region.

(b) Plan review commissions

Funds made available to a State or region under this chapter for the purposes of assisting such State or region to develop a plan shall be subject to the condition that the State or region establish a plan review commission composed of local producers, local elevator operators, representatives of affected motor and rail carriers, other interested individuals, and, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. A majority of the members of any plan review commission must be local producers or, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. The plan review commission shall consider the information and analyses developed by the State or region in the development of a State or regional plan and make appropriate recommendations regarding the State or regional plan. The plan review commission shall also make recommendations, based on information developed in the plan, for the most beneficial location of subterminal facilities.

(c) Recommendations of need

No application for planning assistance authorized pursuant to this section may be submitted by a State or region until the appropriate plan review commission established in accordance with this chapter has had the opportunity to make recommendations to the Governor or Governors that a need exists for the development of a State or regional plan, and a majority of the members of such plan review commission concur that such application should be submitted.

(d) Prerequisites for receipt of grant

No State or region may receive a grant under this section unless—

(1) an application therefor has been submitted that complies with the provisions of this chapter;

(2) the average annual production of bulk agricultural commodities produced within such State or region, or shipments of such commodities transported into such State or region, meets minimum levels established by the Secretary for a period the Secretary considers appropriate preceding the year in which application for such grant is made;

(3) the Governor of such State or the Governors of the States in such region certify to the Secretary that producers of agricultural commodities have experienced serious storage and transportation problems within such State or region during the three years preceding the year in which application for such grant is made; and

(4) such State or each State within such region has established an adequate plan, as described in section 22102 of title 49, for rail service in such State or States, or such State or each State in such region is actively developing such a plan.

(e) Approved State plans; approved regional plans

Whenever any State or region has submitted a State or regional plan under this section, the Secretary shall approve such plan only if it has been approved by a majority of the members of the appropriate plan review commission established pursuant to this chapter, and it meets the other conditions specified in this chapter and those prescribed in regulations issued by the Secretary to carry out this chapter. When a plan is approved by the Secretary, such plan shall be known as an ''approved State plan'' or an ''approved regional plan'', as appropriate.

(f) Authorization of appropriations

To carry out the purposes of this section, there are authorized to be appropriated not to exceed $3,300,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983.

(Pub. L. 96–358, § 4, Sept. 25, 1980, 94 Stat. 1185.)

REFERENCES IN TEXT

Act of July 2, 1862 (7 U.S.C. 301–305, 307, and 308), referred to in subsec. (a)(1), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the ''Morrill Act'' and also as the ''First Morrill Act'', and is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under 301 of this title and Tables.

Act of August 30, 1890 (7 U.S.C. 321–326 and 328), referred to in subsec. (a)(1), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

CODIFICATION

In subsec. (d)(4), ''section 22102 of title 49'' substituted for ''section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j))'' on authority of Pub. L. 103–272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. Previously, section 5 of the Department of Transportation Act was amended generally by Pub. L. 101–213, § 2(c), Dec. 11, 1989, 103 Stat. 1843, and, as so amended, provisions of subsec. (j), relating to an adequate State plan, were set out in subsec. (a).

CHAPTER 69—SWINE HEALTH PROTECTION

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(a) State obligation.
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3810. Repealed.
3811. Issuance of regulations; maintenance of records.
3812. Authority in addition to other laws; effect on State laws.
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§ 3801. Congressional findings and declaration of purpose

The Congress hereby finds and declares that—

(1) raw garbage is one of the primary media through which numerous infectious or communicable diseases of swine are transmitted;

(2) if certain exotic animal diseases, such as foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular diseases, gain entrance into the United States, such diseases may be spread through the medium of raw or improperly treated garbage which is fed to swine;

(3) African swine fever, which is potentially the most dangerous and destructive of all communicable swine diseases, has been confirmed in several countries of the Western Hemisphere, including the Dominican Republic, Haiti, and Cuba;

(4) swine in the United States have no resistance to any of such exotic diseases and in the case of African swine fever there is a particular danger because there are no effective vaccines to this deadly disease;

(5) all articles and animals which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce, and regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this chapter are necessary to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of the people of the United States;

(6) the interstate and foreign commerce in swine and swine products and producers and consumers of pork products could be severely injured economically if any exotic animal diseases, particularly African swine fever, enter this country;

(7) it is impossible to assure that all garbage fed to swine is properly treated to kill disease organisms unless such treatment is closely regulated;

(8) therefore, in order to protect the commerce of the United States and the health and welfare of the people of this country, it is necessary to regulate the treatment of garbage to be fed to swine and the feeding thereof in accordance with the provisions of this chapter.

(Pub. L. 96–468, § 2, Oct. 17, 1980, 94 Stat. 2229.)

SHORT TITLE

Section 1 of Pub. L. 96–468 provided: ''That this Act [enacting this chapter] may be cited as the 'Swine Health Protection Act'.''

§ 3802. Definitions

For purposes of this chapter—

(1) the term ''Secretary'' means the Secretary of Agriculture;

(2) the term ''garbage'' means all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located;

(3) the term ''person'' means any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity; and

(4) the term ''State'' means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(Pub. L. 96–468, § 3, Oct 17, 1980, 94 Stat. 2229; Pub. L. 96–592, title V, § 511, Dec. 24, 1980, 94 Stat. 3451.)

AMENDMENTS

1980—Par. (4). Pub. L. 96–592 added par. (4).

§ 3803. Prohibition of certain garbage feeding; exemption

(a) No person shall feed or permit the feeding of garbage to swine except in accordance with subsection (b) of this section.

(b) Garbage may be fed to swine only if treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit issued by the Secretary, or the chief agricultural or animal health official of the State where located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to

section 3809 of this title. No person shall operate a facility for the treatment of garbage knowing it is to be fed to swine unless such person holds a valid permit issued pursuant to this chapter. The Secretary may exempt any facility or premises from the requirements of this section whenever the Secretary determines that there would not be a risk to the swine industry in the United States.

(Pub. L. 96–468, § 4, Oct. 17, 1980, 94 Stat. 2230.)

§ 3804. Permits to operate garbage treatment facility

(a) Application; issuance

Any person desiring to obtain a permit to operate a facility to treat garbage that is to be fed to swine shall apply therefor to (1) the Secretary, or (2) the chief agricultural or animal health official of the State where the facility is located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to section 3809 of this title, and provide such information as the Secretary shall by regulation prescribe. No permit shall be issued unless the facility—

(1) meets such requirements as the Secretary shall prescribe to prevent the introduction, or dissemination of any infectious or communicable disease of animals or poultry, and

(2) is so constructed that swine are unable to have access to untreated garbage of such facility or material coming in contact with such untreated garbage.

(b) Cease and desist orders; suspension or revocation orders; judicial review

Whenever the Secretary finds, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, that any person holding a permit to operate a facility to treat garbage in any State is violating or has violated this chapter or any regulation of the Secretary issued hereunder, the Secretary may issue an order requiring such person to cease and desist from continuing such violations or an order suspending or revoking such permit, or both. Any person aggrieved by an order of the Secretary issued pursuant to this subsection may, within sixty days after entry of such order, seek review of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(c) Automatic revocation

The permit of any person to operate a facility to treat garbage in any State shall be automatically revoked, without action of the Secretary, upon the final effective date of the second conviction of such person pursuant to section 3806 of this title.

(Pub. L. 96–468, § 5, Oct. 17, 1980, 94 Stat. 2230.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3806 of this title.

§ 3805. Civil penalties

(a) Assessment by Secretary

Any person who the Secretary determines, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, is violating or has violated any provision of this chapter or any regulation of the Secretary issued hereunder, other than a violation for which a criminal penalty has been imposed under this chapter, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Each offense shall be a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and may be reviewed only as provided in subsection (b) of this section.

(b) Judicial review

The determination and order of the Secretary with respect thereto imposing a civil penalty under this section shall be final and conclusive unless the person against whom such an order is issued files application for judicial review within sixty days after entry of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(c) Collection action by Attorney General

If any person fails to pay a civil penalty under a final order of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States. In such collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

(d) Payment into United States Treasury

All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(e) Compromise, modification, or remittance

The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this chapter.

(Pub. L. 96–468, § 6, Oct. 17, 1980, 94 Stat. 2231.)

§ 3806. Criminal penalties

(a) Whoever willfully violates any provision of this chapter or the regulations of the Secretary issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $10,000, or imprisoned not more than one year, or both.

(b) Any person who fails to obey any order of the Secretary issued under the provisions of section 3804 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to

review such order, if no such petition has been filed within such time; or

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 3804(b) of this title;

shall on conviction be fined not more than $10,000, or imprisoned for not more than one year, or both. Each day during which such failure continues shall be deemed a separate offense.

(Pub. L. 96–468, § 7, Oct. 17, 1980, 94 Stat. 2231.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3804 of this title.

§ 3807. General enforcement provisions

(a) Injunctions

The Attorney General, upon the request of the Secretary, shall bring an action to enjoin the violation of, or to compel compliance with, any provision of this chapter or any regulation issued by the Secretary hereunder by any person. Such action shall be brought in the appropriate United States district court for the judicial district in which such person resides or transacts business or in which the violation or omission has occurred or is about to occur. Process in such cases may be served in any judicial district wherein the defendant resides or transacts business or wherever the defendant may be found.

(b) Access to premises or facility and books and records; examination; samples

Any person subject to the provisions of this chapter shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to his premises or facility and opportunity to examine the premises or facility, the garbage there at, and books and records thereof, to copy all such books and records and to take reasonable sample of such garbage.

(c) Additional powers

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 through 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Pub. L. 96–468, § 8, Oct. 17, 1980, 94 Stat. 2232.)

§ 3808. Cooperation with States

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of this chapter and State laws and regulations relating to the feeding of garbage to swine, the Secretary is authorized to enter into cooperative agreements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of this chapter and regulations hereunder. The Secretary is further authorized to coordinate the administration of this chapter and regulations with such State laws and regulations whenever feasible: *Provided*, That nothing herein shall affect the jurisdiction of the Secretary under any other Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions upon such cooperation.

(Pub. L. 96–468, § 9, Oct. 17, 1980, 94 Stat. 2232.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3803, 3804 of this title.

§ 3809. Primary enforcement responsibility

(a) State obligation

For purposes of this chapter, a State shall have the primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary determines that such State—

(1) has adopted adequate laws and regulations regulating the treatment of garbage to be fed to swine and the feeding thereof which laws and regulations meet the minimum standards of this chapter and the regulations hereunder: *Provided*, That the Secretary may not require a State to have laws that are more stringent than this chapter;

(2) has adopted and is implementing adequate procedures for the effective enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Secretary may require by regulation.

Except as provided in subsection (c) of this section, the Secretary shall not enforce this chapter or the regulations hereunder in any State which has primary enforcement responsibility pursuant to this section.

(b) Inadequate enforcement or administration by State; termination of responsibility by Secretary

Whenever the Secretary determines that a State having primary enforcement responsibility pursuant to this section does not have adequate laws or regulations or is not effectively enforcing such laws or regulations, the Secretary shall notify the State. Such notice shall specify those aspects of the administration or enforcement of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Secretary

determines that the State program remains inadequate, the Secretary may terminate, in whole or in part, the State's primary enforcement responsibility under this chapter.

(c) Request of State official

(1) In general

On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a) of this section. In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this chapter.

(2) Reassumption

Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a) of this section.

(d) Emergency conditions

Nothing in this section shall limit the authority of the Secretary to enforce this chapter whenever the Secretary determines that emergency conditions exist that require immediate action on the part of the Secretary and the State authority is unwilling or unable adequately to respond to the emergency.

(Pub. L. 96–468, § 10, Oct. 17, 1980, 94 Stat. 2233; Pub. L. 104–127, title IX, § 914(a), Apr. 4, 1996, 110 Stat. 1186.)

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–127 added subsec. (c) and redesignated former subsec. (c) as (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3803, 3804 of this title.

§ 3810. Repealed. Pub. L. 104–127, title IX, § 914(b)(1), Apr. 4, 1996, 110 Stat. 1186

Section, Pub. L. 96–468, § 11, Oct. 17, 1980, 94 Stat. 2233, authorized Secretary to appoint and consult with advisory committees concerning matters within scope of this chapter.

§ 3811. Issuance of regulations; maintenance of records

The Secretary is authorized to issue such regulations and to require the maintenance of such records as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 96–468, § 11, formerly § 12, Oct. 17, 1980, 94 Stat. 2233; renumbered § 11, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 96–468 was classified to section 3810 of this title prior to repeal by Pub. L. 104–127.

§ 3812. Authority in addition to other laws; effect on State laws

The authority conferred by this chapter shall be in addition to authority conferred by other statutes. Nothing in this chapter shall be construed to repeal or supersede any State law prohibiting the feeding of garbage to swine or to prohibit any State from enforcing requirements relating to the treatment of garbage to be fed to swine or the feeding thereof which are more stringent than those under this chapter or the regulations hereunder.

(Pub. L. 96–468, § 12, formerly § 13, Oct. 17, 1980, 94 Stat. 2233; renumbered § 12, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 12 of Pub. L. 96–468 was renumbered section 11 and is classified to section 3811 of this title.

§ 3813. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 96–468, § 13, formerly § 14, Oct. 17, 1980, 94 Stat. 2234; renumbered § 13, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 13 of Pub. L. 96–468 was renumbered section 12 and is classified to section 3812 of this title.

CHAPTER 70—ANIMAL CANCER RESEARCH

Sec.
3901. Congressional findings.
3902. Research program on cancer in animals and birds.
3903. Annual program review to achieve coordination with National Cancer Institute program.
3904. Authorization of appropriations; restriction.

§ 3901. Congressional findings

Congress finds that—

(a) basic research on malignant tumors or cancers is essential to protect the health of domestic animals, poultry, and wildlife, including birds;

(b) carcinogenic agents have not been adequately identified in domestic animals, poultry, and wildlife management;

(c) basic research in diagnosis, prevention, and control of malignant tumors in animals and birds has not been adequately coordinated;

(d) significant theories of a common factor in malignant tumors, such as chorionic gonadotropin, have not been pursued in depth;

(e) research on diagnosis, prevention, and control of cancer in animals and birds will be beneficial in identifying any common factors in human and animal malignant tumors, if such exist; and

(f) it is imperative for the Department of Agriculture and the National Institutes of Health to coordinate and consult with regard to the research authorized under this chapter to achieve the maximum benefits from such research.

(Pub. L. 96–469, § 2, Oct. 17, 1980, 94 Stat. 2235.)

SHORT TITLE

Section 1 of Pub. L. 96–469 provided: ''That this Act [enacting this chapter] may be cited as the 'Animal Cancer Research Act'.''

§ 3902. Research program on cancer in animals and birds

The Secretary of Agriculture shall conduct a program of basic research on cancer in animals and birds at appropriate facilities within the Department of Agriculture or by grants to other qualified research facilities.

(Pub. L. 96–469, § 3, Oct. 17, 1980, 94 Stat. 2235.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3904 of this title.

§ 3903. Annual program review to achieve coordination with National Cancer Institute program

The Secretary of Agriculture and the Director of the National Institutes of Health shall annually review the research program conducted under this chapter in order to coordinate the program with the National Cancer Institute research program.

(Pub. L. 96–469, § 4, Oct. 17, 1980, 94 Stat. 2235.)

§ 3904. Authorization of appropriations; restriction

(a) There are hereby authorized to be appropriated to administer the program under this chapter $25,000,000 for fiscal year 1982, and $25,000,000 annually thereafter through the end of fiscal year 1986.

(b) Not more than 30 per centum of any of the amounts appropriated under this section in any fiscal year may be obligated for research under section 3902 of this title at facilities of the Department of Agriculture.

(Pub. L. 96–469, § 5, Oct. 17, 1980, 94 Stat. 2235.)

CHAPTER 71—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT

Sec.

4001. Trade suspension reserves.
(a) Gasohol feedstock or food security reserves; establishment.
(b) Announcement of intention to establish reserves; contents.
(c) Acquisition of suitable agricultural commodities; payment of transportation and storage costs; disposition of acquired commodities.
(d) Acquisition of agricultural commodities suitable for providing emergency food assistance.
(e) Use of Commodity Credit Corporation funds, facilities, and authorities.
(f) Safeguards for protection of free market.
(g) Replenishment of reserves with replacement stocks prohibited.
(h) Effective date.
4002. Alcohol processor grain reserve program.
(a) Definitions.
(b) Loans on stored grain; processors eligible.
(c) Terms and conditions of processor grain reserve program and producer storage program.
(d) Amount of loan.
(e) Replacement of removed grain.
(f) Purposes for which grain to be used.
(g) Terms and conditions of loan; security; nonrecourse loans.
(h) Payment for cost of storage; repayment of loans.
(i) Announcement of terms and conditions of program.
(j) Use of Commodity Credit Corporation facilities.
(k) Authorization of appropriations; appropriation acts as determining amount and extent of loans; expiration of authority to make loans.
4003. Study of potential for expansion of United States agricultural export markets; report to President and Congress.
4004. Food bank special nutrition projects.
(a) Distribution of agricultural commodities to community food banks for emergency distribution; availability of agricultural commodities; use of currently used distributorship systems; selection of food banks.
(b) Application by food bank; recordkeeping and internal procedures.
(c) Quantities and types of agricultural commodities; regulations for designation of eligible participants.
(d) Report to Congress; contents; recommendations.
(e) Sale of food prohibited; fines and penalties.
(f) Paperwork minimization and encouragement of participation.
(g) Authorization of appropriations.
4004a. Applicability of food stamp requirements.
4005. ''Fuel conversion price'' defined.

§ 4001. Trade suspension reserves

Notwithstanding any other provision of law—

(a) Gasohol feedstock or food security reserves; establishment

Whenever the President or other member of the executive branch of Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.] or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary may establish a gasohol feedstock reserve or a food security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve.

(b) Announcement of intention to establish reserves; contents

Within thirty days after the export of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exports of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus supply of the commodity that will adversely affect prices producers receive for the commodity.

(c) Acquisition of suitable agricultural commodities; payment of transportation and storage costs; disposition of acquired commodities

(1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale—

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 4005 of this title) for the commodity involved: *Provided*, That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 1445e(b)[1] of this title, the Secretary may dispose of stocks of the commodity for such use only through sale at not less than the release price: *Provided further*, That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

(B) for any other use, when sales for use under clause (A) of this paragraph are impracticable, (i) if there is a producer storage program in effect for the commodity, at not less than 110 per centum of the then current level at which the Secretary may encourage repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 1445e(b)[1] of this title, or, (ii) if there is no producer storage program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

(d) Acquisition of agricultural commodities suitable for providing emergency food assistance

(1) To establish a food security reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 1736f–1 of this title shall apply to commodities in any reserve established under paragraph (1), except that the references to ''eligible commodities'' in the subsections shall be deemed to be references to ''agricultural commodities''.

(3) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(e) Use of Commodity Credit Corporation funds, facilities, and authorities

The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) Safeguards for protection of free market

The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

(g) Replenishment of reserves with replacement stocks prohibited

Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) Effective date

The provisions of this section shall become effective with respect to any suspension of, or restriction on, the export of agricultural commodities, as described in subsection (a) of this section, implemented after December 3, 1980.

(Pub. L. 96–494, title II, § 208, Dec. 3, 1980, 94 Stat. 2573; Pub. L. 97–98, title X, § 1004, Dec. 22, 1981, 95 Stat. 1260; Pub. L. 104–127, title II, § 225(b), Apr. 4, 1996, 110 Stat. 962; Pub. L. 105–385, title II, § 212(b)(4), Nov. 13, 1998, 112 Stat. 3467.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

Section 1445e of this title, referred to in subsec. (c)(2), was amended generally by Pub. L. 101–624, title XI, § 1123, Nov. 28, 1990, 104 Stat. 3503, and, as so amended, subsec. (b) of section 1445e does not contain a clause (5).

[1] See References in Text note below.

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105–385 made technical amendment to reference in original act which appears in text as reference to section 1736f–1 of this title.

1996—Subsec. (d)(2). Pub. L. 104–127 added par. (2) and struck out former par. (2) which read as follows: ''The provisions of subsections (c), (d), (e), (f), and (g)(2) of section 1736f–1 of this title shall apply to commodities in any reserve established under paragraph (1) of this subsection, and (except for the last sentence of subsection (c) of section 1736f–1 of this title) the references to 'wheat' in such subsections of section 1736f–1 of this title shall be deemed to be references to 'agricultural commodities'.''

1981—Subsec. (c)(2)(A). Pub. L. 97–98, §1004(1), substituted ''third sentence'' for ''second sentence''.

Subsec. (c)(2)(B)(i). Pub. L. 97–98, §1004(2), substituted ''110 per centum'' for ''105 per centum'', ''Secretary may encourage repayment'' for ''Secretary may call for repayment'', and ''clause (5) of the third sentence'' for ''clause (6) of the second sentence''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section 213 of title II of Pub. L. 96–494 provided that: ''Except as otherwise provided herein, this title [enacting this chapter and section 1445h of this title, amending sections 1444c, 1445b, 1445e, and 1446 of this title, and enacting provisions set out as notes under this section, sections 1445e and 1445h of this title, and section 714c of Title 15, Commerce and Trade] shall become effective October 1, 1980, or the date of enactment [Dec. 3, 1980], whichever is later.''

SHORT TITLE

Section 1 of Pub. L. 96–494 provided: ''That this Act [enacting this chapter and sections 1445h and 1736f–1 of this title, amending sections 608c, 1444c, 1445b, 1445e, and 1446 of this title, and enacting provisions set out as notes under this section, sections 1445e, 1445h, and 1736f–1 of this title, and section 714c of Title 15, Commerce and Trade] may be cited as the 'Agricultural Act of 1980'.''

Section 201 of title II of Pub. L. 96–494 provided that: ''This title [enacting this chapter and section 1445h of this title, amending sections 1444c, 1445b, 1445e, and 1446 of this title, and enacting provisions set out as notes under this section, sections 1445e and 1445h of this title, and section 714c of Title 15, Commerce and Trade] may be cited as the 'Agricultural Trade Suspension Adjustment Act of 1980'.''

§ 4002. Alcohol processor grain reserve program

(a) Definitions

As used in this section—

(1) The term ''Secretary'' means the Secretary of Agriculture.

(2) The term ''processor'' means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms ''agricultural grain'' and ''grain'' mean any agricultural commodity (A) that is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term ''producer storage program'' means the producer storage program provided for under section 1445e[1] of this title.

(5) The term ''small scale biomass energy project'' shall have the same meaning as defined in section 8802(19) of title 42.

(b) Loans on stored grain; processors eligible

To assist processors in obtaining a dependable supply of grain at reasonable prices, the Secretary may formulate and administer a program under which processors purchasing and storing grain needed by them for manufacturing into alcohol for use as a fuel may obtain a loan from the Secretary on such grain. Loans under this section may be made available only to processors that (1) operate small scale biomass energy projects financed in whole or in part by the United States Government or any agency thereof, and (2) as determined by the Secretary, are otherwise unable to obtain a dependable supply of grain at reasonable prices for use in such projects.

(c) Terms and conditions of processor grain reserve program and producer storage program

Except as otherwise provided in this section, loans made under this section to carry out the processor grain reserve program may be made on the same terms and conditions as loans made to carry out the producer storage program.

(d) Amount of loan

The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(e) Replacement of removed grain

Whenever any quantity of grain stored in the processor grain reserve under this section is removed from storage by a processor, the processor may be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(f) Purposes for which grain to be used

Grain on which an eligible processor has received a loan under this section may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as the Secretary deems necessary to assure that such grain is not used for any other purpose and is not used in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(g) Terms and conditions of loan; security; nonrecourse loans

Loans made under this section shall be made subject to such terms and conditions and subject to such security as the Secretary deems appropriate, except that such loans may not be made as nonrecourse loans.

[1] See References in Text note below.

(h) Payment for cost of storage; repayment of loans

In carrying out the processor grain reserve program under this section, the Secretary may—

(1) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this clause for any period exceed the rate paid by the Secretary under the producer storage program for the same period; and

(2) prescribe conditions under which the Secretary may require processors to repay loans made under this section, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this section.

(i) Announcement of terms and conditions of program

The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(j) Use of Commodity Credit Corporation facilities

The Secretary may use the facilities of the Commodity Credit Corporation to carry out this section.

(k) Authorization of appropriations; appropriation acts as determining amount and extent of loans; expiration of authority to make loans

There are authorized to be appropriated such sums as may be necessary to carry out this section. Any loans made under this section shall be made to such extent and such amounts as provided in appropriation Acts. The authority to make loans under this section shall expire five years after December 3, 1980.

(Pub. L. 96–494, title II, § 209, Dec. 3, 1980, 94 Stat. 2575.)

REFERENCES IN TEXT

The producer storage program provided for under section 1445e of this title, referred to in subsec. (a)(4), refers to section 1445e prior to the general amendment of such section by Pub. L. 101–624, title XI, § 1123, Nov. 28, 1990, 104 Stat. 3503. As amended, section 1445e now provides for a farmer owned reserve program.

§ 4003. Study of potential for expansion of United States agricultural export markets; report to President and Congress

(a) The Secretary of Agriculture, in consultation with the United States Trade Representative and any other appropriate agency of the United States Government as determined by the Secretary, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before June 30, 1981.

(b) In performing the study, the Secretary shall determine for the next five years—

(1) world food, feed, and fiber needs;

(2) estimated United States and world food, feed, and fiber production capabilities;

(3) potential new or expanded foreign markets for United States agricultural products;

(4) the potential for the development of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

(Pub. L. 96–494, title II, § 210, Dec. 3, 1980, 94 Stat. 2576.)

§ 4004. Food bank special nutrition projects

(a) Distribution of agricultural commodities to community food banks for emergency distribution; availability of agricultural commodities; use of currently used distributorship systems; selection of food banks

The Secretary of Agriculture shall carry out special nutrition projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary shall make available for purposes of such special nutrition projects, agricultural commodities and other foods available to the Secretary under section 1431 of this title, section 1446a–1 of this title, and section 612c of this title. For purpose of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently used to distribute agricultural commodities and other foods under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] and Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.]. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the special nutrition projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

(b) Application by food bank; recordkeeping and internal procedures

(1) No food bank may participate in the special nutrition projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and

shall contain such information as the Secretary shall prescribe.

(2) Each food bank participating in the special nutrition projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) Quantities and types of agricultural commodities; regulations for designation of eligible participants

The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) Report to Congress; contents; recommendations

The Secretary shall submit to Congress a progress report on July 1, 1983, and a final report on January 1, 1984, regarding the special nutrition projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) Sale of food prohibited; fines and penalties

The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to a fine of not more than $1,000 or imprisonment for not more than six months, or both.

(f) Paperwork minimization and encouragement of participation

The Secretary shall minimize paperwork requirements placed on food banks which participate in the special nutrition projects established under this section and shall otherwise encourage food banks to participate in such projects.

(g) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 96–494, title II, § 211, Dec. 3, 1980, 94 Stat. 2577; Pub. L. 97–98, title XI, § 1114(b), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 106–78, title VII, § 752(b)(4), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

1981—Subsecs. (a), (b). Pub. L. 97–98, § 1114(b)(1), substituted ''special nutrition projects'' for ''demonstration projects'' wherever appearing.

Subsec. (d). Pub. L. 97–98, § 1114(b)(2), (3), substituted ''to Congress a progress report on July 1, 1983, and a final report on January 1, 1984'' for ''a report to Congress on October 1, 1982'' and ''special nutrition projects'' for ''demonstration projects''.

Subsecs. (f), (g). Pub. L. 97–98, § 1114(b)(4), (5), added subsec. (f), redesignated former subsec. (f) as (g), and substituted ''such sums as may be necessary to carry out this section'' for ''to carry out this section $356,000''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by section 676 of Pub. L. 97–35, which is classified to 42 U.S.C. 9905.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1431e, 4004a of this title.

§ 4004a. Applicability of food stamp requirements

Section 2013(b) of this title shall not apply with respect to distribution of surplus commodities under section 4004 of this title.

(Pub. L. 97–98, title XI, § 1114(d), Dec. 22, 1981, 95 Stat. 1269.)

CODIFICATION

Section was enacted as part of the Agriculture and Food Act of 1981, and not as part of the Agricultural Act of 1980 which comprises this chapter.

EFFECTIVE DATE

Section effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as a note under section 4301 of this title.

§ 4005. "Fuel conversion price" defined

As used in this chapter, the phrase ''fuel conversion price'' means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating, taking into consideration the energy value of

the commodity and other appropriate values designed to represent, on a national average basis, the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal tax and other Federal incentives applicable to alcohol used for fuel.

(Pub. L. 96–494, title II, § 212, Dec. 3, 1980, 94 Stat. 2578.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 96–494, Dec. 3, 1980, 94 Stat. 2570, as amended, which enacted this chapter and section 1445h of this title, amended sections 1444c, 1445b, 1445e, and 1446 of this title, and enacted provisions set out as notes under sections 1445e, and 1445h and 4001 of this title and section 714c of Title 15, Commerce and Trade. For complete classification of title II to the Code, see Short Title note set out under section 4001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4001 of this title.

CHAPTER 72—NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD

§§ 4101 to 4110. Omitted

CODIFICATION

Sections 4101 to 4110 were omitted pursuant to section 4110 which provided that the National Agricultural Cost of Production Standards Review Board established by this chapter ceased to exist on Sept. 30, 1995.

Section 4101, Pub. L. 97–98, title X, § 1005, Dec. 22, 1981, 95 Stat. 1261, established Board.

Section 4102, Pub. L. 97–98, title X, § 1006, Dec. 22, 1981, 95 Stat. 1261; Pub. L. 99–198, title X, § 1023(a), Dec. 23, 1985, 99 Stat. 1460; Pub. L. 101–624, title XI, § 1145(a), Nov. 28, 1990, 104 Stat. 3516, provided for membership of Board, duration of terms of appointment, number of terms, and Chairman and Vice Chairman.

Section 4103, Pub. L. 97–98, title X, § 1007, Dec. 22, 1981, 95 Stat. 1261, outlined functions of Board.

Section 4104, Pub. L. 97–98, title X, § 1008, Dec. 22, 1981, 95 Stat. 1262, provided for meetings of Board.

Section 4105, Pub. L. 97–98, title X, § 1009, Dec. 22, 1981, 95 Stat. 1262, related to Board recommendations to Secretary.

Section 4106, Pub. L. 97–98, title X, § 1010, Dec. 22, 1981, 95 Stat. 1262, provided for reports by Board to Secretary and Congress.

Section 4107, Pub. L. 97–98, title X, § 1011, Dec. 22, 1981, 95 Stat. 1262, provided for support and clerical services to assist Board.

Section 4108, Pub. L. 97–98, title X, § 1012, Dec. 22, 1981, 95 Stat. 1262, provided for compensation and travel expenses for Board members.

Section 4109, Pub. L. 97–98, title X, § 1013, Dec. 22, 1981, 95 Stat. 1262, authorized appropriations for this chapter.

Section 4110, Pub. L. 97–98, title X, § 1014, Dec. 22, 1981, 95 Stat. 1263; Pub. L. 99–198, title X, § 1023(b), Dec. 23, 1985, 99 Stat. 1460; Pub. L. 101–624, title XI, § 1145(b), Nov. 28, 1990, 104 Stat. 3516, provided that Board would cease to exist on Sept. 30, 1995.

CHAPTER 73—FARMLAND PROTECTION POLICY

Sec.

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§ 4201. General provisions

(a) Congressional statement of findings

Congress finds that—

(1) the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States;

(2) each year, a large amount of the Nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;

(3) continued decrease in the Nation's farmland base may threaten the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;

(4) the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;

(5) Federal actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;

(6) the Department of Agriculture is the agency primarily responsible for the implementation of Federal policy with respect to United States farmland, assuring the maintenance of the agricultural production capacity of the United States, and has the personnel and other resources needed to implement national farmland protection policy; and

(7) the Department of Agriculture and other Federal agencies should take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

(b) Statement of purpose

The purpose of this chapter is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) Definitions

As used in this chapter—

(1) the term ''farmland'' includes all land defined as follows:

(A) prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion, as determined by the Secretary. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage;

(B) unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables; and

(C) farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, or oilseed crops, as determined by the appropriate State or unit of local government agency or agencies, and that the Secretary determines should be considered as farmland for the purposes of this chapter;

(2) the term ''State'' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any territory or possession of the United States;

(3) the term ''unit of local government'' means the government of a county, municipality, town, township, village, or other unit of general government below the State level, or a combination of units of local government acting through an areawide agency under State law or an agreement for the formulation of regional development policies and plans;

(4) the term ''Federal program'' means those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve (A) undertaking, financing, or assisting construction or improvement projects; or (B) acquiring, managing, or disposing of Federal lands and facilities. The term ''Federal program'' does not include construction or improvement projects that on the effective date of this chapter are beyond the planning stage and are in either the active design or construction state; and

(5) the term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 97–98, title XV, §1540, Dec. 22, 1981, 95 Stat. 1341.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (c)(4), is six months after Dec. 22, 1981, see Effective Date note below.

EFFECTIVE DATE

Section 1549 of Pub. L. 97–98 provided that: ''The provisions of this subtitle [subtitle I (§§1539–1549) of title XV of Pub. L. 97–98, enacting this chapter] shall become effective six months after the date of enactment of this Act [Dec. 22, 1981].''

SHORT TITLE

Section 1539 of Pub. L. 97–98 provided that: ''This subtitle [subtitle I (§§1539–1549) of title XV of Pub. L. 97–98, enacting this chapter] may be cited as the 'Farmland Protection Policy Act'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

FARMLAND PROTECTION

Pub. L. 101–624, title XIV, ch. 2, §§1465–1470B, Nov. 28, 1990, 104 Stat. 3616–3619, as amended by Pub. L. 102–237, title II, §§201(b), (c), 203, Dec. 13, 1991, 105 Stat. 1847, 1848, provided that:

''SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

''(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

''(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

''(c) DEFINITIONS.—As used in this chapter:

''(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

''(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

''(3) ELIGIBLE STATE.—The term 'eligible State' means—

''(A) the State of Vermont; and

''(B) at the option of the Secretary and subject to appropriations, any State that—

''(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

''(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

''(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

''(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

''(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

''SEC. 1466. ESTABLISHMENT OF PROGRAM.

''(a) IN GENERAL.—

''(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

''(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

''(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

''(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

''(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

''(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

''(c) FUNDING.—

''(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

''(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of the Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

''(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

''(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

''(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total parvalue of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

''(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

''(1) the application procedures for eligible States;

''(2) the factors to be used in approving applicants;

''(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

''(4) recordkeeping requirements for approved State trust funds;

''(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

''(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

''(7) any other rules necessary and appropriate to carry out the program.

''(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

''(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

''(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

''(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

''(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

''(C) to pay the costs of enforcing easements or land use restrictions;

''(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

''(E) to generate earnings (including through investments not exceeding 10 years in duration for

each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any federally insured State nonmember bank.

''(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

''(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or [nor] the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

''(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

''(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

''(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

''(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

''(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

''(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

''(k) MISCELLANEOUS PROVISIONS.—

''(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

''(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

''SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

''(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

''(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

''SEC. 1468. APPLICATIONS AND ADMINISTRATION.

''(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

''(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

''(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

''(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

''(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

''(c) MATCH AND MAXIMUM AMOUNT.—

''(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

''(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

''(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

''(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

''(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

''(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

''(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

''SEC. 1469. REPORT.

''Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

''SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

''(a) IN GENERAL.—This chapter shall become effective on October 1, 1990. Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State.

''(b) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.

''SEC. 1470A. COMPTROLLER GENERAL REPORTS.

''On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

''SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

''The Secretary shall issue the stock required to be issued to the Secretary of [the] Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.''

[Amendment by section 201(b), (c) of Pub. L. 102–237 to sections 1466 and 1470 of Pub. L. 101–624, set out above, effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(1) of Pub. L. 102–237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.]

Pub. L. 102–341, title VII, § 730, Aug. 14, 1992, 106 Stat. 909, provided that: ''For loan guarantees authorized under sections 1465–1469 of Public Law 101–624 [set out above] for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974 [2 U.S.C. 661a], $3,644,000: *Provided*, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: *Provided further*, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.''

§ 4202. Identifying effects of Federal programs on conversion of farmland to nonagricultural uses

(a) Development of criteria to identify

The Department of Agriculture, in cooperation with other departments, agencies, independent commissions, and other units of the Federal Government, shall develop criteria for identifying the effects of Federal programs on the conversion of farmland to nonagricultural uses.

(b) Use of criteria to identify

Departments, agencies, independent commissions, and other units of the Federal Government shall use the criteria established under subsection (a) of this section, to identify the quantity of farmland actually converted by Federal programs, and to identify and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, that could lessen such adverse effects; and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) Availability of restorative, etc., information

The Department of Agriculture may make available to States, units of local government, individuals, organizations, and other units of the Federal Government information useful in restoring, maintaining, and improving the quantity and quality of farmland.

(Pub. L. 97–98, title XV, § 1541, Dec. 22, 1981, 95 Stat. 1342; Pub. L. 101–624, title XIV, § 1454, Nov. 28, 1990, 104 Stat. 3614.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 inserted ''to identify the quantity of farmland actually converted by Federal programs, and'' after ''of this section,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4209 of this title.

§ 4203. Existing policies and procedures; review, etc.

(a) Each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall review current provisions of law, administrative rules and regulations, and policies and procedures applicable to it to determine whether any provision thereof will prevent such unit of the Federal Government from taking appropriate action to comply fully with the provisions of this chapter.

(b) Each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall, as appropriate, develop proposals for action to bring its programs, authorities, and administrative activities into conformity with the purpose and policy of this chapter.

(Pub. L. 97–98, title XIV, § 1542, Dec. 22, 1981, 95 Stat. 1343.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4207 of this title.

§ 4204. Technical assistance

The Secretary is encouraged to provide technical assistance to any State or unit of local government, or any nonprofit organization, as determined by the Secretary, that desires to develop programs or policies to limit the conversion of productive farmland to nonagricultural uses.

(Pub. L. 97–98, title XV, § 1543, Dec. 22, 1981, 95 Stat. 1343.)

§ 4205. Farmland resource information

(a) The Secretary, through existing agencies or interagency groups, and in cooperation with the cooperative extension services of the States, shall design and implement educational programs and materials emphasizing the importance of productive farmland to the Nation's well-being and distribute educational materials through communications media, schools, groups, and other Federal agencies.

(b) The Secretary shall designate one or more farmland information centers to serve as central depositories and distribution points for information on farmland issues, policies, programs, technical principles, and innovative actions or proposals by local and State governments.

(Pub. L. 97–98, title XV, § 1544, Dec. 22, 1981, 95 Stat. 1343.)

§ 4206. Grants, contracts, etc., authority

The Secretary may carry out the purposes of this chapter, with existing facilities and funds otherwise available, through the use of grants, contracts, or such other means as the Secretary deems appropriate.

(Pub. L. 97–98, title XV, § 1545, Dec. 22, 1981, 95 Stat. 1343.)

§ 4207. Reporting requirement

On January 1, 1987, and at the beginning of each subsequent calendar year.[1] the Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the progress made in implementing the provisions of this chapter. Such report shall include information on—

(1) the effects, if any, of Federal programs, authorities, and administrative activities with respect to the protection of United States farmland; and

(2) the results of the reviews of existing policies and procedures required under section 4203(a) of this title.

(Pub. L. 97–98, title XV, § 1546, Dec. 22, 1981, 95 Stat. 1343; Pub. L. 99–198, title XII, § 1255(a), Dec. 23, 1985, 99 Stat. 1518.)

AMENDMENTS

1985—Pub. L. 99–198 substituted ''On January 1, 1987, and at the beginning of each subsequent calendar year.'' for ''Within one year after December 22, 1981,''.

§ 4208. Limitations

(a) This chapter does not authorize the Federal Government in any way to regulate the use of private or non-Federal land, or in any way affect the property rights of owners of such land.

(b) None of the provisions or other requirements of this chapter shall apply to the acquisition or use of farmland for national defense purposes during a national emergency.

(Pub. L. 97–98, title XV, § 1547, Dec. 22, 1981, 95 Stat. 1344; Pub. L. 101–624, title XXV, § 2502, Nov. 28, 1990, 104 Stat. 4066.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 inserted before period at end ''during a national emergency''.

§ 4209. Prohibition on maintenance of actions

This chapter shall not be deemed to provide a basis for any action, either legal or equitable, by any person or class of persons challenging a Federal project, program, or other activity that may affect farmland: *Provided*, That the Governor of an affected State where a State policy or program exists to protect farmland may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of section 4202 of this title and regulations issued pursuant thereto.

(Pub. L. 97–98, title XV, § 1548, Dec. 22, 1981, 95 Stat. 1344; Pub. L. 99–198, title XII, § 1255(b), Dec. 23, 1985, 99 Stat. 1518.)

AMENDMENTS

1985—Pub. L. 99–198 substituted ''by any person'' for ''by any State, local unit of government, or any person'' and inserted proviso.

CHAPTER 74—FLORAL RESEARCH AND CONSUMER INFORMATION

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§ 4301. Congressional findings and declaration of policy

Flowers and plants are an integral part of American life, contributing a natural and beautiful element, especially in urban areas, to what is increasingly a manmade, artificial environment for this country's citizens. Providing comfort and pleasure for many special occasions as

[1] So in original. The period probably should be a comma.

well as for everyday living, flowers and plants work against visual pollution and, in the case of green plants, generate oxygen within their environment. The flowers and plants to which this chapter refers are cut flowers, potted flowering plants, and foliage plants. These flowers and plants are produced by many individual producers throughout the United States and in foreign countries. These products move in interstate and foreign commerce, and those that do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of flower and plant producers, brokers, wholesalers, and retailers throughout the Nation. The floral industry within the United States is comprised mainly of small- and medium-sized businesses. The producers are primarily agriculturally-oriented companies rather than promotion-oriented companies. The development and implementation of coordinated programs of research and promotion necessary for the maintenance of markets and the development of new markets have been inadequate. Without cooperative action in providing for and financing such programs, individual flower and plant producers, wholesalers, and retailers are unable to implement programs of research, consumer and producer information, and promotion necessary to maintain and improve markets for these products. It is widely recognized that it is in the public interest to provide an adequate, steady supply of fresh flowers and plants to the consumers of the Nation. The American consumer requires a continuing supply of quality and affordable flowers and plants as an important element in the quality of life. It is, therefore, declared to be the policy of Congress and the purpose of this chapter that it is essential and in the public interest to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, consumer and producer education, and promotion designed to strengthen the floral industry's position in the marketplace and maintain, develop, and expand markets for flowers, plants, and flowering plants. Nothing in this chapter may be construed to dictate quality standards or provide for control of production or otherwise limit the right of individual flower and plant producers to produce commercial flowers and plants. Nothing in this chapter may be construed as a trade barrier to flowers and plants produced in foreign countries, and this chapter treats foreign producers equitably.

(Pub. L. 97–98, title XVII, §1702, Dec. 22, 1981, 95 Stat. 1348.)

SHORT TITLE

Section 1701 of title XVII of Pub. L. 97–98 provided that: ''This title [enacting this chapter] may be cited as the 'Floral Research and Consumer Information Act'.''

EFFECTIVE DATE

Section 1801 of Pub. L. 97–98 provided that: ''Except as otherwise provided herein, the provisions of this Act [see Tables for classification] shall become effective on enactment [Dec. 22, 1981].''

§ 4302. Definitions

As used in this chapter—

(1) The term ''Secretary'' means the Secretary of Agriculture of the United States Department of Agriculture.

(2) The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(3) The term ''cut flowers'' means all flowers and decorative foliage used as fresh-cut flowers, fresh-cut decorative foliage, dried, preserved, and processed flowers, or dried and preserved decorative foliage, produced either under cover or in field operations.

(4) The term ''potted flowering plants'' means those plants that normally produce flowers, primarily produced in pots or similar containers, that are primarily used for interior decoration, whether grown under cover or in field operations.

(5) The term ''foliage plants'' means those plants, normally without flowers, primarily produced in pots or similar containers, that are primarily used for interior decorations, whether grown under cover or in field operations.

(6) The term ''propagational material'' means any plant material used in the propagation of cut flowers, potted flowering plants, and foliage plants, including cuttings, bulbs and corms, seedlings, canes, liners, plants, cells or tissue cultures, air layers and bublets,[1] rhizomes, and root stocks. This term does not include seeds.

(7) The term ''flowers and plants'' means cut flowers, potted flowering plants, foliage plants, and propagational material.

(8) The term ''United States'' means the fifty States of the United States of America, the territories and possessions of the United States of America, and the District of Columbia.

(9) The term ''promotion'' means any action, including paid advertising, to advance the image or desirability of cut flowers, potted flowering plants, and foliage plants.

(10) The term ''research'' means any type of research to advance the image, desirability, or marketability of cut flowers, potted flowering plants, and foliage plants.

(11) The term ''consumer education'' means any action to provide information on the care and handling of cut flowers, potted flowering plants, and foliage plants.

(12) The term ''marketing'' means the sale or other disposition in commerce of cut flowers, potted flowering plants, and foliage plants.

(13) Unless otherwise noted, the term ''producer'' means any person who produces domestically, for sale in commerce, cut flowers, potted flowering plants, or foliage plants.

(14) The term ''Floraboard'' means the board provided for under section 4306 of this title.

(15) The term ''importer'' means any person who imports cut flowers, potted flowering plants, or foliage plants from outside of the United States or who acts as an agent, broker, or consignee of any person or nation that produces flowers and plants outside of the United States for sale in the United States.

(16) The term ''commodity group'' means that portion of the flower and plant industry devoted

[1] So in original. Probably should be ''bulblets,''.

to the production and importation of any one of the following: (A) cut flowers; (B) potted flowering plants; or (C) foliage plants.

(17) The term ''cost of plant material'' means the actual price paid by a producer for any propagational material or any other flowers and plants used in the production of flowers and plants. This term does not include the cost of seeds.

(Pub. L. 97–98, title XVII, §1703, Dec. 22, 1981, 95 Stat. 1349.)

§ 4303. Floral research and promotion orders

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and, from time to time, may amend orders applicable to persons engaged in production, sale, importation, or handling of flowers and plants. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 97–98, title XVII, §1704, Dec. 22, 1981, 95 Stat. 1350.)

§ 4304. Notice and hearing

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by an organization certified pursuant to section 4315 of this chapter, or by any interested person affected by the provisions of this chapter, including the Secretary.

(Pub. L. 97–98, title XVII, §1705, Dec. 22, 1981, 95 Stat. 1350.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4305, 4315 of this title.

§ 4305. Finding and issuance of orders

After notice and opportunity for hearing as provided in section 4304 of this title, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 97–98, title XVII, §1706, Dec. 22, 1981, 95 Stat. 1350.)

§ 4306. Required terms in orders

Orders issued pursuant to this chapter shall contain the following terms and conditions and, except as provided in section 4307 of this title, no others:

(1) Providing for the establishment and appointment by the Secretary of a board to be named ''Floraboard'', which shall consist of not more than seventy-five voting members, and defining its powers and duties, which shall include only the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments of such order. The term of an appointment to the Floraboard shall be for three years with no member serving more than two consecutive three-year terms: *Provided*, That of the initial appointments, one-third shall be for a term of one year and one-third shall be for a term of two years. The Floraboard shall appoint from its members an executive committee, consisting of not more than fifteen members, whose membership shall, to the maximum extent practicable, reflect the membership composition of the Floraboard, and whose commodity group representation shall be proportional to that of the Floraboard. Such executive committee shall have the authority to employ a staff and conduct routine business within the policies determined by the Floraboard.

(2) Providing that the Floraboard shall be composed of producers and importers appointed by the Secretary from nominations submitted by organizations certified pursuant to section 4315 of this title or if the Secretary determines that a substantial number of producers or importers are not members of or their interests are not represented by any such certified organization then from nominations made by such producers or importers in a manner authorized by the Secretary. Certified organizations shall submit one nomination for each position on the Floraboard. Initially, the Floraboard shall be composed of one-third producers and importers of cut flowers, one-third producers and importers of potted flowering plants, and one-third producers and importers of foliage plants. Two years after assessment of funds commences pursuant to an order, and periodically thereafter, the Floraboard shall adjust the commodity group representation of these commodity groups on the basis of the amount of assessments, less refunds, collected from each commodity group. There shall at all times be more producers representing a particular commodity group on the Floraboard than importers representing that commodity group. In addition to commodity group representation, the periodic adjustment of the membership of the Floraboard shall reflect, to the maximum extent practicable, the proportionate share of assessments, less refunds, collected from producers in each of several geographic areas of the United States to be defined by the Secretary, and the proportionate share of assessments, less refunds, collected from importers of flowers and plants imported into the United States from each country.

(3) Providing that the Floraboard shall, subject to the provisions of paragraph 8 of this section, develop and submit to the Secretary for approval advertising, sales promotion, consumer education, research, and development plans or projects and that any such plan or project must be approved by the Secretary before becoming effective.

(4) Providing that the Floraboard shall, subject to the provisions of paragraph 8 of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of adver-

tising, promotion, consumer education, research, and development projects.

(5) Providing that—

(A) For each sale of flowers and plants by a producer within the United States, such producer shall pay an assessment to the Floraboard based on the dollar value of such sales transaction minus the cost of plant material. If the producer is a retailer, the assessment will be based on the then current wholesale value of the flowers and plants less the cost of plant material. In the case of consignment sales, the assessment shall be paid by the producer based on the dollar value of the sale of flowers and plants less the sales commission, freight cost, and cost of plant material.

(B) For each sale of imported flowers and plants within the United States by the importer of such flowers and plants, such importer shall pay an assessment to the Floraboard based on the dollar value of such sales transaction, without deducting the cost of plant material. If the importer is a retailer, the assessment will be made on the purchase price. In the case of consignment sales, the assessment shall be paid by the importer and shall be based on the dollar value of the sale of flowers and plants less the sales commission and cost of transportation within the United States.

(C) The assessments provided for in this section shall be remitted to the Floraboard, at the time and in the manner prescribed in the order and regulations thereunder, and shall be used for such expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department of Agriculture after an order has been promulgated under this chapter) as the Secretary finds are reasonable and likely to be incurred by the Floraboard under the order during any period specified by the Secretary.

(6) Providing that the initial rate of assessment, which rate shall remain in effect for the first two years after an order is approved in a referendum, shall not exceed one-half of 1 per centum of the value of flowers and plants sold, as determined under the provisions of paragraph (5) of this section: *Provided*, That the Floraboard may thereafter increase or decrease the rate of assessment prescribed by the order by no more than one-quarter of 1 per centum of the value of flowers and plants sold per year: *Provided further*, That in no event shall the rate of assessment exceed 1½ per centum of the value of flowers and plants sold.

(7) Providing that the Floraboard shall maintain such books and records and shall prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and providing for appropriate accounting by the Floraboard with respect to the receipt and disbursement of all funds entrusted to it.

(8) Providing that the Floraboard, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to sections 4307(1) and (2) of this title and for the payment of the cost thereof with funds collected pursuant to the order. The Floraboard may contract with industry groups, profit or nonprofit companies, private and State colleges and universities, and governmental groups. Any such contract or agreement shall provide (A) that the contracting party shall develop and submit to the Floraboard a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, (B) that any such plan or project shall become effective upon the approval of the Secretary, and (C) that the contracting party shall keep accurate records of all its transactions and make periodic reports to the Floraboard of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(9) Providing that the Floraboard may convene, from time to time, advisory panels drawn from the production, importation, wholesale, and retail segments of the flower and plant industry to assist in the development of marketing and research programs.

(10) Providing that no funds collected or received by the Floraboard shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by paragraph (1)(D) of this section.

(11) Providing that Floraboard members and members of any advisory panels convened shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Floraboard or advisory panel.

(Pub. L. 97–98, title XVII, § 1707, Dec. 22, 1981, 95 Stat. 1350.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4302, 4315 of this title.

§ 4307. Permissive terms in orders

Orders issued pursuant to this chapter may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, sales promotion, urban beautification, and consumer education with respect to the use of flowers and plants, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward increasing the general demand for flowers and plants and shall make no reference to a private brand or trade name: *Provided further*, That no such advertising, consumer education, urban beautification, or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

(2) Providing for establishing and carrying on research, marketing, and development projects, and studies with respect to the sale, distribution, marketing, or utilization of flowers and plants, to the end that the marketing and utilization of flowers and plants may be encouraged, expanded, improved, or made more acceptable, for the dissemination of the data collected by such activities and for the disbursement of necessary funds for such purposes.

(3) Providing that producers, wholesalers, retailers, and importers of flowers and plants

maintain and make available for inspection such books and records as are specified in the order and that such persons file reports at the time, in the manner, and having the content prescribed by the order, to the end that information and data shall be made available to the Floraboard and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this chapter, or any order or regulation issued pursuant to this chapter: *Provided*, That all information so obtained shall be kept confidential by employees of the Department of Agriculture and the Floraboard, and only such information as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or in a suit or administrative hearing to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of the number of persons subject to an order, or statistical data collected therefrom, which statements do not identify the information furnished by any person, (B) the publication by the Floraboard of general statements relating to refunds made by the Floraboard during any specific period, including regional information on refunds, (C) the publication by the Floraboard of information on the amount of assessments collected from each commodity group and the rate of refund in each commodity group, or (D) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained pursuant to the authority of this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter and any investigatory or enforcement actions necessary for the implementation of this chapter. Any person violating the provisions of this paragraph shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Floraboard or the Department of Agriculture, shall be removed from office.

(4) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 97–98, title XVII, §1708, Dec. 22, 1981, 95 Stat. 1352.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4306 of this title.

§ 4308. Referendum; necessity, etc.

(a) The Secretary shall conduct a referendum among domestic producers and importers not exempt under section 4311 of this title who, during a representative period determined by the Secretary, have been engaged in the production or importation of flowers and plants, for the purpose of ascertaining whether the issuance of an order is approved or favored by such domestic producers and importers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers and importers voting in such referendum, or by a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the total value of the flowers and plants produced and imported by those producers and importers voting in such referendum during a representative period defined by the Secretary.

(b) The Secretary shall be reimbursed from assessments for all costs incurred by the Government in connection with the conduct of the referendum, except for the salaries of Government employees.

(Pub. L. 97–98, title XVII, §1709, Dec. 22, 1981, 95 Stat. 1354.)

§ 4309. Suspension and termination of orders

(a) Prerequisites

Whenever the Secretary finds that any order issued under this chapter, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this chapter, the Secretary shall terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of producers and importers voting in the referendum approving the order, to determine whether such producers and importers favor the termination or suspension of the order, and shall suspend or terminate such order six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of flowers and plants.

(c) Nature of order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 97–98, title XVII, §1710, Dec. 22, 1981, 95 Stat. 1354.)

§ 4310. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 97–98, title XVII, §1711, Dec. 22, 1981, 95 Stat. 1354.)

§ 4311. Exemption from assessments

Any producer or importer whose total sales of flowers and plants do not exceed $100,000 during a twelve consecutive month period prior to the date an assessment is due and payable shall be exempt from assessments under this chapter under such conditions and procedures as may be

prescribed in the order or rules and regulations issued thereunder and shall not vote in any referendum under this chapter: *Provided*, That the Floraboard shall have the discretion to make annual adjustments in the level of exemption to account for inflation. For the purpose of this section, a producer's or importer's total sales shall include, in those cases in which the producer or importer is an individual, sales attributable to such person's spouse, children, grandchildren, and parents; in those cases in which the producer or importer is a partnership or a member of a partnership, sales attributable to the other partners; and, in those cases in which the producer or importer is a corporation, sales attributable to any corporate subsidiaries of which such corporation owns 50 per centum or more of the stock, or if such subsidiaries are not corporations, subsidiaries which are controlled by such corporation. In addition, in determining a producer's or importer's total sales, the sales of any corporation in which such producer or importer owns 50 per centum or more of the stock shall be attributed to such producer or importer. For these purposes stock in the same corporation which is owned by such producer's or importer's spouse, children, grandchildren, parents, partners, and any corporation 50 per centum or more of whose stock is owned by the producer or importer shall be treated as owned by the producer or importer.

(Pub. L. 97–98, title XVII, § 1712, Dec. 22, 1981, 95 Stat. 1354.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4308 of this title.

§ 4312. Refund of assessments

Notwithstanding any other provisions of this chapter, any producer or importer who pays an assessment shall have the right to demand and receive from the Floraboard a refund of such assessment: *Provided*, That such demand shall be made by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the Floraboard and approved by the Secretary, but in no event more than sixty days after the end of the month in which the assessment was paid. Such refund shall be made not later than sixty days after submission of proof satisfactory to the Floraboard that the producer or importer paid the assessment for which refund is sought.

(Pub. L. 97–98, title XVII, § 1713, Dec. 22, 1981, 95 Stat. 1355.)

§ 4313. Administrative and judicial review; procedures applicable

(a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. Such person shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations prescribed by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 4314(a) of this title.

(Pub. L. 97–98, title XVII, § 1714, Dec. 22, 1981, 95 Stat. 1355.)

§ 4314. Enforcement of provisions

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of the program would be adequately served by administrative action pursuant to subsection (b) of this section or suitable written notice or warning to any person committing such violations.

(b)(1) Any person who violates any provisions of any order or regulation issued by the Secretary pursuant to this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required thereunder, may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violation or violations. No penalty may be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of

appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (1) and (2) of this subsection, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 97–98, title XVII, §1715, Dec. 22, 1981, 95 Stat. 1356.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4313 of this title.

§ 4315. Certification of organizations; applicable criteria and considerations

The eligibility of any organization to represent producers of flowers and plants of any producing area of the United States or importers of flowers and plants, for purposes of requesting the issuance of an order under section 4304 of this title, or making nominations under section 4306(2) of this title, shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(1) geographic territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, the proportion of such active membership accounted for by producers and importers, and information as to the volume of production by State or the volume of importation by country accounted for by the organization's producer and importer members;

(3) the extent to which the producer and importer membership of such organization is represented in setting the organization's policies;

(4) evidence of stability and permanency of the organization;

(5) sources from which the organization's operating funds are derived;

(6) functions of the organization;

(7) whether the majority of the governing board of the organization is composed of producers and importers; and

(8) the organization's ability and willingness to further the aims and objectives of this chapter.

The primary consideration in determining the eligibility of any organization shall be whether its membership consists of a substantial number of producers and importers who produce and import a substantial volume of flowers and plants. The Secretary shall certify any organization which is found to be eligible under this section, and the Secretary's determination as to eligibility shall be final. Whenever more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 4306(2) of this title.

(Pub. L. 97–98, title XVII, §1716, Dec. 22, 1981, 95 Stat. 1357.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4304, 4306 of this title.

§ 4316. Regulations

The Secretary may issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 97–98, title XVII, §1717, Dec. 22, 1981, 95 Stat. 1357.)

§ 4317. Investigations; subpena powers, etc.; enforcement

The Secretary may make such investigations as are deemed necessary to carry out the Secretary's responsibilities under this chapter or to determine whether a producer, importer, wholesaler, retailer, or other seller of flowers and plants, or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including a producer of flowers and plants, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All processes in any such cases may be served in the judicial district wherein such person is an inhabitant or wherever such person may be found.

(Pub. L. 97–98, title XVII, § 1718, Dec. 22, 1981, 95 Stat. 1357.)

§ 4318. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 97–98, title XVII, § 1719, Dec. 22, 1981, 95 Stat. 1358.)

§ 4319. Authorization of appropriations

There are authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Floraboard in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 97–98, title XVII, § 1720, Dec. 22, 1981, 95 Stat. 1358.)

CHAPTER 75—INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS

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4401. Congressional findings and declaration of purpose.
4402. Definitions.
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4404. Duties of Secretary of State.
4405. Fees and charges.
(a) Testing or inspection.
(b) Issuance of certificates of compliance.
4406. Authorization of appropriations.

§ 4401. Congressional findings and declaration of purpose

Congress hereby finds and declares that—

(1) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development by that Commission of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) the agreement requires that equipment involved in the international carriage of perishable foodstuffs be inspected, tested, and certified to specified standards;

(3) this chapter will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(4) this chapter will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage.

(Pub. L. 97–325, § 2, Oct. 15, 1982, 96 Stat. 1603.)

REFERENCES IN TEXT

This chapter, referred to in pars. (3) and (4), was in the original ''this Act'', meaning Pub. L. 97–325, Oct. 15, 1982, 96 Stat. 1603, known as the International Carriage of Perishable Foodstuffs Act, which enacted this chapter and section 2212c of this title, amended sections 5315 and 5316 of Title 5, Government Organization and Employees, repealed section 3 of Reorg. Plan No. 2 of 1953, and enacted provisions set out as a note under section 2212c of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 97–325 provided: ''That this Act [enacting this chapter and section 2212c of this title, amending sections 5315 and 5316 of Title 5, Government Organization and Employees, repealing section 3 of Reorg. Plan No. 2 of 1953, and enacting provisions set out as a note under section 2212c of this title] may be cited as the 'International Carriage of Perishable Foodstuffs Act'.''

§ 4402. Definitions

As used in this chapter—

(1) The term ''agreement'' means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, and the annexes and the appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(2) The term ''contracting party'' means any country that is eligible under article 9 of the agreement and that has complied with the terms of such article.

(3) The term ''equipment'' means the special transport equipment that complies with the definitions and standards set forth in annex 1 to the agreement, including, but not limited to, railway cars, trucks, trailers, semitrailers, and intermodal freight containers that are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(4) The term ''perishable foodstuffs'' means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 to the agreement.

(5) The term ''international carriage'' means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by—

(A) rail,

(B) road,

(C) any combination of rail and road, or

(D) any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in clauses (A), (B), and (C) of this paragraph, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in clause (D) of this paragraph, each land journey shall be considered separately.

(6) The term ''United States'' means the fifty States of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(Pub. L. 97–325, § 3, Oct. 15, 1982, 96 Stat. 1603.)

§ 4403. Duties of Secretary of Agriculture

The Secretary of Agriculture of the United States shall be the competent authority to implement the agreement. To ensure compliance with the standards specified in the agreement, the Secretary of Agriculture may—

(1) designate appropriate organizations to inspect or test equipment, or both;

(2) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(3) prescribe such regulations as may be necessary to implement the agreement and administer this chapter, including, but not limited to, provision for suspending or denying the designation of any organization to inspect or test equipment and for denying the issuance of certificates of compliance as may be necessary to ensure compliance with the provisions of this chapter and the regulations issued thereunder;

(4) make periodic onsite inspections of facilities and procedures used by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this chapter;

(5) require submission of reports by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this chapter;

(6) require maintenance of records by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this chapter, such records to be made available to the Secretary upon request;

(7) inform contracting parties, through the Secretary of State of the United States, of all general measures taken in connection with the implementation of the agreement; and

(8) take such other action as may be considered appropriate to implement the agreement and administer this chapter.

(Pub. L. 97–325, § 4, Oct. 15, 1982, 96 Stat. 1604.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4405 of this title.

§ 4404. Duties of Secretary of State

The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

(Pub. L. 97–325, § 5, Oct. 15, 1982, 96 Stat. 1605.)

§ 4405. Fees and charges

(a) Testing or inspection

Any organization designated by the Secretary of Agriculture to test or inspect equipment may establish reasonable fees to cover the costs of such testing or inspection. Such fees shall be payable directly to the organization by those seeking inspection or testing.

(b) Issuance of certificates of compliance

The Secretary of Agriculture may, effective October 1, 1982, fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4403(2) of this title. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary of Agriculture incident to the issuance of certificates of compliance under this chapter.

(Pub. L. 97–325, § 6, Oct. 15, 1982, 96 Stat. 1605.)

§ 4406. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Agriculture for the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, such sums as are necessary to carry out the provisions of this chapter, but not to exceed $100,000 in any fiscal year.

(Pub. L. 97–325, § 7, Oct. 15, 1982, 96 Stat. 1605.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 97–325 which enacted this chapter and section 2212c of this title, amended sections 5315 and 5316 of Title 5, Government Organization and Employees, repealed section 3 of Reorg. Plan No. 2 of 1953, and enacted provisions set out as a note under section 2212c of this title.

CHAPTER 76—DAIRY RESEARCH AND PROMOTION

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SUBCHAPTER I—DAIRY PROMOTION PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4533, 4535, 7401 of this title.

§ 4501. Congressional findings and declaration of policy

(a) Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy the milk from which dairy products are manufactured is produced by thousands of milk producers, and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products are vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce of dairy products.

(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for financing (through assessments on all milk produced in the United States for commercial use) and carrying out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States. Nothing in this subchapter may be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.

(Pub. L. 98–180, title I, § 110, Nov. 29, 1983, 97 Stat. 1136.)

SHORT TITLE

For short title of title I of Pub. L. 98–180 as the ''Dairy Production Stabilization Act of 1983'', see Short Title of 1983 Amendment note set out under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4502 of this title.

§ 4502. Definitions

As used in this subchapter—

(a) the term ''Board'' means the National Dairy Promotion and Research Board established under section 4504 of this title;

(b) the term ''Department'' means the Department of Agriculture;

(c) the term ''Secretary'' means the Secretary of Agriculture;

(d) the term ''milk'' means any class of cow's milk produced in the United States;

(e) the term ''dairy products'' means products manufactured for human consumption which are derived from the processing of milk, and includes fluid milk products;

(f) the term ''fluid milk products'' means those milk products normally consumed in liquid form as a beverage;

(g) the term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(h) the term ''producer'' means any person engaged in the production of milk for commercial use;

(i) the term ''promotion'' means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of and demand for dairy products;

(j) the term ''research'' means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for milk and dairy products;

(k) the term ''nutrition education'' means those activities intended to broaden the understanding of sound nutritional principles including the role of milk and dairy products in a balanced diet; and

(*l*) the term ''United States'' as used in sections 4501 through 4508 of this title means the forty-eight contiguous States in the continental United States.

(Pub. L. 98–180, title I, § 111, Nov. 29, 1983, 97 Stat. 1136.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 3903.

§ 4503. Issuance of orders

(a) Notice and opportunity for public comment

During the period beginning with November 29, 1983, and ending thirty days after receipt of a proposal for an initial dairy products promotion and research order, the Secretary shall publish such proposed order and give due notice

and opportunity for public comment upon the proposed order. The proposal for an order may be submitted by an organization certified under section 4505 of this title or by any interested person affected by the provisions of this subchapter.

(b) Effective date of orders

After notice and opportunity for public comment are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion and research order. Such order shall become effective not later than ninety days following publication of the proposal.

(c) Amendment of orders

The Secretary may, from time to time, amend a dairy products promotion and research order.

(Pub. L. 98–180, title I, § 112, Nov. 29, 1983, 97 Stat. 1137.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4502 of this title.

§ 4504. Required terms in orders

Any order issued under this subchapter shall contain terms and conditions as follows:

(a) The order shall provide for the establishment and administration of appropriate plans or projects for advertisement and promotion of the sale and consumption of dairy products, for research projects related thereto, for nutrition education projects, and for the disbursement of necessary funds for such purposes. Any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable. No such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

(b) The order shall provide for the establishment and appointment by the Secretary of a National Dairy Promotion and Research Board that shall consist of not less than thirty-six members. Members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations certified under section 4505 of this title, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization, then from nominations made by such milk producers in the manner authorized by the Secretary. In making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be considered as a unit. A region may be represented by more than one director and a region may be made up of more than one State. The term of appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for one-year, two-year, and three-year terms. The Board shall appoint from its members an executive committee whose membership shall equally reflect each of the different regions in the United States in which milk is produced. The executive committee shall have such duties and powers as are conferred upon it by the Board. Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board including a per diem allowance as recommended by the Board and approved by the Secretary.

(c) The order shall define the powers and duties of the Board that shall include only the powers enumerated in this section. These shall include, in addition to the powers set forth elsewhere in this section, the powers to (1) receive and evaluate, or on its own initiative develop, and budget for plans or projects to promote the use of fluid milk and dairy products as well as projects for research and nutrition education and to make recommendations to the Secretary regarding such proposals, (2) administer the order in accordance with its terms and provisions, (3) make rules and regulations to effectuate the terms and provisions of the order, (4) receive, investigate, and report to the Secretary complaints of violations of the order, and (5) recommend to the Secretary amendments to the order. The Board shall solicit, among others, research proposals that would increase the use of fluid milk and dairy products by the military and by persons in developing nations, and that would demonstrate the feasibility of converting surplus nonfat dry milk to casein for domestic and export use.

(d) The order shall provide that the Board shall develop and submit to the Secretary for approval any promotion, research, or nutrition education plan or project and that any such plan or project must be approved by the Secretary before becoming effective.

(e) The order shall require the Board to submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including projected costs of dairy products promotion and research projects. For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.

(f) The order shall provide that the Board, with the approval of the Secretary, may enter into agreements for the development and conduct of the activities authorized under the order as specified in subsection (a) of this section and for the payment of the cost thereof with funds collected through assessments under the order. Any such agreement shall provide that (1) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, (2) the plan or project shall become effective upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the

Board of activities conducted, and such other reports as the Secretary or the Board may require.

(g) The order shall provide that each person making payment to a producer for milk produced in the United States and purchased from the producer shall, in the manner as prescribed by the order, collect an assessment based upon the number of hundredweights of milk for commercial use handled for the account of the producer and remit the assessment to the Board. The assessment shall be used for payment of the expenses in administering the order, with provision for a reasonable reserve, and shall include those administrative costs incurred by the Department after an order has been promulgated under this subchapter. The rate of assessment prescribed by the order shall be 15 cents per hundredweight of milk for commercial use or the equivalent thereof. A milk producer or the producer's cooperative who can establish that the producer is participating in active, ongoing qualified State or regional dairy product promotion or nutrition education programs intended to increase consumption of milk and dairy products generally shall receive credit in determining the assessment due from such producer for contributions to such programs of up to 10 cents per hundredweight of milk marketed or, for the period ending six months after November 29, 1983, up to the aggregate rate in effect on November 29, 1983, of such contributions to such programs (but not to exceed 15 cents per hundredweight of milk marketed) if such aggregate rate exceeds 10 cents per hundredweight of milk marketed. Any person marketing milk of that person's own production directly to consumers shall remit the assessment directly to the Board in the manner prescribed by the order.

(h) The order shall require the Board to (1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe, (2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to it.

(i) The order shall provide that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subchapter only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(j) The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental policy or action except as provided by subsection (c)(5) of this section.

(k) The order shall require that each person receiving milk from farmers for commercial use, and any person marketing milk of that person's own production directly to consumers, maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. Such information shall be made available to the Secretary as is appropriate to the administration or enforcement of this subchapter, or any order or regulation issued under this subchapter. All information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was obtained. Nothing in this subsection may be deemed to prohibit (1) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (2) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. No information obtained under the authority of this subchapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this subchapter and any investigatory or enforcement action necessary for the implementation of this subchapter. Any person violating the provisions of this subsection shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(*l*) The order shall provide terms and conditions, not inconsistent with the provisions of this subchapter, as necessary to effectuate the provisions of the order.

(Pub. L. 98–180, title I, § 113, Nov. 29, 1983, 97 Stat. 1137; Pub. L. 104–127, title I, § 152, Apr. 4, 1996, 110 Stat. 922.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–127 inserted at end ''For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4502, 4505, 6407, 6409 of this title.

§ 4505. Certification of organizations

(a) The eligibility of any organization to represent milk producers, and to participate in the making of nominations under section 4504 of this title shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, on a factual report submitted by the organization, which shall contain information deemed relevant and specified

by the Secretary, including, but not limited to, the following:

(1) geographic territory covered by the organization's active membership;

(2) nature and size of the organization's active membership including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived;

(5) functions of the organization; and

(6) the organization's ability and willingness to further the aims and objectives of this subchapter.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and promotion of the nutritional attributes of fluid milk and dairy products.

(Pub. L. 98–180, title I, § 114, Nov. 29, 1983, 97 Stat. 1140.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4502, 4503, 4504, 4533 of this title.

§ 4506. Requirement of referendum

(a) Within the sixty-day period immediately preceding September 30, 1985, the Secretary shall conduct a referendum among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the order then in effect shall be continued. Such order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum, who during a representative period (as determined by the Secretary) have been engaged in the production of milk for commercial use. If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that such action is favored by a majority of the producers voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this section and section 4507 of this title, except for the salaries of Government employees.

(Pub. L. 98–180, title I, § 115, Nov. 29, 1983, 97 Stat. 1141.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4502 of this title.

§ 4507. Suspension and termination of orders

(a) Determination by Secretary

After September 30, 1985, the Secretary shall, whenever the Secretary finds that any order issued under this subchapter or any provision thereof obstructs or does not tend to effectuate the declared policy of this subchapter, terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum

After September 30, 1985, the Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use and shall terminate the order in an orderly manner as soon as practicable after such determination.

(c) Action not considered an order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subchapter.

(Pub. L. 98–180, title I, § 116, Nov. 29, 1983, 97 Stat. 1141.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4502, 4506 of this title.

§ 4508. Cooperative association representation

Whenever, under the provisions of this subchapter, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any cooperative association of producers, engaged in a bona fide manner in marketing milk or the products thereof, as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers. If a cooperative association of producers elects to vote on behalf of its members, such cooperative association shall provide each producer, on whose behalf the cooperative association is expressing approval or disapproval, a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should the producer so choose within the period of time established by the Secretary for casting ballots. Such notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

(Pub. L. 98–180, title I, § 117, Nov. 29, 1983, 97 Stat. 1141.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4502 of this title.

§ 4509. Petition and review

(a) Any person subject to any order issued under this subchapter may file with the Secretary a petition stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant or carries on business are hereby vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

(Pub. L. 98–180, title I, § 118, Nov. 29, 1983, 97 Stat. 1142.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4535 of this title.

§ 4510. Enforcement

(a) Restraining order; civil action; minor violation

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subchapter. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General minor violations of this subchapter whenever the Secretary believes that the administration and enforcement of this subchapter would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Civil penalties

Any person who willfully violates any provision of any order issued by the Secretary under this subchapter shall be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation and, in the case of a willful failure to pay, collect, or remit the assessment as required by the order, in addition to the amount due, a penalty equal to the amount of the assessment on the quantity of milk as to which the failure applies. The amount of any such penalty shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) Availability of other remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 98–180, title I, § 119, Nov. 29, 1983, 97 Stat. 1142.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4535 of this title.

§ 4511. Investigations; power to subpena and take oaths and affirmations; aid of courts

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subchapter or to determine whether any person subject to the provisions of this subchapter has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this subchapter or of any order, or rule or regulation issued under this subchapter. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

(Pub. L. 98–180, title I, § 120, Nov. 29, 1983, 97 Stat. 1143.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4535 of this title.

§ 4512. Administrative provisions

(a) Nothing in this subchapter may be construed to preempt or supersede any other program relating to dairy product promotion organized and operated under the laws of the United States or any State.

(b) The provisions of this subchapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 98–180, title I, § 121, Nov. 29, 1983, 97 Stat. 1143.)

§ 4513. Authorization of appropriations

There are hereby authorized to be appropriated such funds as are necessary to carry out the provisions of this subchapter. The funds so appropriated shall not be available for payment

of the expenses or expenditures of the Board in administering any provisions of any order issued under the terms of this subchapter.

(Pub. L. 98–180, title I, § 122, Nov. 29, 1983, 97 Stat. 1143.)

§ 4514. Dairy reports

The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the following reports:

(1) Not later than July 1, 1984, a report on the effect of applying, nationally, standards similar to the current California standards for fluid milk products in their final consumer form, as they would relate to—

(A) consumer acceptance, overall consumer consumption trends, and total per capita consumption;

(B) nutritional augmentation, particularly for young and older Americans;

(C) implementing improved interagency enforcement of minimum standards to prevent consumer fraud and deception;

(D) multiple component pricing for producer milk;

(E) reduced Commodity Credit Corporation purchases;

(F) consistency of product quality throughout the year and between marketing regions of the United States; and

(G) consumer prices.

(2) Not later than December 31, 1984, a report on (A) recommendations for changes in the application of the parity formula to milk so as to make the formula more consistent with modern production methods and with special attention to the cost of producing milk as a result of changes in productivity, and (B) the feasibility of imposing a limitation on the total amount of payments and other assistance a producer of milk may receive during a year under section 1446(d) of this title.

(3) Not later than April 15, 1985, a report on the effectiveness of the paid diversion program carried out under section 1446(d) of this title.

(4) Not later than July 1, 1985, and July 1 of each year after the date of enactment of this title,[1] an annual report describing activities conducted under the dairy products promotion and research order issued under this subchapter, and accounting for the receipt and disbursement of all funds received by the National Dairy Promotion and Research Board under such order including an independent analysis of the effectiveness of the program.

(Pub. L. 98–180, title III, § 301, Nov. 29, 1983, 97 Stat. 1150.)

REFERENCES IN TEXT

The date of enactment of this title, referred to in par. (4), means the date of enactment of title III of Pub. L. 98–180, which was approved Nov. 29, 1983.

CODIFICATION

Section was enacted as part of Pub. L. 98–180, known as the Dairy and Tobacco Adjustment Act of 1983, and not as part of title I of Pub. L. 98–180, known as the Dairy Production Stabilization Act of 1983, subtitle B of which comprises this subchapter.

[1] See References in Text note below.

SUBCHAPTER II—DAIRY RESEARCH PROGRAM

§ 4531. Definitions

For purposes of this subchapter—

(1) the term ''board'' means the board of trustees of the Institute;

(2) the term ''Department'' means the Department of Agriculture;

(3) the term ''dairy products'' means manufactured products that are derived from the processing of milk, and includes fluid milk products;

(4) the term ''fluid milk products'' means those milk products normally consumed in liquid form as a beverage;

(5) the term ''Fund'' means the Dairy Research Trust Fund established by section 4536 of this title;

(6) the term ''Institute'' means the National Dairy Research Endowment Institute established by section 4532 of this title;

(7) the term ''milk'' means any class of cow's milk marketed in the United States;

(8) the term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(9) the term ''producer'' means any person engaged in the production of milk for commercial use;

(10) the term ''research'' means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for milk and dairy products;

(11) the term ''Secretary'' means the Secretary of Agriculture unless the context specifies otherwise; and

(12) the term ''United States'' means the several States and the territories and possessions of the United States, except that for purposes of sections 4532, 4534(a), and 4537 of this title, and paragraph (7) of this section, such term means the forty-eight contiguous States in the continental United States.

(Pub. L. 98–180, title I, § 130, as added Pub. L. 99–198, title I, § 121, Dec. 23, 1985, 99 Stat. 1367.)

§ 4532. Establishment of National Dairy Research Endowment Institute

The Secretary of Agriculture may establish in the Department of Agriculture a National Dairy Research Endowment Institute whose function shall be to aid the dairy industry through the implementation of the dairy products research order, which its board of trustees shall administer, and the use of monies made available to its board of trustees from the Dairy Research Trust Fund to implement the order. In implementing the order, the Institute shall provide a permanent system for funding scientific research activities designed to facilitate the expansion of markets for milk and dairy products marketed in the United States. The Institute shall be headed by a board of trustees composed of the members of the National Dairy Pro-

motion and Research Board. The board may appoint from among its members an executive committee whose membership shall reflect equally each of the different regions in the United States in which milk is produced. The executive committee shall have such duties and powers as are delegated to it by the board. The members of the board shall serve without compensation. While away from their homes or regular places of business in the performance of services for the board, members of the board shall be allowed reasonable travel expenses, including a per diem allowance in lieu of subsistence, as recommended by the board and approved by the Secretary, except that there shall be no duplication of payment for such expenses.

(Pub. L. 98–180, title I, § 131, as added Pub. L. 99–198, title I, § 121, Dec. 23, 1985, 99 Stat. 1368.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4531, 4536 of this title.

§ 4533. Issuance of order

(a) Publication in Federal Register; public comment; submission

After receipt of a proposed dairy products research order, the Secretary may publish such proposed order in the Federal Register and shall give notice and reasonable opportunity for public comment on such proposed order. Such proposed order may be submitted by an organization certified under section 4505 of this title or by any interested person affected by the provisions of subchapter I of this chapter.

(b) Effective date of order

After the Secretary provides for such publication and a reasonable opportunity for a hearing under subsection (a) of this section, the Secretary may issue the dairy products research order. The order so issued shall become effective not later than 90 days after publication in the Federal Register of the order.

(c) Amendment of order

The Secretary may amend, from time to time, the dairy products research order issued under subsection (b) of this section.

(Pub. L. 98–180, title I, § 132, as added Pub. L. 99–198, title I, § 121, Dec. 23, 1985, 99 Stat. 1369.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4534, 4535, 4536, 4538 of this title.

§ 4534. Required terms of order; agreements under order; records

(a) Required terms

The dairy products research order issued under section 4533(b) of this title shall—

(1) provide for the establishment and administration, by the Institute, of appropriate scientific research activities designed to facilitate the expansion of markets for dairy products marketed in the United States;

(2) specify the powers of the board, including the powers to—

(A) receive and evaluate, or on its own initiative develop and budget for, research plans or projects designed to—

(i) increase the knowledge of human nutritional needs and the relationship of milk and dairy products to these needs;

(ii) improve dairy processing technologies, particularly those appropriate to small- and medium-sized family farms;

(iii) develop new dairy products; and

(iv) appraise the effect of such research on the marketing of dairy products;

(B) make recommendations to the Secretary regarding such plans and projects;

(C) administer the order in accordance with its terms and provisions;

(D) make rules and regulations to effectuate the terms and provisions of the order;

(E) receive, investigate, and report to the Secretary complaints of violations of the order;

(F) recommend to the Secretary amendments to the order;

(G) enter into agreements, with the approval of the Secretary, for the conduct of activities authorized under the order and for payment of the cost of such activities with any monies in the Fund other than monies appropriated or transferred by the Secretary to the Fund;

(H) with the approval of the Secretary, establish advisory committees composed of individuals other than members of the board, and pay the necessary and reasonable expenses and fees of the members of such committees; and

(I) with the approval of the Secretary, appoint or employ such persons, other than members of the board, as the board deems necessary and define the duties and determine the compensation of each;

(3) specify the duties of the board, including the duties to—

(A) develop, and submit to the Secretary for approval before implementation, any research plan or project to be carried out under this subchapter;

(B) submit to the Secretary for approval, budgets, on a fiscal year basis, of the board's anticipated expenses and disbursements in the administration of the order, including projected costs of carrying out dairy products research plans and projects;

(C) prepare and make public, at least annually, a report of the board's activities and an accounting for funds received and expended by the board;

(D) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(E) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(F) account for the receipt and disbursement of all funds entrusted to the board;

(4) prohibit any monies received under this subchapter by the board to be used in any manner for the purpose of influencing governmental policy or actions, except as provided in paragraph (2)(F); and

(5) require that each person receiving milk from producers for commercial use and any

person marketing milk of that person's own production directly to consumers maintain and make available for inspection by the Secretary such books and records as may be required by the order and file with the Secretary reports at the time, in the manner, and having the content prescribed by the order.

(b) Agreements under order

Any agreement made under subsection (a)(2)(G) of this section shall provide that—

(1) the person with whom such agreement is made shall develop and submit to the board a research plan or project together with a budget that shows estimated costs to be incurred to carry out such plan or project;

(2) such plan or project shall become effective on the approval of the Secretary; and

(3) such person shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the board of activities conducted to carry out such plan or project, and submit such other reports as the Secretary or the board may require.

(c) Confidentiality of records; disclosure exceptions; penalty for violation

(1) Information, books, and records made available to, and reports filed with, the Secretary under subsection (a)(6) of this section shall be kept confidential by all officers and employees of the Department, except that such information, books, records, and reports as the Secretary deems relevant may be disclosed by such officers and employees in any suit or administrative proceeding that is brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, and that involves the order issued under section 4533(b) of this title.

(2) Paragraph (1) shall not be construed to prohibit—

(A) the issuance of general statements, based on such information, books, records, and reports, of the number of persons subject to the order or of statistical data collected from such persons if such statements do not specifically identify the data furnished by any one of such persons; or

(B) the publication, at the direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) No information obtained under the authority of this section may be made available to any agency, officer, or employee of the United States for any purpose other than the implementation of this subchapter and any investigatory or enforcement action necessary to implement this subchapter. Any person who violates this paragraph shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if such person is employed by the board or the Department, shall be terminated from such employment.

(Pub. L. 98–180, title I, §133, as added Pub. L. 99–198, title I, §121, Dec. 23, 1985, 99 Stat. 1369.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4531 of this title.

§ 4535. Petition and review; enforcement; investigations

The provisions of sections 4509, 4510, and 4511 of this title shall apply, except when inconsistent with this subchapter, to the Institute, the board, the persons subject to the order issued under section 4533(b) of this title, the jurisdiction of district courts of the United States, and the authority of the Secretary under this subchapter in the same manner as such sections apply with respect to subchapter I of this chapter.

(Pub. L. 98–180, title I, §134, as added Pub. L. 99–198, title I, §121, Dec. 23, 1985, 99 Stat. 1371.)

§ 4536. Dairy Research Trust Fund

(a) Establishment

There may be established in the Treasury of the United States a trust fund to be known as the ''Dairy Research Trust Fund'' if the Institute is established under section 4532 of this title and a dairy products research order issued under section 4533 of this title is effective during such fiscal year.

(b) Authorization of appropriations; transfer of moneys; investments

(1) There is authorized to be appropriated to the Fund or transferred from moneys available to the Commodity Credit Corporation for deposit in the Fund, $100,000,000.

(2) Moneys deposited in the Fund under paragraph (1) shall be invested by the Secretary of the Treasury in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Interest, dividends, and other payments that accrue from such investments shall be deposited in the Fund and also shall be so invested, subject to subsection (c) of this section.

(c) Availability of moneys for authorized and approved activities

Moneys in the Fund, other than moneys appropriated or transferred under paragraph (1) of subsection (b) of this section, shall be available to the board, in such amounts, and for such activities authorized by this subchapter, as the Secretary may approve.

(Pub. L. 98–180, title I, §135, as added Pub. L. 99–198, title I, §121, Dec. 23, 1985, 99 Stat. 1371.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4531 of this title.

§ 4537. Termination of order, Institute, and Fund

(a) Termination or suspension of order

The Secretary, whenever the Secretary finds that the order issued under this subchapter or any provision of such order obstructs or does not tend to facilitate the expansion of markets for milk and dairy products marketed in the United States, shall terminate or suspend the operation of the order or such provision.

(b) Dissolution of Institute

If the Secretary terminates the order, the Institute shall be dissolved 180 days after the termination of the order.

(c) Disposal of moneys in Fund

If the Institute is dissolved for any reason, the moneys remaining in the Fund shall be disposed of as shall be agreed to by the board and the Secretary.

(Pub. L. 98–180, title I, § 136, as added Pub. L. 99–198, title I, § 121, Dec. 23, 1985, 99 Stat. 1371.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4531 of this title.

§ 4538. Additional authority

(a) No provision of this subchapter shall be construed to preempt or supersede any other program relating to milk or dairy products research organized and operated under the laws of the United States or any State.

(b) The provisions of this subchapter applicable to the order issued under section 4533(b) of this title shall be applicable to any amendment to the order.

(Pub. L. 98–180, title I, § 137, as added Pub. L. 99–198, title I, § 121, Dec. 23, 1985, 99 Stat. 1372.)

CHAPTER 77—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 4601. Findings and purposes

(a) Findings

Congress makes the following findings:

(1) Honey is produced by many individual producers in every State in the United States.

(2) Honey and honey products move in large part in the channels of interstate and foreign commerce, and honey which does not move in such channels directly burdens or affects interstate commerce.

(3) In recent years, large quantities of low-cost, imported honey have been brought into the United States, replacing domestic honey in the normal trade channels.

(4) The maintenance and expansion of existing honey markets and the development of new or improved markets or uses are vital to the welfare of honey producers and those concerned with marketing, using, and processing

honey, along with those engaged in general agricultural endeavors requiring bees for pollinating purposes.

(5) The honey production industry within the United States is comprised mainly of small- and medium-sized businesses.

(6) The development and implementation of coordinated programs of research, promotion, consumer education, and industry information necessary for the maintenance of markets and the development of new markets have been inadequate.

(7) Without cooperative action in providing for and financing such programs, honey producers, honey handlers, wholesalers, and retailers are unable to implement programs of research, promotion, consumer education, and industry information necessary to maintain and improve markets for these products.

(8) The ability to develop and maintain purity standards for honey and honey products is critical to maintaining the consumer confidence, safety, and trust that are essential components of any undertaking to maintain and develop markets for honey and honey products.

(9) Research directed at improving the cost effectiveness and efficiency of beekeeping, as well as developing better means of dealing with pest and disease problems, is essential to keeping honey and honey product prices competitive and facilitating market growth as well as maintaining the financial well-being of the honey industry.

(10) Research involving the quality, safety, and image of honey and honey products and how that quality, safety, and image may be affected during the extraction, processing, packaging, marketing, and other stages of the honey and honey product production and distribution process, is highly important to building and maintaining markets for honey and honey products.

(b) Purposes

The purposes of this chapter are—

(1) to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective, continuous, and nationally coordinated program of promotion, research, consumer education, and industry information designed to—

(A) strengthen the position of the honey industry in the marketplace;

(B) maintain, develop, and expand domestic and foreign markets and uses for honey and honey products;

(C) maintain and improve the competitiveness and efficiency of the honey industry; and

(D) sponsor research to develop better means of dealing with pest and disease problems;

(2) to maintain and expand the markets for all honey and honey products in a manner that—

(A) is not designed to maintain or expand any individual producer's, importer's, or handler's share of the market; and

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name honey or honey products; and

(3) to authorize and fund programs that result in government speech promoting government objectives.

(c) Administration

Nothing in this chapter—

(1) prohibits the sale of various grades of honey;

(2) provides for control of honey production;

(3) limits the right of the individual honey producer to produce honey; or

(4) creates a trade barrier to honey or honey products produced in a foreign country.

(Pub. L. 98–590, §2, Oct. 30, 1984, 98 Stat. 3115; Pub. L. 105–185, title VI, §605(a), June 23, 1998, 112 Stat. 587.)

AMENDMENTS

1998—Pub. L. 105–185, §605(a)(1), added section catchline and struck out former section catchline, designated introductory provisions and pars. (1) to (7) as subsec. (a), inserted heading, and substituted ''Congress makes the following findings'' for ''The Congress finds that'' in introductory provisions.

Subsec. (a)(6), (7). Pub. L. 105–185, §605(a)(2)(A), substituted ''consumer education, and industry information'' for ''and consumer education''.

Subsec. (a)(8) to (10). Pub. L. 105–185, §605(a)(2)(B), added pars. (8) to (10).

Subsecs. (b), (c). Pub. L. 105–185, §605(a)(3), added subsecs. (b) and (c) and struck out former subsec. (b) which read as follows:

''(b)(1) It is, therefore, the purpose of this chapter to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, promotion, and consumer education designed to strengthen the position of the honey industry in the marketplace and maintain, develop, and expand markets for honey and honey products.

''(2) Nothing in this chapter may be construed to dictate quality standards for honey, provide for control of its production, or otherwise limit the right of the individual honey producer to produce honey. This chapter treats foreign producers equitably, and nothing in this chapter may be construed as a trade barrier to honey produced in foreign countries.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XIX, §1981, Nov. 28, 1990, 104 Stat. 3904, provided that: ''This chapter [chapter 1 (§§1981–1987) of subtitle F of title XIX of Pub. L. 101–624, enacting section 4610a of this title, amending sections 4602, 4606, 4608, and 4612 of this title, and enacting provisions set out as a note under section 4603 of this title] may be cited as the 'Honey Research, Promotion, and Consumer Information Act Amendments of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 98–590 provided that: ''This Act [enacting this chapter] may be cited as the 'Honey Research, Promotion, and Consumer Information Act'.''

§ 4602. Definitions

As used in this chapter:

(1) The term ''Committee'' means the National Honey Nominations Committee provided for under section 4606(b) of this title.

(2) The term ''consumer education'' means any action to provide information on the usage and care of honey or honey products.

(3) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(4) The term ''exporter'' means any person who exports honey or honey products from the United States.

(5) HANDLE.—

(A) IN GENERAL.—The term ''handle'' means to process, package, sell, transport, purchase, or in any other way place or cause to be placed in commerce, honey or a honey product.

(B) INCLUSION.—The term ''handle'' includes selling unprocessed honey that will be consumed or used without further processing or packaging.

(C) EXCLUSIONS.—The term ''handle'' does not include—

(i) the transportation of unprocessed honey by a producer to a handler;

(ii) the transportation by a commercial carrier of honey, whether processed or unprocessed, for a handler or producer; or

(iii) the purchase of honey or a honey product by a consumer or other end-user of the honey or honey product.

(6) The term ''handler'' means any person who handles honey.

(7) The term ''honey'' means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.

(8) The term ''Honey Board'' means the board provided for under section 4606(c) of this title.

(9) HONEY PRODUCTION.—The term ''honey production'' means all beekeeping operations related to—

(A) managing honey bee colonies to produce honey;

(B) harvesting honey from the colonies;

(C) extracting honey from the honeycombs; and

(D) preparing honey for sale for further processing.

(10) The term ''honey products'' means products produced, in whole or part, from honey.

(11) The term ''importer'' means any person who imports honey or honey products into the United States or acts as an agent, broker, or consignee for any person or nation that produces honey outside of the United States for sale in the United States and who is listed in the import records as the importer of record for such honey or honey products.

(12) INDUSTRY INFORMATION.—The term ''industry information'' means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the honey industry, or an activity to enhance the image of honey and honey products and of the honey industry.

(13) The term ''marketing'' means the sale or other disposition in commerce of honey or honey products.

(14) NATIONAL HONEY MARKETING COOPERATIVE.—The term ''national honey marketing cooperative'' means a cooperative that markets its products in at least 2 of the following 4 regions of the United States, as determined by the Secretary:

(A) The Atlantic Coast, including the District of Columbia and the Commonwealth of Puerto Rico.

(B) The Mideast.

(C) The Midwest.

(D) The Pacific, including the States of Alaska and Hawaii.

(15) The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(16) The term ''producer'' means any person who produces honey in the United States for sale in commerce.

(17) The term ''producer-packer'' means any person who is both a producer and handler of honey.

(18) The term ''promotion'' means any action, including paid advertising, pursuant to this chapter, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

(19) QUALIFIED NATIONAL ORGANIZATION REPRESENTING HANDLER INTERESTS.—The term ''qualified national organization representing handler interests'' means an organization that the Secretary certifies as being eligible to recommend nominations for the Committee handler, handler-importer, alternate handler, and alternate handler-importer members of the Honey Board under section 4606(b) of this title.

(20) QUALIFIED NATIONAL ORGANIZATION REPRESENTING IMPORTER INTERESTS.—The term ''qualified national organization representing importer interests'' means an organization that the Secretary certifies as being eligible to recommend nominations for the Committee importer, handler-importer, alternate importer, and alternate handler-importer members of the Honey Board under section 4606(b) of this title.

(21) The term ''research'' means any type of research designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

(22) The term ''Secretary'' means the Secretary of Agriculture.

(23) The term ''State'' means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(24) The term ''State association'' means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

(Pub. L. 98–590, § 3, Oct. 30, 1984, 98 Stat. 3116; Pub. L. 101–624, title XIX, § 1982, Nov. 28, 1990, 104 Stat. 3904; Pub. L. 105–185, title VI, § 605(b), June 23, 1998, 112 Stat. 588.)

AMENDMENTS

1998—Pars. (1) to (5). Pub. L. 105–185, § 605(b)(3), redesignated pars. (14), (12), (19), (18), and (7) as (1) to (5), respectively. Former pars. (1) to (5) redesignated (7), (10), (22), (15), and (16), respectively.

Par. (7). Pub. L. 105–185, § 605(b)(3), redesignated par. (1) as (7). Former par. (7) redesignated (5).

Pub. L. 105–185, § 605(b)(1), added par. (7) and struck out former par. (7) which read as follows: ''The term 'handle' means to sell, package, or process honey.''

Pars. (8) to (12). Pub. L. 105–185, § 605(b)(3), redesignated pars. (15), (20), (2), (8), and (21) as (8) to (12), respectively. Former pars. (8) to (12) redesignated (11), (17), (18), (21), and (2), respectively.

Pars. (14) to (18). Pub. L. 105–185, § 605(b)(3), redesignated pars. (22), (4), (5), (9), and (10) as (14) to (18), respectively. Former pars. (14) to (18) redesignated (1), (8), (24), (23), and (4), respectively.

Pars. (19) to (24). Pub. L. 105–185, § 605(b)(3), redesignated pars. (23), (24), (11), (3), (17), and (16) as (19) to (24), respectively. Former pars. (19) to (24) redesignated (3), (9), (12), (14), (19), and (20), respectively.

Pub. L. 105–185, § 605(b)(2), added pars. (19) to (24).

1990—Par. (8). Pub. L. 101–624, § 1982(1), substituted ''or acts'' for ''or who acts'', and inserted before period at end ''and who is listed in the import records as the importer of record for such honey or honey products''.

Par. (18). Pub. L. 101–624, § 1982(2), added par. (18).

§ 4603. Honey research, promotion, and consumer information order

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and, from time to time, amend orders and regulations applicable to persons engaged in the production, sale, or handling of honey and honey products in the United States and the importation of honey and honey products into the United States.

(Pub. L. 98–590, § 4, Oct. 30, 1984, 98 Stat. 3116; Pub. L. 105–185, title VI, § 605(c), June 23, 1998, 112 Stat. 589.)

AMENDMENTS

1998—Pub. L. 105–185 inserted ''and regulations'' after ''orders''.

CONFORMING AMENDMENT TO ORDER

Pub. L. 101–624, title XIX, § 1987, Nov. 28, 1990, 104 Stat. 3908, provided that: ''Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture, after notice and opportunity for public comment, shall issue an amendment to the order in effect under such Act on the date of the enactment of this Act [Nov. 28, 1990] to conform such order to the amendments made by this subtitle [subtitle F (§§ 1981–1989) of title XIX of Pub. L. 101–624, enacting section 4610a of this title and amending sections 1787, 4602, 4606, 4608, and 4612 of this title], which shall become effective on the date of the publication of such amendment to the order in the Federal Register without a referendum thereon (except for the referendum specifically provided for under section 1985 [amending section 4612 of this title]). The Secretary shall issue such amendment to the order in final form not later than 150 days after the date of the enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4613 of this title.

§ 4604. Notice and hearing

(a) Notice and comment

In issuing an order under this chapter, an amendment to an order, or a regulation to carry out this chapter, the Secretary shall comply with section 553 of title 5.

(b) Formal agency action

Sections 556 and 557 of that title shall not apply with respect to the issuance of an order, an amendment to an order, or a regulation under this chapter.

(c) Proposal of an order

A proposal for an order may be submitted to the Secretary by any organization or interested person affected by this chapter.

(Pub. L. 98–590, § 5, Oct. 30, 1984, 98 Stat. 3117; Pub. L. 105–185, title VI, § 605(d), June 23, 1998, 112 Stat. 589.)

AMENDMENTS

1998—Pub. L. 105–185 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Whenever the Secretary has reason to believe that the issuance of an order will assist in carrying out the purpose of this chapter, the Secretary shall provide due notice of and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any organization or interested person affected by the provisions of this chapter.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4605, 4611, 4613 of this title.

§ 4605. Findings and issuance of order

After notice and opportunity for comment has been provided in accordance with section 4604(a) of this title, the Secretary shall issue an order, an amendment to an order, or a regulation under this chapter, if the Secretary finds, and specifies in the order, amendment, or regulation, that the issuance of the order, amendment, or regulation will assist in carrying out the purposes of this chapter.

(Pub. L. 98–590, § 6, Oct. 30, 1984, 98 Stat. 3117; Pub. L. 105–185, title VI, § 605(e), June 23, 1998, 112 Stat. 589.)

AMENDMENTS

1998—Pub. L. 105–185 amended section catchline and text generally. Prior to amendment, text read as follows: ''After notice of and opportunity for a hearing has been provided in accordance with section 4604 of this title, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, that, upon the evidence introduced at such hearing, the issuance of such order and all the terms and conditions thereof will assist in carrying out the purpose of this chapter.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4611, 4613 of this title.

§ 4606. Required terms of order

(a) Terms and conditions of order

Any order issued by the Secretary under this chapter shall contain the terms and conditions described in this section and, except as provided in section 4607 of this title, no others.

(b) National Honey Nominations Committee; composition; nominations; terms; Chairman; compensation; meetings; voting

(1) Such order shall provide for the establishment and appointment by the Secretary of a National Honey Nominations Committee which shall consist of not more than one member from each State, from nominations submitted by each State association. If a State association does not submit a nomination, the Secretary may provide for nominations from that State to be made in a different manner, except that if a State which is not one of the top twenty honey-producing States in the United States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee.

(2) Members of the Committee shall serve for three-year terms with no member serving more than two consecutive three-year terms, except that the term of appointments to the Committee may be staggered periodically, as determined by the Secretary.

(3) The Committee shall select its Chairman by a majority vote.

(4) The members of the Committee shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee.

(5) The Committee shall nominate the members and alternates of the Honey Board and submit such nominations to the Secretary. In making such nominations, the Committee shall meet annually, except that, when determined by the Chairman, the Committee may conduct its business by mail ballot in lieu of an annual meeting. In order to nominate members to the Honey Board, at least 50 percent of the members from the twenty leading honey producing States must vote. A majority of the National Honey Nominations Committee shall constitute a quorum for voting at an annual meeting. In the case of a mail ballot, votes must be received from a majority of the Committee.

(c) Honey Board; membership; terms; alternates; compensation; powers; duties

(1) The order described in subsection (a) of this section shall provide for the establishment and appointment by the Secretary of a Honey Board in accordance with this subsection.

(2) The membership of the Honey Board shall consist of—

(A) 7 members who are honey producers appointed from nominations submitted by the National Honey Nominations Committee, one from each of seven regions of the United States which shall be established by the Secretary on the basis of the production of honey in the different areas of the country;

(B) 2 members who are handlers appointed from nominations submitted by the Committee from recommendations made by qualified national organizations representing handler interests;

(C) if approved in a referendum conducted under this chapter, 2 members who—

(i) are handlers of honey;

(ii) during any 3 of the preceding 5 years, were also importers of record of at least 40,000 pounds of honey; and

(iii) are appointed from nominations submitted by the Committee from recommendations made by—

(I) qualified national organizations representing handler interests or qualified national organizations representing importer interests; or

(II) if the Secretary determines that there is not a qualified national organization representing handler interests or a qualified national organization representing importer interests, individual handlers or importers that have paid assessments to the Honey Board on imported honey or honey products;

(D) 2 members who are importers appointed from nominations submitted by the Committee from recommendations made by—

(i) qualified national organizations representing importer interests; or

(ii) if the Secretary determines that there is not a qualified national organization representing importer interests, individual importers that have paid assessments to the Honey Board on imported honey or honey products; and

(E) 1 member who is an officer, director, or employee of a national honey marketing cooperative appointed from nominations submitted by the Committee from recommendations made by qualified national honey marketing cooperatives.

(3) ALTERNATES.—The Committee shall submit nominations for an alternate for each member of the Honey Board described in paragraph (2). An alternate shall be appointed in the same manner as a member and shall serve when the member is absent from a meeting or is disqualified.

(4) RECONSTITUTION.—

(A) REVIEW.—If approved in a referendum conducted under this chapter and in accordance with rules issued by the Secretary, the Honey Board shall review, at times determined under subparagraph (E)—

(i) the geographic distribution of the quantities of domestically produced honey assessed under the order; and

(ii) changes in the annual average percentage of assessments owed by importers under the order relative to assessments owed by producers and handlers of domestic honey, including—

(I) whether any changes in assessments owed on imported quantities are owed by importers described in paragraph (5)(B); or

(II) whether such importers are handler-importers described in paragraph (2)(C).

(B) RECOMMENDATIONS.—If warranted and in accordance with this subsection, the Honey Board shall recommend to the Secretary—

(i) changes in the regional representation of honey producers established by the Secretary;

(ii) if necessary to reflect any changes in the proportion of domestic and imported honey assessed under the order or the source of assessments on imported honey or honey products, the reallocation of—

(I) handler-importer member positions under paragraph (2)(C) as handler member positions under paragraph (2)(B);

(II) importer member positions under paragraph (2)(D) as handler-importer member positions under paragraph (2)(C); or

(III) handler-importer member positions under paragraph (2)(C) as importer member positions under paragraph (2)(D); or

(iii) if necessary to reflect any changes in the proportion of domestic and imported honey or honey products assessed under the order, the addition of members to the Honey Board under subparagraph (A), (B), (C), or (D) of paragraph (2).

(C) SCOPE OF REVIEW.—The review required under subparagraph (A) shall be based on data from the 5-year period preceding the year in which the review is conducted.

(D) BASIS FOR RECOMMENDATIONS.—

(i) IN GENERAL.—Except as provided in subparagraph (F), recommendations made under subparagraph (B) shall be based on—

(I) the 5-year average annual assessments, excluding the 2 years containing the highest and lowest disparity between the proportion of assessments owed from imported and domestic honey or honey products, determined pursuant to the review that is conducted under subparagraph (A); and

(II) whether any change in the average annual assessments is from the assessments owed by importers described in paragraph (5)(B) or from the assessments owed by handler-importers described in paragraph (2)(C).

(ii) PROPORTIONS.—The Honey Board shall recommend a reallocation or addition of members pursuant to clause (ii) or (iii) of subparagraph (B) only if 1 or more of the following proportions change by more than 6 percent from the base period proportion determined in accordance with subparagraph (F):

(I) The proportion of assessments owed by handler-importers described in paragraph (2)(C) compared with the proportion of assessments owed by importers described in paragraph (2)(D).

(II) The proportion of assessments owed by importers compared with the proportion of assessments owed on domestic honey by producers and handlers.

(E) TIMING OF REVIEW.—

(i) IN GENERAL.—The Honey Board shall conduct the reviews required under this paragraph not more than once during each 5-year period.

(ii) INITIAL REVIEW.—The Honey Board shall conduct the initial review required under this paragraph prior to the initial continuation referendum conducted under section 4612(c) of this title following the referendum conducted under section 4613 of this title.

(F) BASE PERIOD PROPORTIONS.—

(i) IN GENERAL.—The base period proportions for determining the magnitude of change under subparagraph (D) shall be the proportions determined during the prior review conducted under this paragraph.

(ii) INITIAL REVIEW.—In the case of the initial review required under subparagraph (E)(ii), the base period proportions shall be the proportions determined by the Honey Board for fiscal year 1996.

(5) RESTRICTIONS ON NOMINATION AND APPOINTMENT.—

(A) PRODUCER-PACKERS AS PRODUCERS.—No producer-packer that, during any 3 of the preceding 5 years, purchased for resale more honey than the producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in paragraph (2)(A) or as an alternate to such a producer.

(B) IMPORTERS.—No importer that, during any 3 of the preceding 5 years, did not receive at least 75 percent of the gross income generated by the sale of honey and honey products from the sale of imported honey and honey products shall be eligible for nomination or appointment to the Honey Board as an importer described in paragraph (2)(D) or an alternate to such an importer.

(6) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—The eligibility of an organization to participate in the making of recommendations to the Committee for nomination to the Honey Board to represent handlers or importers under this section shall be certified by the Secretary.

(B) ELIGIBILITY CRITERIA.—Subject to the other provisions of this paragraph, the Secretary shall certify an organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph.

(C) FINALITY.—An eligibility determination of the Secretary under this paragraph shall be final.

(D) BASIS FOR CERTIFICATION.—Certification of an organization under this paragraph shall be based on, in addition to other available information, a factual report submitted by the organization that contains information considered relevant by the Secretary, including—

(i) the geographic territory covered by the active membership of the organization;

(ii) the nature and size of the active membership of the organization, including the proportion of the total number of active handlers or importers represented by the organization;

(iii) evidence of the stability and permanency of the organization;

(iv) sources from which the operating funds of the organization are derived;

(v) the functions of the organization; and

(vi) the ability and willingness of the organization to further the purposes of this chapter.

(E) PRIMARY CONSIDERATIONS.—A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—

(i) the membership of the organization consists primarily of handlers or importers that derive a substantial quantity of their income from sales of honey and honey products; and

(ii) the organization has an interest in the marketing of honey and honey products.

(F) NONMEMBERS.—As a condition of certification under this paragraph, an organization shall agree—

(i) to notify nonmembers of the organization of Honey Board nomination opportunities for which the organization is certified to make recommendations to the Committee; and

(ii) to consider the nomination of nonmembers when making the nominations of the organization to the Committee, if nonmembers indicate an interest in serving on the Honey Board.

(7) MINIMUM PERCENTAGE OF HONEY PRODUCERS.—Notwithstanding any other provision of

this subsection, at least 50 percent of the members of the Honey Board shall be honey producers.

(8) Members of the Honey Board shall serve for three-year terms with no member serving more than two consecutive three-year terms except that appointments to the Honey Board may be staggered periodically, as determined by the Secretary, to maintain continuity of the Honey Board with respect to all members and with respect to members representing particular groups..[1]

(9) In the event any member of the Honey Board ceases to be a member of the category of members from which the member was appointed to the Honey Board, such person shall be automatically replaced by an alternate, except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed.

(10) The members of the Honey Board shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Honey Board.

(11) The powers and duties of the Honey Board shall be to—

(A) administer any order, issued by the Secretary under this chapter, in accordance with its terms and provisions and consistent with the provisions of this chapter;

(B) prescribe rules and regulations to effectuate the terms and provisions of such an order;

(C) receive, investigate, and report to the Secretary, accounts of violations of such an order;

(D) make recommendations to the Secretary with respect to amendments which should be made to such order; and

(E) employ a manager and staff.

(d) Budget; administration of order

The Honey Board shall prepare and submit to the Secretary, for the Secretary's approval, a budget (on a fiscal period basis) of its anticipated expenses and disbursements in the administration of the order, including probable costs of research, promotion, and consumer information.

(e) Assessment; collection; rates; exemption; effect of exemption on referendum voting status

(1) IN GENERAL.—The Honey Board shall administer collection of the assessment provided for in this subsection, and may accept voluntary contributions from other sources, to finance the expenses described in subsections (d) and (f) of this section.

(2) RATE.—Except as provided in paragraph (3), the assessment rate shall be $0.01 per pound (payable in the manner described in section 4608 of this title), with—

(A) in the case of honey produced in the United States, $0.01 per pound payable by honey producers; and

(B) in the case of honey or honey products imported into the United States, $0.01 per pound payable by honey importers.

(3) ALTERNATIVE RATE APPROVED IN REFERENDUM.—If approved in a referendum conducted under this chapter, the assessment rate shall be $0.015 per pound (payable in the manner described in section 4608 of this title)—

(A) in the case of honey produced in the United States—

(i) $0.0075 per pound payable by—

(I) honey producers; and

(II) producer-packers on all honey produced by the producer-packers; and

(ii) $0.0075 per pound payable by—

(I) handlers; and

(II) producer-packers on all honey and honey products handled by the producer-packers, including honey produced by the producer-packers); and

(B) in the case of honey and honey products imported into the United States, $0.015 per pound payable by honey importers, of which $0.0075 per pound represents the assessment due from the handler to be paid by the importer on behalf of the handler.

(4)(A) Honey that is consumed at home by the producer or importer or donated by the producer or importer to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sold shall be exempt from assessment under the order, except that donated honey that later is sold in a commercial outlet by a donee or a donee's assignee shall be subject to assessment on such sale.

(B) SMALL QUANTITIES.—

(i) IN GENERAL.—A producer, producer-packer, handler, or importer that produces, imports, or handles during a year less than 6,000 pounds of honey or honey products shall be exempt in that year from payment of an assessment on honey or honey products that the person distributes directly through local retail outlets, as determined by the Secretary, during that year.

(ii) INAPPLICABILITY.—If a person no longer meets the requirements of clause (i) for an exemption, the person shall—

(I) file a report with the Honey Board in the form and manner prescribed by the Honey Board; and

(II) pay an assessment on or before March 15 of the subsequent year on all honey or honey products produced, imported, or handled by the person during the year in which the person no longer meets the requirements of clause (i) for an exemption.

(5) If a producer, producer-packer handler,,[2] or importer does not pay any assessments under this chapter due to the applicability to such person of the exemptions from assessments provided in paragraph (4), then such producer, producer-packer handler,,[2] or importer shall not be considered a producer, handler, or importer for purposes of voting in any referendum conducted under this chapter during the period the per-

[1] So in original.

[2] So in original.

son's exemption from all assessments is in effect.

(f) Funds

(1) Use

Funds collected by the Honey Board shall be used by the Honey Board for financing research, promotion, and consumer information, other expenses as described in subsection (d) of this section, such other expenses for the administration, maintenance, and functioning of the Honey Board as may be authorized by the Secretary, any reserve established under section 4607(5) of this title, and those administrative costs incurred by the Department of Agriculture pursuant to this chapter after an order has been promulgated under this chapter.

(2) Research projects

(A) In general

If approved in a referendum conducted under this chapter, the Honey Board shall reserve at least 8 percent of all assessments collected during a year for expenditure on approved research projects designed to advance the cost effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees.

(B) Carryover

If all funds reserved under subparagraph (A) are not allocated to approved research projects in a year, any reserved funds remaining unallocated shall be carried forward for allocation and expenditure under subparagraph (A) in subsequent years.

(3) Reimbursement

The Secretary shall be reimbursed from assessments collected by the Honey Board for any expenses incurred for the conduct of referenda.

(g) False or unwarranted claims or statements

No promotion funded by the Honey Board under this chapter may make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product.

(h) Influencing governmental policy or action

No funds collected by the Honey Board under this chapter may, in any manner, be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this chapter.

(i) Plans or projects; contracts

The Honey Board shall develop and submit to the Secretary, for approval, plans for research, promotion, and consumer information. Any such plans or projects must be approved by the Secretary before becoming effective. The Honey Board may enter into contracts or agreements with the approval of the Secretary for the development and carrying out of research, promotion, and consumer information, and for the payment of the cost thereof with funds collected pursuant to this chapter.

(j) Books and records; reports

The Honey Board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year.

(k) Honey Board; property interests

Any patent on any product, copyright on any material, or any invention, product formulation or publication developed through the use of funds collected by the Honey Board shall be the property of the Honey Board. The funds generated from any such patent, copyright, invention, product formulation, or publication shall inure to the benefit of the Honey Board.

(Pub. L. 98–590, §7, Oct. 30, 1984, 98 Stat. 3117; Pub. L. 101–624, title XIX, §§1983, 1984(a), Nov. 28, 1990, 104 Stat. 3905; Pub. L. 105–185, title VI, §605(f), June 23, 1998, 112 Stat. 590; Pub. L. 105–277, div. A, §101(a) [title VII, §753(b)], Oct. 21, 1998, 112 Stat. 2681, 2681–33.)

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–185, §605(f)(1)(A), substituted ''except that the term of appointments to the Committee may be staggered periodically, as determined by the Secretary'' for ''except that the initial appointments to the Committee shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms''.

Subsec. (b)(5). Pub. L. 105–185, §605(f)(1)(B), struck out ''after the first annual meeting'' after ''except that'' in second sentence and substituted ''percent'' for ''per centum'' in third sentence.

Subsec. (c)(2)(A). Pub. L. 105–185, §605(f)(2)(B)(i), substituted ''7 members'' for ''seven members''.

Subsec. (c)(2)(B) to (E). Pub. L. 105–185, §605(f)(2)(B)(ii), added subpars. (B) to (E) and struck out former subpars. (B) to (E) and concluding provisions which read as follows:

''(B) two members who are handlers of honey appointed from nominations submitted by the Committee from recommendations made by industry organizations representing handler interests;

''(C) two members who are either importers or exporters, of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;

''(D) one member who is an officer or employee of a honey marketing cooperative appointed from nominations submitted by the Committee; and

''(E) one member selected by the Secretary from the general public.

The Committee shall also submit nominations for an alternate for each member of the Honey Board described in subparagraphs (A) through (D), and the Secretary shall appoint an alternate for the member described in subparagraph (E). Such alternates shall be appointed in the same manner as members are and shall serve only whenever the member is absent from a meeting or is disqualified. However, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer.''

Subsec. (c)(3) to (7). Pub. L. 105–185, §605(f)(2)(A), (C), added pars. (3) to (7) and redesignated former pars. (3) to (6) as (8) to (11), respectively.

Subsec. (c)(8). Pub. L. 105–185, §605(f)(2)(A), (D), redesignated par. (3) as (8) and substituted ''except that appointments to the Honey Board may be staggered periodically, as determined by the Secretary, to maintain continuity of the Honey Board with respect to all mem-

bers and with respect to members representing particular groups.'' for ''except that the initial appointments to the Honey Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms''.

Subsec. (c)(9) to (11). Pub. L. 105–185, § 605(f)(2)(A), redesignated pars. (4) to (6) as (9) to (11), respectively.

Subsec. (e)(1). Pub. L. 105–185, § 605(f)(3)(B), added par. (1) and struck out former par. (1) which read as follows: ''The Honey Board shall administer collection of the assessment provided for in this paragraph to finance the expenses described in subsections (d) and (f) of this section. The assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 4608 of this title.''

Subsec. (e)(2). Pub. L. 105–277 substituted ''$0.01'' for ''$0.0075'' wherever appearing.

Pub. L. 105–185, § 605(f)(3)(A), (B), added par. (2) and redesignated former par. (2) as (4).

Subsec. (e)(3). Pub. L. 105–185, § 605(f)(3)(A), (B), added par. (3) and redesignated former par. (3) as (5).

Subsec. (e)(4). Pub. L. 105–185, § 605(f)(3)(A), redesignated par. (2) as (4).

Subsec. (e)(4)(B). Pub. L. 105–185, § 605(f)(3)(C), added subpar. (B) and struck out former subpar. (B) which read as follows:

''(B)(i) A producer, producer-packer, or importer who produces or imports during any year less than 6,000 pounds of honey shall be eligible for an exemption in such year from paying an assessment on honey such person distributes directly through local retail outlets, as determined by the Secretary, during such year.

''(ii) In order to claim an exemption under this subparagraph, a person shall submit an application to the Honey Board stating the basis on which the person claims the exemption for such year.

''(iii) If, after a person claims an exemption from assessments for any year under this subparagraph, such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.''

Subsec. (e)(5). Pub. L. 105–185, § 605(f)(3)(A), (D), redesignated par. (3) as (5), inserted ''handler,'' after ''producer-packer'' in two places, substituted ''paragraph (4)'' for ''paragraph (2)'', and inserted '', handler,'' after ''considered a producer''.

Subsec. (f). Pub. L. 105–185, § 605(f)(4), inserted heading, designated first sentence as par. (1), inserted par. heading, struck out ''from the assessments'' before ''shall be used'', added par. (2), designated second sentence as par. (3), and added par. heading.

Subsec. (g). Pub. L. 105–185, § 605(f)(5), substituted ''by the Honey Board'' for ''with assessments collected''.

Subsec. (h). Pub. L. 105–185, § 605(f)(6), substituted ''by the Honey Board under'' for ''through assessments authorized by''.

1990—Subsec. (c)(2). Pub. L. 101–624, § 1983(1)(B), (C), in concluding provisions, substituted ''submit nominations for an alternate'' for ''nominate an alternate or alternates'' and inserted at end ''However, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer.''

Subsec. (c)(2)(C). Pub. L. 101–624, § 1983(1)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: ''two members who are importers appointed from nominations submitted by the Committee from recommendations made by industry organizations representing importer interests;''.

Subsec. (c)(4). Pub. L. 101–624, § 1983(1)(D), inserted before period at end '', except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed''.

Subsec. (e)(1). Pub. L. 101–624, § 1984(a)(1), substituted new second sentence for ''For the first year in which the plan is in effect, the assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 4608 of this title. After the first year, the Honey Board may submit to the Secretary a request for an increase in the assessment rate not to exceed 0.5 cent per year, but at no time may the total assessment rate exceed $0.04 per pound.''

Subsec. (e)(2), (3). Pub. L. 101–624, § 1984(a)(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''A producer or producer-packer who produces, or handles, or produces and handles less than six thousand pounds of honey per year or an importer who imports less than six thousand pounds of honey per year shall be exempt from the assessment. In order to claim such an exemption, a person shall submit an application to the Honey Board stating that their production, handling, or importation of honey shall not exceed six thousand pounds for the year for which the exemption is claimed.''

Subsec. (k). Pub. L. 101–624, § 1983(2), added subsec. (k).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective June 23, 1998, see section 101(a) [title VII, § 753(f)] of Pub. L. 105–277, set out as a note under section 343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4602, 4608, 4611 of this title.

§ 4607. Permissive terms and provisions

(a) In general

On the recommendation of the Honey Board, and with the approval of the Secretary, an order issued pursuant to this chapter may contain one or more of the following provisions:

(1) Providing authority to exempt from the provisions of the order honey used for exporting and providing authority for the Honey Board to require satisfactory safeguards against improper use of such exemption.

(2) Providing that in a State with an existing marketing order with respect to honey, the objectives of which the Secretary determines are comparable to the program established under this chapter, there shall be paid to the Honey Board as provided in section 4608 of this title that portion of the national assessment which is above the State assessment, if any, actually paid on such honey.

(3) Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(4) Providing that the Honey Board may convene from time to time working groups drawn from producers, honey handlers, importers, exporters, members of the wholesale or retail outlets for honey, or other members of the public to assist in the development of research and marketing programs for honey.

(5) Providing for authority to accumulate reserve funds from assessments collected pursuant to this chapter to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years when the production and assessment income may be reduced, but the total reserve

fund may not exceed the amount budgeted for one year's operation.

(6) Providing for the authority to use funds collected under this chapter with the approval of the Secretary for the development and expansion of honey and honey product sales in foreign markets.

(7) Providing for terms and conditions incidental to, and not inconsistent with, the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such an order.

(8) If approved in a referendum conducted under this chapter, providing authority for the development of programs and related rules and regulations that will, with the approval of the Secretary, establish minimum purity standards for honey and honey products that are designed to maintain a positive and wholesome marketing image for honey and honey products.

(b) Inspection and monitoring system

(1) Inspection

Any program, rule, or regulation under subsection (a)(8) of this section may provide for the inspection, by the Secretary, of honey and honey products being sold for domestic consumption in, or for export from, the United States.

(2) Monitoring system

The Honey Board may develop and recommend to the Secretary a system for monitoring the purity of honey and honey products being sold for domestic consumption in, or for export from, the United States, including a system for identifying adulterated honey.

(3) Coordination with other Federal agencies

The Secretary may coordinate, to the maximum extent practicable, with the head of any other Federal agency that has authority to ensure compliance with labeling or other requirements relating to the purity of honey and honey products concerning an enforcement action against any person that does not comply with a rule or regulation issued by any other Federal agency concerning the labeling or purity requirements of honey and honey products.

(4) Authority to issue regulations

The Secretary may issue such rules and regulations as are necessary to carry out this subsection.

(c) Voluntary quality assurance program

(1) In general

In addition to or independent of any program, rule, or regulation under subsection (b) of this section, the Honey Board, with the approval of the Secretary, may establish and carry out a voluntary quality assurance program concerning purity standards for honey and honey products.

(2) Components

The program may include—

(A) the establishment of an official Honey Board seal of approval to be displayed on honey and honey products of producers, handlers, and importers that participate in the voluntary program and are found to meet such standards of purity as are established under the program;

(B) actions to encourage producers, handlers, and importers to participate in the program;

(C) actions to encourage consumers to purchase honey and honey products bearing the official seal of approval; and

(D) periodic inspections by the Secretary, or other parties approved by the Secretary, of honey and honey products of producers, handlers, and importers that participate in the voluntary program.

(3) Display of seal of approval

To be eligible to display the official seal of approval established under paragraph (2)(A) on a honey or honey product, a producer, handler, or importer shall participate in the voluntary program under this subsection.

(d) Authority of Secretary

Notwithstanding any other provision of this chapter, the Secretary shall have the authority to approve or disapprove the establishment of minimum purity standards, the inspection and monitoring system under subsection (b) of this section, and the voluntary quality assurance program under subsection (c) of this section.

(Pub. L. 98–590, § 8, Oct. 30, 1984, 98 Stat. 3119; Pub. L. 105–185, title VI, § 605(g), June 23, 1998, 112 Stat. 596.)

AMENDMENTS

1998—Pub. L. 105–185 designated existing provisions as subsec. (a), inserted heading, and added par. (8) and subsecs. (b) to (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4606 of this title.

§ 4608. Collection of assessments; refunds

(a) Handlers

Except as otherwise provided in this section, a first handler of honey shall be responsible, at the time of first purchase—

(1) for the collection, and payment to the Honey Board, of the assessment payable by a producer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted under this chapter, under section 4606(e)(3)(A)(i) of this title; and

(2) if approved in a referendum conducted under this chapter, for the payment to the Honey Board of an additional assessment payable by the handler under section 4606(e)(3)(A)(ii) of this title.

(b) Records

The first handler shall maintain a separate record on each producer's honey so handled, including honey owned by the handler.

(c) Importers

Except as otherwise provided in this section, at the time of entry of honey and honey products into the United States, an importer shall remit to the Honey Board through the United States Customs Service—

(1) the assessment on the imported honey and honey products required under section 4606(e)(2)(B) of this title; or

(2) if approved in a referendum conducted under this chapter, the assessment on the imported honey and honey products required under section 4606(e)(3)(B) of this title, of which the amount payable under section 4606(e)(3)(A)(ii) of this title represents the assessment due from the handler to be paid by the importer on behalf of the handler.

(d) Loan and loan deficiency payments; deduction from disbursement of loan funds or loan deficiency payment made to producer

In any case in which a loan, or a loan deficiency payment is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds or from the loan deficiency payment made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds or loan deficiency payment promptly after each occasion when an assessment is deducted from any such loan funds or payment under this subsection.

(e) Producer-packers

Except as otherwise provided in this section, a producer-packer shall be responsible for the collection, and payment to the Honey Board, of—

(1) the assessment payable by the producer-packer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted under this chapter, under section 4606(e)(3)(A)(i) of this title on honey produced by the producer-packer;

(2) at the time of first purchase, the assessment payable by a producer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted under this chapter, under section 4606(e)(3)(A)(i) of this title on honey purchased by the producer-packer as a first handler; and

(3) if approved in a referendum conducted under this chapter, an additional assessment payable by the producer-packer under section 4606(e)(3)(A)(ii) of this title.

(f) Inspection; books and records

(1) In general

To make available to the Secretary and the Honey Board such information and data as are necessary to carry out this chapter (including an order or regulation issued under this chapter), a handler, importer, producer, or producer-packer responsible for payment of an assessment under this chapter, and a person receiving an exemption from an assessment under section 4606(e)(4) of this title, shall—

(A) maintain and make available for inspection by the Secretary and the Honey Board such books and records as are required by the order and regulations issued under this chapter; and

(B) file reports at the times, in the manner, and having the content prescribed by the order and regulations, which reports shall include the total number of bee colonies maintained, the quantity of honey produced, and the quantity of honey and honey products handled or imported.

(2) Employee or agent

To conduct an inspection or review a report of a handler, importer, producer, or producer-packer under paragraph (1), an individual shall be an employee or agent of the Department or the Honey Board, and shall not be a member or alternate member of the Honey Board.

(3) Confidentiality

An employee or agent described in paragraph (2) shall be subject to the confidentiality requirements of subsection (g) of this section.

(g) Confidentiality of information; disclosure

(1) In general

All information obtained under subsection (f) of this section shall be kept confidential by all officers, employees, and agents of the Department or of the Honey Board.

(2) Disclosure

Information subject to paragraph (1) may be disclosed—

(A) only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, that involves the order with respect to which the information was furnished or acquired; and

(B) only if the Secretary determines that the information is relevant to the suit or administrative hearing.

(3) Exceptions

Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person that violates any order issued under this chapter, together with a statement of the particular provisions of the order violated by the person.

(4) Violation

Any person that knowingly violates this subsection, on conviction—

(A) shall be fined not more than $1,000, imprisoned not more than 1 year, or both; and

(B) if the person is an officer or employee of the Honey Board or the Department, shall be removed from office.

(h) Administration and remittance

Administration and remittance of the assessments under this chapter shall be conducted—

(1) in the manner prescribed in the order and regulations issued under this chapter; and

(2) if approved in a referendum conducted under this chapter, in a manner that ensures that all honey and honey products are assessed a total of, but not more than, $0.015 per pound, including any producer or importer assessment.

(i) Liability for assessments

(1) Producers

If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.

(2) Importers

If the United States Customs Service fails to collect an assessment from an importer or an importer fails to pay an assessment at the time of entry of honey and honey products into the United States under this section, the importer shall be responsible for the remission of the assessment to the Honey Board.

(Pub. L. 98–590, §9, Oct. 30, 1984, 98 Stat. 3120; Pub. L. 101–624, title XIX, §1984(b), Nov. 28, 1990, 104 Stat. 3906; Pub. L. 102–237, title VIII, §807(1), Dec. 13, 1991, 105 Stat. 1883; Pub. L. 104–127, title V, §591, Apr. 4, 1996, 110 Stat. 1084; Pub. L. 105–185, title VI, §605(h), June 23, 1998, 112 Stat. 597.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, §605(h)(1)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Except as provided by subsections (c), (d), (e), and (i) of this section, the first handler of honey shall be responsible for the collection from the producer, and payment to the Honey Board, of assessments authorized by this chapter.''

Subsec. (c). Pub. L. 105–185, §605(h)(1)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The assessment on imported honey and honey products shall be paid by the importer at the time of entry into the United States and shall be remitted to the Honey Board.''

Subsec. (e). Pub. L. 105–185, §605(h)(1)(C), added subsec. (e) and struck out former subsec. (e) which read as follows: ''Producer-packers shall pay to the Honey Board the assessment on the honey they produce.''

Subsec. (f). Pub. L. 105–185, §605(h)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: ''Handlers, importers, producers, and producer-packers responsible for payment of assessments, and persons receiving an exemption from assessments under section 4606(e)(2) of this title, shall maintain and make available for inspection by the Secretary such books and records as are required by the order and file reports at the times, in the manner, and having the content prescribed by the order, so that information and data shall be made available to the Honey Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the chapter or of any order or regulation issued pursuant to this chapter.''

Subsec. (g). Pub. L. 105–185, §605(h)(3), added subsec. (g) and struck out former subsec. (g) which read as follows: ''All information obtained pursuant to subsection (f) of this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the Honey Board. Only such information as the Secretary deems relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with reference to which the information was furnished or acquired. Nothing in this section prohibits—

''(1) issuance of general statements based upon the reports of a number of handlers subject to any order, if such statements do not identify the information furnished by any person; or

''(2) the publication by direction of the Secretary, of the name of any person violating any order issued under this chapter, together with a statement of the particular provisions of the order violated by such person.''

Subsec. (h). Pub. L. 105–185, §605(h)(4), (5), added subsec. (h) and struck out former subsec. (h) which read as follows: ''(h)(1)(A) Except as otherwise provided in paragraph (2), any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary; except that, during any year, the amount of refunds made to an importer, as a percentage of total assessments collected from such importer, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Such refund shall be made by the Honey Board in June and December of each year.

''(B) A producer that has obtained a honey price support loan under the Agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of this section of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

''(2) With respect to the order in effect on November 28, 1990, following the referendum on such order required under section 4612(b)(2) of this title, a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to terminate refunds under the order is defeated in such referendum.''

Subsec. (i). Pub. L. 105–185, §605(h)(6), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1996—Subsec. (f). Pub. L. 104–127 inserted ''producers,'' after ''importers,''.

1991—Subsec. (h)(1)(A). Pub. L. 102–237 inserted ''to'' before ''an importer''.

1990—Subsec. (a). Pub. L. 101–624, §1984(b)(1), inserted reference to subsec. (i) of this section.

Subsec. (d). Pub. L. 101–624, §1984(b)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In any case in which a loan is made with respect to any honey under the Honey Loan Price Support Program, the Secretary shall provide that the assessment shall be deducted from the proceeds of the loan and that the amount of such assessment shall be forwarded to the Honey Board. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.''

Subsec. (f). Pub. L. 101–624, §1984(b)(3), inserted '', and persons receiving an exemption from assessments under section 4606(e)(2) of this title,'' after ''payment of assessments''.

Subsec. (h). Pub. L. 101–624, §1984(b)(4), designated existing provisions as par. (1)(A); substituted ''Except as otherwise provided in paragraph (2), any'' for ''Any'', ''an importer'' for ''to importers'', and ''from such importer'' for ''from importers''; added subpar. (B); and added par. (2).

Subsec. (i). Pub. L. 101–624, §1984(b)(5), added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4606, 4607, 4612 of this title.

§ 4609. Petition and review

(a) Filing of petition; hearing

(1) In general

Subject to paragraph (4), a person subject to an order may file a written petition with the Secretary—

(A) that states that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) that requests—

(i) a modification of the order, provision, or obligation; or

(ii) to be exempted from the order, provision, or obligation.

(2) Hearing

In accordance with regulations issued by the Secretary, the petitioner shall be given an opportunity for a hearing on the petition.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition that shall be final, if in accordance with law.

(4) Statute of limitations

A petition filed under this subsection that challenges an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed not later than 2 years after the later of—

(A) the effective date of the order, provision, or obligation challenged in the petition; or

(B) the date on which the petitioner became subject to the order, provision, or obligation challenged in the petition.

(b) District court; jurisdiction; review; rulings

The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 4610 of this title.

(Pub. L. 98–590, § 10, Oct. 30, 1984, 98 Stat. 3121; Pub. L. 105–185, title VI, § 605(i), June 23, 1998, 112 Stat. 599.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185 added subsec. (a) and struck out former subsec. (a) which read as follows: ''Any person subject to an order may file, within a period prescribed by the Secretary, a written petition with the Secretary, stating that such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or to be exempted therefrom. Such person shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon such petition which shall be final, if in accordance with law.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4610a of this title.

§ 4610. Enforcement

(a) District courts; jurisdiction; Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation issued under this chapter. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of any such order or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing such violations.

(b) Civil penalties; notice and hearing; review; courts of appeals; cease and desist orders; failure to obey; Attorney General

(1) Any person who violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2) of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 98–590, § 11, Oct. 30, 1984, 98 Stat. 3122; Pub. L. 105–185, § 605(j), June 23, 1998, 112 Stat. 600.)

AMENDMENTS

1998—Subsecs. (a), (b)(1). Pub. L. 105–185 substituted ''order'' for ''plan'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4609, 4610a of this title.

§ 4610a. Investigations and power to subpoena

(a) In general

The Secretary may make such investigations as the Secretary determines necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this chapter, or of any order, rule, or regulation issued under this chapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 4609 or 4610 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 4609 or 4610 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 98–590, § 11A, as added Pub. L. 101–624, title XIX, § 1986, Nov. 28, 1990, 104 Stat. 3908; amended Pub. L. 102–237, title VIII, § 807(2), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out ''section'' after ''4609 or''.

§ 4611. Requirements of referendum

(a) In general

For the purpose of ascertaining whether issuance of an order is approved by producers, importers, and in the case of an order assessing handlers, handlers, the Secretary shall conduct a referendum among producers, importers, and, in the case of an order assessing handlers, handlers, not exempt under section 4606(e)(4) of this title, that, during a representative period determined by the Secretary, have been engaged in the production, importation, or handling of honey or honey products.

(b) Effectiveness of order

(1) In general

No order issued under this chapter shall be effective unless the Secretary determines that—

(A) the order is approved by a majority of the producers, importers, and if covered by the order, handlers, voting in the referendum; and

(B) the producers, importers, and handlers comprising the majority produced, imported, and handled not less than 50 percent of the quantity of the honey and honey products produced, imported, and handled during the representative period by the persons voting in the referendum.

(2) Amendments to orders

The Secretary may amend an order in accordance with the administrative procedures specified in sections 4604 and 4605 of this title, except that the Secretary may not amend a provision of an order that implements a provi-

sion of this chapter that specifically provides for approval in a referendum without the approval provided for in this section.

(c) Producer-packers and importers

(1) In general

Each producer-packer and each importer shall have 1 vote as a handler as well as 1 vote as a producer or importer (unless exempt under section 4606(e)(4) of this title) in all referenda concerning orders assessing handlers to the extent that the individual producer-packer or importer owes assessments as a handler.

(2) Attribution of quantity of honey

For the purpose of subsection (b)(1)(B) of this section—

(A) the quantity of honey or honey products on which the qualifying producer-packer or importer owes assessments as a handler shall be attributed to the person's vote as a handler under paragraph (1); and

(B) the quantity of honey or honey products on which the producer-packer or importer owes an assessment as a producer or importer shall be attributed to the person's vote as a producer or importer.

(d) Confidentiality

The ballots and other information or reports that reveal, or tend to reveal, the identity or vote of any producer, importer, or handler of honey or honey products shall be held strictly confidential and shall not be disclosed.

(Pub. L. 98–590, § 12, Oct. 30, 1984, 98 Stat. 3123; Pub. L. 105–185, title VI, § 605(k), June 23, 1998, 112 Stat. 600.)

AMENDMENTS

1998—Pub. L. 105–185 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''For the purpose of ascertaining whether issuance of an order is approved or favored by producers and importers, the Secretary shall conduct a referendum among those producers and importers not exempt under section 4606(e)(2) of this title who, during a representative period determined by the Secretary, have been engaged in the production and importation of honey. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such an order is approved or favored by not less than two-thirds of the producers and importers voting in such referendum or by a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the honey produced and imported during the representative period. The ballots and other information or reports which reveal, or tend to reveal, the vote of any producer or importer of honey shall be held strictly confidential and shall not be disclosed.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4612, 4613 of this title.

§ 4612. Termination or suspension

(a) "Person" defined

In this section, the term ''person'' means a producer, importer, or handler.

(b) Authority of Secretary

If the Secretary finds that an order issued under this chapter, or any provision of the order, obstructs or does not tend to effectuate the purposes of this chapter, the Secretary shall terminate or suspend the operation of the order or provision.

(c) Periodic referenda

Except as provided in subsection (d)(3) of this section and section 4613(g) of this title, on the date that is 5 years after the date on which the Secretary issues an order authorizing the collection of assessments on honey or honey products under this chapter, and every 5 years thereafter, the Secretary shall conduct a referendum to determine if the persons subject to assessment under the order approve continuation of the order in accordance with section 4611 of this title.

(d) Referenda on request

(1) In general

On the request of the Honey Board or the petition of at least 10 percent of the total number of persons subject to assessment under the order, the Secretary shall conduct a referendum to determine if the persons subject to assessment under the order approve continuation of the order in accordance with section 4611 of this title.

(2) Limitation

Referenda conducted under paragraph (1) may not be held more than once every 2 years.

(3) Effect on periodic referenda

If a referendum is conducted under this subsection and the Secretary determines that continuation of the order is approved under section 4611 of this title, any referendum otherwise required to be conducted under subsection (c) of this section shall not be held before the date that is 5 years after the date of the referendum conducted under this subsection.

(e) Timing and requirements for termination or suspension

(1) In general

The Secretary shall terminate or suspend an order at the end of the marketing year during which a referendum is conducted under subsection (c) or (d) of this section if the Secretary determines that continuation of an order is not approved under section 4611 of this title.

(2) Subsequent referendum

If the Secretary terminates or suspends an order that assesses the handling of honey and honey products under paragraph (1), the Secretary shall, not later than 90 days after submission of a proposed order by an interested party—

(A) propose another order to establish a research, promotion, and consumer information program; and

(B) conduct a referendum on the order among persons that would be subject to assessment under the order.

(3) Effectiveness of order

Section 4611 of this title shall apply in determining the effectiveness of the subsequent amended order under paragraph (2).

(Pub. L. 98–590, § 13, Oct. 30, 1984, 98 Stat. 3123; Pub. L. 101–624, title XIX, § 1985, Nov. 28, 1990, 104 Stat. 3907; Pub. L. 105–185, title VI, § 605(*l*), June 23, 1998, 112 Stat. 601.)

AMENDMENTS

1998—Pub. L. 105–185 amended section catchline and text generally, substituting present provisions for provisions which in subsec. (a) authorized Secretary to terminate or suspend order, in subsec. (b) provided for conducting of referendum every five years and alternative first referendum, in subsec. (c) provided for referendum upon request of Honey Board or petition of ten percent or more of producers and importers, and in subsec. (d) directed termination or suspension of order where favored by majority voting in referendum and majority produce and import more than 50 percent of volume of honey of those voting.

1990—Subsec. (b). Pub. L. 101–624, § 1985(a), designated existing provisions as par. (1), substituted ''Except as otherwise provided in paragraph (2), five'' for ''Five'' and ''termination'' for ''continuation, termination,'' and added par. (2).

Subsec. (d). Pub. L. 101–624, § 1985(b), substituted ''an order'' for ''such order'', inserted ''in which a referendum is conducted under subsection (b) or (c) of this section'' after ''marketing year'', and struck out ''of the order'' before ''is favored by''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4606, 4613 of this title.

§ 4613. Implementation of amendments made by Agricultural Research, Extension, and Education Reform Act of 1998

(a) Issuance of amended order

To implement the amendments made to this chapter by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998 (other than subsection (m) of that section), the Secretary shall issue an amended order under section 4603 of this title that reflects those amendments.

(b) Proposal of amended order

Not later than 90 days after June 23, 1998, the Secretary shall publish a proposed order under section 4603 of this title that reflects the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998. The Secretary shall provide notice and an opportunity for public comment on the proposed order in accordance with section 4604 of this title.

(c) Issuance of amended order

Not later than 240 days after publication of the proposed order, the Secretary shall issue an order under section 4605 of this title, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms with the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998.

(d) Referendum on amended order

(1) Requirement

(A) In general

On issuance of an order under section 4605 of this title reflecting the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998, the Secretary shall conduct a referendum under this section for the sole purpose of determining whether the order as amended shall become effective.

(B) Individual provisions

No individual provision of the amended order shall be subject to a separate vote under the referendum.

(2) Eligible voters

The Secretary shall conduct the referendum among persons subject to assessment under the order that have been producers, producer-packers, importers, or handlers during the 2-calendar-year period that precedes the referendum, which period shall be considered to be the representative period.

(3) Determination of quantity

(A) In general

Producer-packers, importers, and handlers shall be allowed to vote as if—

(i) the amended order had been in place during the representative period described in paragraph (2); and

(ii) they had owed the increased assessments provided by the amended order.

(B) Votes and attributed quantity for producer-packers and importers

The votes and the quantity of honey and honey products attributed to the votes of producer-packers and importers shall be determined in accordance with section 4611 of this title.

(C) Attributed quantity for handlers

The quantity of honey and honey products attributed to the vote of a handler shall be the quantity handled in the representative period described in paragraph (2) for which the handler would have owed assessments had the amended order been in effect.

(4) Effectiveness of order

The amended order shall become effective only if the Secretary determines that the amended order is effective in accordance with section 4611 of this title.

(e) Continuation of existing order if amended order is rejected

If adoption of the amended order is not approved—

(1) the order issued under section 4603 of this title that is in effect on June 23, 1998, shall continue in full force and effect; and

(2) the Secretary may amend the order to ensure the conformity of the order with this chapter (as in effect on the day before June 23, 1998).

(f) Effect of rejection on subsequent orders

(1) In general

Subject to paragraph (2), if adoption of the amended order is not approved in the referendum required under subsection (d) of this section, the Secretary may issue an amended order that implements some or all of the amendments made to this chapter by section 605 of the Agricultural Research, Extension,

and Education Reform Act of 1998, or makes other changes to an existing order, in accordance with the administrative procedures specified in sections 4604 and 4605 of this title.

(2) Approval

An amendment to an order that implements a provision that is subject to a referendum shall be approved in accordance with section 4611 of this title before becoming effective.

(g) Effect on periodic referenda

If the amended order becomes effective, any referendum otherwise required to be conducted under section 4612(c) of this title shall not be held before the date that is 5 years after the date of the referendum conducted under this section.

(Pub. L. 98–590, §14, as added Pub. L. 105–185, title VI, §605(m), June 23, 1998, 112 Stat. 602.)

REFERENCES IN TEXT

Section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998, referred to in subsecs. (a) to (d)(1)(A) and (f)(1), is section 605 of Pub. L. 105–185, June 23, 1998, 112 Stat. 523, which enacted this section and amended sections 4601 to 4612 of this title. Subsec. (m) of section 605 enacted this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4606, 4612 of this title.

CHAPTER 78—AGRICULTURAL PRODUCTIVITY RESEARCH

§§ 4701 to 4710. Repealed. Pub. L. 101–624, title XVI, § 1620(a), Nov. 28, 1990, 104 Stat. 3734

Section 4701, Pub. L. 99–198, title XIV, §1461, Dec. 23, 1985, 99 Stat. 1562, provided definitions for chapter.

Section 4702, Pub. L. 99–198, title XIV, §1462, Dec. 23, 1985, 99 Stat. 1563, set forth Congressional findings.

Section 4703, Pub. L. 99–198, title XIV, §1463, Dec. 23, 1985, 99 Stat. 1563, set forth purposes of chapter.

Section 4704, Pub. L. 99–198, title XIV, §1464, Dec. 23, 1985, 99 Stat. 1564, related to information study.

Section 4705, Pub. L. 99–198, title XIV, §1465, Dec. 23, 1985, 99 Stat. 1564, authorized research projects to promote purposes of chapter.

Section 4706, Pub. L. 99–198, title XIV, §1466, Dec. 23, 1985, 99 Stat. 1565, related to coordination of projects.

Section 4707, Pub. L. 99–198, title XIV, §1467, Dec. 23, 1985, 99 Stat. 1565, required reports to Congress.

Section 4708, Pub. L. 99–198, title XIV, §1468, Dec. 23, 1985, 99 Stat. 1565, authorized agreements with other expert entities.

Section 4709, Pub. L. 99–198, title XIV, §1469, Dec. 23, 1985, 99 Stat. 1565, related to dissemination of data.

Section 4710, Pub. L. 99–198, title XIV, §1470, Dec. 23, 1985, 99 Stat. 1566, authorized appropriations to carry out chapter.

EFFECTIVE DATE

Pub. L. 99–198, title XIV, subtitle C (§§1461–1471), §1471, Dec. 23, 1985, 99 Stat. 1566, which provided that this chapter was effective Oct. 1, 1985, was repealed by Pub. L. 101–624, title XVI, §1620(a), Nov. 28, 1990, 104 Stat. 3734.

CHAPTER 79—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 4801. Congressional findings and declaration of purpose

(a) Congress finds that—

(1) pork and pork products are basic foods that are a valuable and healthy part of the human diet;

(2) the production of pork and pork products plays a significant role in the economy of the United States because pork and pork products are—

(A) produced by thousands of producers, including many small- and medium-sized producers; and

(B) consumed by millions of people throughout the United States on a daily basis;

(3) pork and pork products must be available readily and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets, and development of new markets, for pork and pork products are vital to—

(A) the welfare of pork producers and persons concerned with producing and marketing pork and pork products; and

(B) the general economy of the United States;

(5) pork and pork products move in interstate and foreign commerce;

(6) pork and pork products that do not move in such channels of commerce directly burden or affect interstate commerce in pork and pork products; and

(7) in recent years, increasing quantities of low-cost, imported pork and pork products have been brought into the United States and replaced domestic pork and pork products in normal channels of trade.

(b)(1) It is the purpose of this chapter to authorize the establishment of an orderly procedure for financing, through adequate assessments, and carrying out an effective and coordinated program of promotion, research, and consumer information designed to—

(A) strengthen the position of the pork industry in the marketplace; and

(B) maintain, develop, and expand markets for pork and pork products.

(2) Such procedure shall be implemented, and such program shall be conducted, at no cost to the Federal Government.

(3) Nothing in this chapter may be construed to—

(A) permit or require the imposition of quality standards for pork or pork products;

(B) provide for control of the production of pork or pork products; or

(C) otherwise limit the right of an individual pork producer to produce pork and pork products.

(Pub. L. 99–198, title XVI, § 1612, Dec. 23, 1985, 99 Stat. 1607.)

EFFECTIVE DATE

Section 1631 of Pub. L. 99–198 provided that: ''This subtitle [subtitle B (§§ 1611–1631) of title XVI of Pub. L. 99–198, enacting this chapter] shall become effective on January 1, 1986.''

SHORT TITLE

Section 1611 of Pub. L. 99–198 provided that: ''This subtitle [subtitle B (§§ 1611–1631) of title XVI of Pub. L. 99–198, enacting this chapter] may be cited as the 'Pork Promotion, Research, and Consumer Information Act of 1985'.''

§ 4802. Definitions

For purposes of this chapter:

(1) The term ''Board'' means the National Pork Board established under section 4808 of this title.

(2) The term ''consumer information'' means an activity intended to broaden the understanding of sound nutritional attributes of pork or pork products, including the role of pork or pork products in a balanced, healthy diet.

(3) The term ''Delegate Body'' means the National Pork Producers Delegate Body established under section 4806 of this title.

(4) The term ''imported'' means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(5) The term ''importer'' means a person who imports porcine animals, pork, or pork products into the United States.

(6) The term ''order'' means a pork and pork products promotion, research, and consumer information order issued under section 4803 of this title.

(7) The term ''person'' means an individual, group of individuals, partnership, corporation, association, organization, cooperative, or other entity.

(8) The term ''porcine animal'' means a swine raised for—

(A) feeder pigs;

(B) seedstock; or

(C) slaughter.

(9) The term ''pork'' means the flesh of a porcine animal.

(10) The term ''pork product'' means a product produced or processed in whole or in part from pork.

(11) The term ''producer'' means a person who produces porcine animals in the United States for sale in commerce.

(12) The term ''promotion'' means an action, including paid advertising, taken to present a favorable image for porcine animals, pork, or pork products to the public with the intent of improving the competitive position and stimulating sales of porcine animals, pork, or pork products.

(13) The term ''research'' means—

(A) research designed to advance, expand, or improve the image, desirability, nutritional value, usage, marketability, production, or quality of porcine animals, pork, or pork products; or

(B) dissemination to a person of the results of such research.

(14) The term ''Secretary'' means the Secretary of Agriculture.

(15) The term ''State'' means each of the 50 States.

(16) The term ''State association'' means—

(A) the single organization of pork producers in a State that is—

(i) organized under the laws of the State in which such association operates; and

(ii) recognized by the chief executive officer of such State as representing the pork producers of such State; or

(B) if such organization does not exist on January 1, 1986, an organization that represents not fewer than 50 pork producers who market annually, in the aggregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State.

(17) The term ''to market'' means to sell or to otherwise dispose of a porcine animal, pork, or pork product in commerce.

(Pub. L. 99–198, title XVI, § 1613, Dec. 23, 1985, 99 Stat. 1607.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4809 of this title.

§ 4803. Pork and pork product orders

(a) To carry out this chapter, the Secretary shall, in accordance with this chapter, issue and, from time to time, amend orders applicable to persons engaged in—

(1) the production and sale of porcine animals, pork, and pork products in the United States; and

(2) the importation of porcine animals, pork, or pork products into the United States.

(b) The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 99–198, title XVI, § 1614, Dec. 23, 1985, 99 Stat. 1609.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4802 of this title.

§ 4804. Notice and hearing

During the period beginning on January 1, 1986, and ending 30 days after receipt of a proposal for an initial order submitted by any person affected by this chapter, the Secretary shall—

(1) publish such proposed order; and

(2) give due notice of and opportunity for public comment on such proposed order.

(Pub. L. 99–198, title XVI, § 1615, Dec. 23, 1985, 99 Stat. 1609.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4805 of this title.

§ 4805. Findings and issuance of orders

(a) Necessary findings

After notice and opportunity for public comment have been provided in accordance with section 4804 of this title, the Secretary shall issue and publish an order if the Secretary finds, and sets forth in such order, that the issuance of such order and all terms and conditions thereof will assist in carrying out this chapter.

(b) Number of orders in effect at a time

Not more than one order may be in effect at a time.

(c) Effective date

An order shall become effective on a date that is not more than 90 days following the publication of such order.

(d) Terms and conditions

An order shall contain such terms and conditions as are required in sections 4806 through 4809 of this title and, except as provided in section 4810 of this title, no others.

(Pub. L. 99–198, title XVI, § 1616, Dec. 23, 1985, 99 Stat. 1609.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4809 of this title.

§ 4806. National Pork Producers Delegate Body

(a) Establishment and appointment

The order shall provide for the establishment and appointment by the Secretary, not later than 60 days after the effective date of such order, of a National Pork Producers Delegate Body.

(b) Membership; number of producer members; number of importer members

(1) The Delegate Body shall consist of—

(A) producers, as appointed by the Secretary in accordance with paragraph (2), from nominees submitted as follows:

(i) in the case of the initial Delegate Body appointed by each State in accordance with section 4807 of this title.

(ii) in the case of each succeeding Delegate Body, each State association shall submit nominations selected by such association pursuant to a selection process that—

(I) is approved by the Secretary;

(II) requires public notice of the process to be given at least one week in advance by publication in a newspaper or newspaper of general circulation in such State and in pork production and agriculture trade publications; and

(III) that provides complete and equal access to the nominating process to every

producer who has paid all assessments due under section 4809 of this title and not demanded a refund under section 4813 of this title,

or pursuant to an election of nominees conducted in accordance with section 4807 of this title.

(iii) In the case of a State that has a State association that does not submit nominations or that does not have a State association, such State shall submit nominations in a manner prescribed by the Secretary; and

(B) importers, as appointed by the Secretary in accordance with paragraph (3).

(2) The number of producer members appointed to the Delegate Body from each State shall equal at least two members, and additional members, allocated as follows:

(A) Shares shall be assigned to each State—

(i) for the 1986 calendar year, on the basis of one share for each $400,000 of farm market value of porcine animals marketed from such State (as determined by the Secretary based on the annual average of farm market value in the most recent 3 calendar years preceding such year), rounded to the nearest $400,000; and

(ii) for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds under section 4813 of this title) in such State from persons described in section 4809(a)(1)(A) and (B) of this title, rounded to the nearest $1,000.

(B) If during a calendar year the number of such shares of a State is—

(i) less than 301, the State shall receive a total of two producer members;

(ii) more than 300 but less than 601, the State shall receive a total of three producer members;

(iii) more than 600 but less than 1,001, the State shall receive a total of four producer members; and

(iv) more than 1,000, the State shall receive four producer members, plus one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(3) The number of importer members appointed to the Delegate Body shall be determined as follows:

(A) Shares shall be assigned to importers—

(i) for the 1986 calendar year, on the basis of one share for each $575,000 of market value of marketed porcine animals, pork, or pork products (as determined by the Secretary based on the annual average of imports in the most recent 3 calendar years preceding such year), rounded to the nearest $575,000; and

(ii) for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds under section 4813 of this title) from importers, rounded to the nearest $1,000.

(B) The number of importer members appointed to the Delegate Body shall equal a total of—

(i) three members for the first 1,000 such shares; and

(ii) one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(c) Voting; quorum; votes necessary for decision

(1) A producer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares attributable to the State of the member; divided by

(B) the number of producer members from such State.

(2) An importer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares allocated to importers; divided by

(B) the number of importer members.

(3) Members entitled to cast a majority of the votes (including fractions thereof) on the Delegate Body shall constitute a quorum.

(4) A majority of the votes (including fractions thereof) cast at a meeting at which a quorum is present shall be decisive of a motion or election presented to the Delegate Body for a vote.

(d) Term of office

A member of the Delegate Body shall serve for a term of 1 year, except that the term of a member of the Delegate Body shall continue until the successor of such member, if any, is appointed in accordance with subsection (b)(1) of this section.

(e) Chairman

(1) At the first annual meeting, the Delegate Body shall select a Chairman by a majority vote.

(2) At each annual meeting thereafter, the President of the Board shall serve as the Chairman of the Delegate Body.

(f) Compensation

A member of the Delegate Body shall serve without compensation, but may be reimbursed by the Board from assessments collected under section 4809 of this title for transportation expenses incurred in performing duties as a member of the Delegate Body.

(g) Nomination of members to National Pork Board; annual meeting; majority vote in person to nominate

(1) The Delegate Body shall—

(A) nominate—

(i) not less than 23 persons for appointment to the Board, for the first year for which nominations are made; and

(ii) not less than 1½ persons (rounded up to the nearest person) for each vacancy in the Board that requires nominations thereafter; and

(B) submit such nominations to the Secretary.

(2) The Delegate Body shall meet annually to make such nominations.

(3) A majority of the Delegate Body shall vote in person in order to nominate members to the Board.

(h) Duties and functions

The Delegate Body shall—

(1) recommend the rate of assessment prescribed by the initial order and any increase in such rate pursuant to section 4809(5)[1] of this title, and

(2) determine the percentage of the aggregate amount of assessments collected in a State that each State association shall receive under section 4809(c)(1) of this title.

(Pub. L. 99–198, title XVI, § 1617, Dec. 23, 1985, 99 Stat. 1609.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4802, 4805, 4807, 4808 of this title.

§ 4807. Selection of Delegate Body

(a) Nominations

(1) Not later than 30 days after the effective date of the order, the Secretary shall call for the nomination within each State of candidates for appointment as producer members of the initial Delegate Body.

(2) Each State association may nominate producers who are residents of such State to serve as such candidates.

(3)(A)[1] Additional producers who are residents of a State may be nominated as candidates of such State by written petition signed by 100 producers or 5 percent of the pork producers in such State, whichever is less. The Secretary shall establish and publicize the procedures governing the time and place for filing petitions.

(b) Election; eligibility to vote; notice of election; number of members nominated

(1) After the Secretary has received the nominations required under subsection (a) of this section and not later than 45 days after the effective date of the order, the Secretary shall call for an election within each State of persons for appointment as producer members of the initial Delegate Body.

(2) To be eligible to vote in an election held in a State, a person must be a producer who is a resident of such State.

(3)(A) Notice of each such election shall be given by the Secretary—

(i) by publication in a newspaper or newspapers of general circulation in each State, and in pork production and agriculture trade publications, at least 1 week prior to the election; and

(ii) in any other reasonable manner determined by the Secretary.

(B) The notice shall set forth the period of time and places for voting and such other information as the Secretary considers necessary.

(4) Each State shall nominate to the Delegate Body the number of producer members required under section 4806(b)(2)(B) of this title.

(5) The producers who receive the highest number of votes in each State shall be nominated for appointment as members of the Delegate Body from such State.

(c) Subsequent nominations and elections to be administered by Board; time of election; voting eligibility

(1) Except as provided in paragraph (3), after the election of the producer members of the initial Delegate Body, the Board shall administer all subsequent nominations and elections of the producer members to be nominated for appointment as members of the Delegate Body, with the assistance of the Secretary and in accordance with subsections (a)(3) and (b) of this section.

(2) The Board shall determine the timing of an election referred to in paragraph (1).

(3) To be eligible to vote in such an election in a State, a person must—

(A) be a producer who is a resident of such State;

(B) have paid all assessments due under section 4809 of this title; and

(C) not demanded a refund of an assessment under section 4813 of this title.

(d) Nominating committee; appointment; nomination to fill position for pending election

(1) Prior to the expiration of the term of any producer member of the Delegate Body, the Board shall appoint a nominating committee of producers who are residents of the State represented by such member.

(2) Such committee shall nominate producers of such State as candidates to fill the position for which an election is to be held.

(3) Additional producers who are residents of a State may be nominated to fill such positions in accordance with subsection (a)(3) of this section.

(Pub. L. 99–198, title XVI, § 1618, Dec. 23, 1985, 99 Stat. 1611.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4805, 4806 of this title.

§ 4808. National Pork Board

(a)(1) The order shall provide for the establishment and appointment by the Secretary of a 15-member National Pork Board.

(2)[1] The Board shall consist of producers representing at least 12 States and importers appointed by the Secretary from nominations submitted under section 4806(g) of this title .

(2)[1] The Board shall consist of producers or importers appointed by the Secretary from nominations submitted under section 4806(g) of this title.

(3) A member of the Board shall serve for a 3-year term, with no such member serving more than two consecutive 3-year terms, except that initial appointments to the Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to 1-year, 2-year, and 3-year terms, except that the term of a member of the Board shall continue until the successor of such member, if any, is appointed in accordance with paragraph (2).

(4) The Board shall select its President by a majority vote.

(5)(A) A majority of the members of the Board shall constitute a quorum at a meeting of the Board.

[1] So in original. Probably should be section ''4809(b)''.

[1] So in original. No subpar. (B) has been enacted.

[1] So in original. Two pars. (2) have been enacted.

(B) A majority of votes cast at a meeting at which a quorum is present shall determine a motion or election.

(6) A member of the Board shall serve without compensation, but shall be reimbursed by the Board from assessments collected under section 4809 of this title for reasonable expenses incurred in performing duties as a member of the Board.

(b)(1) The Board shall—

(A) develop, at the initiative of the Board or other person, proposals for promotion, research, and consumer information plans and projects;

(B) submit such plans and projects to the Secretary for approval;

(C) administer the order, in accordance with the order and this chapter;

(D) prescribe such rules as are necessary to carry out such order;

(E) receive, investigate, and report to the Secretary complaints of violations of such order;

(F) make recommendations to the Secretary with respect to amendments to such order; and

(G) employ a staff and conduct routine business.

(2) The Board shall prepare and submit to the Secretary, for the approval of the Secretary, a budget for each fiscal year of anticipated expenses and disbursements of the Board in the administration of the order, including the projected cost of—

(A) any promotion, research or consumer information plan or project to be conducted by the Board directly or by way of contract or agreement; and

(B) the budgets, plans, or projects for which State associations are to receive funds pursuant to section 4809(c)(1) of this title.

(3) No plan, project, or budget referred to in paragraph (1) or (2) may become effective unless approved by the Secretary.

(4)(A) The Board, with the approval of the Secretary, may enter into contracts or agreements with a person for—

(i) the development and conduct of activities authorized under an order; and

(ii) the payment of the cost thereof with funds collected through assessments under such order.

(B) Such contract or agreement shall require that—

(i) the contracting party develop and submit to the Board a plan or project, together with a budget or budgets that include the estimated cost to be incurred under such plan or project;

(ii) such plan or project become effective on the approval of the Secretary; and

(iii) the contracting party—

(I) keep accurate records of all relevant transactions of the party;

(II) make periodic reports to the Board of—

(aa) relevant activities the party has conducted; and

(bb) an accounting for funds received and expended under such contract; and

(III) make such other reports as the Secretary or Board may require.

(Pub. L. 99–198, title XVI, §1619, Dec. 23, 1985, 99 Stat. 1612.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4802, 4805, 4809 of this title.

§ 4809. Assessments

(a) Collection and remission to Board; persons required to pay

(1) The order shall provide that, not later than 30 days after the effective date of the order under section 4805(c) of this title an assessment shall be paid, in the manner prescribed in the order. Upon the appointment of the Board, the assessments held in escrow shall be distributed to the Board. Except as provided in paragraph (3), assessments shall be payable by—

(A) each producer for each porcine animal described in subparagraph (A) or (C) of section 4802(8) of this title produced in the United States that is sold or slaughtered for sale;

(B) each producer for each porcine animal described in subsection[1] 4802(8)(B) of this title that is sold; and

(C) each importer for each porcine animal, pork, or pork product that is imported into the United States.

(2) Such assessment shall be collected and remitted to the Board once it is appointed pursuant to section 4808 of this title, but, until that time, to the Secretary, who shall promptly proceed to distribute the funds received by him in accordance with the provisions of subsection (c) of this section, except that the Secretary shall retain the funds to be received by the Board until such time as the Board is appointed pursuant to section 4808 of this title, by—

(A) in the case of subparagraph (A) of paragraph (1), the purchaser of the porcine animal referred to in such subparagraph;

(B) in the case of subparagraph (B) of paragraph (1), the producer of the porcine animal referred to in such subparagraph; and

(C) in the case of subparagraph (C) of paragraph (1), the importer referred to in such subparagraph.

(3) A person is not required to pay an assessment for a porcine animal, pork, or pork product under paragraph (1) if such person proves to the Board that an assessment was paid previously under such paragraph by a person for such porcine animal (of the same category described in subparagraph (A), (B), or (C) of section 4802(8) of this title), pork, or pork product.

(b) Rate of assessment; increase; waiver of collection of assessment

(1) Except as provided in paragraph (2), the rate of assessment prescribed by the initial order shall be the lesser of—

(A) 0.25 percent of the market value of the porcine animal, pork, or pork product sold or imported; or

(B) an amount established by the Secretary based on a recommendation of the Delegate Body.

(2) Except as provided in paragraph (3), the rate of assessment in the initial order may be

[1] So in original. Probably should be ''section''.

increased by not more than 0.1 percent per year on recommendation of the Delegate Body.

(3) The rate of assessment may not exceed 0.50 percent of such market value unless—

(A) after the initial referendum required under section 4811(a) of this title, the Delegate Body recommends an increase in such rate above 0.50 percent; and

(B) such increase is approved in a referendum conducted under section 4811(b) of this title.

(4)(A) Pork or pork products imported into the United States shall be assessed based on the equivalent value of the live porcine animal from which such pork or pork products were produced, as determined by the Secretary.

(B) The Secretary may waive the collection of assessments on a type of such imported pork or pork products if the Secretary determines that such collection is not practicable.

(c) Distribution and use

Funds collected by the Board from assessments collected under this section shall be distributed and used in the following manner:

(1)(A) Each State association, shall receive an amount of funds equal to the product obtained by multiplying—

(i) the aggregate amount of assessments attributable to porcine animals produced in such State by persons described in subsection (a)(1)(A) and (B) of this section minus that State's share of refunds determined pursuant to paragraph (4) by such persons pursuant to section 4813 of this title; and

(ii) a percentage applicable to such State association determined by the Delegate Body, but in no event less than sixteen and one-half percent, or

(B) in the case of a State association that was conducting a pork promotion program in the period from July 1, 1984, to June 30, 1985, if greater than (A) an amount of funds equal to the amount of funds that would have been collected in such State pursuant to the pork promotion program in existence in such State from July 1, 1984, to June 30, 1985, had the porcine animals, subject to assessment and to which no refund was received in such State in each year following December 23, 1985, been produced from July 1, 1984, to June 30, 1985, and been subject to the rates of assessments then in effect and the rate of return then in effect from each State to the Council described in paragraph (2)(A), and other national entities involved in pork promotion, research and consumer information.

(C) A State association shall use such funds and any proceeds from the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects, and

(ii) administrative expenses incurred in connection with such plans and projects.

(2)(A) The National Pork Producers Council, a nonprofit corporation of the type described in section 501(c)(3) of title 26 and incorporated in the State of Iowa, shall receive an amount of funds equal to—

(i) 37½ percent of the aggregate amount of assessments collected under this section throughout the United States from the date assessment commences pursuant to subsection (a)(1) of this section until the first day of the month following the month in which the Board is appointed pursuant to section 4808 of this title.[2]

(ii) 35 percent thereafter until the referendum is conducted pursuant to section 4811 of this title,

(iii) 25 percent until twelve months after the referendum is conducted, and

(iv) no funds thereafter except in so far as it obtains such funds from the Board pursuant to sections[3] 4808 or 4809 of this title, each of which amounts determined under (i), (ii), and (iii) shall be less the Council's share of refunds determined pursuant to paragraph (4).

(B) The Council shall use such funds and proceeds from the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects, and

(ii) administrative expenses of the Council.

(3)(A) The Board shall receive the amount of funds that remain after the distribution required under paragraphs (1) and (2).

(B) The Board shall use such funds and any proceeds from the investment of such funds pursuant to subsection (g) of this section for—

(i) financing promotion, research, and consumer information plans and projects in accordance with this chapter;[4]

(ii) such expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary;

(iii) accumulation of a reasonable reserve to permit an effective promotion, research, and consumer information program to continue in years when the amount of assessments may be reduced; and

(iv) administrative costs incurred by the Secretary to carry out this chapter,[4] including any expenses incurred for the conduct of a referendum under this chapter.[4]

(4)(A) Each State's share of refunds shall be determined by multiplying the aggregate amount of refunds received by producers in such State by the percentage applicable to such State pursuant to paragraph (1)(A)(ii).

(B) The National Pork Producers Council's share of refunds shall be determined by multiplying its applicable percent of the aggregate amount of assessments by the product of—

(i) subtracting from the aggregate amount of refunds received by all producers the aggregate amount of State share or refunds in every State determined pursuant to subparagraph (A), and

(ii) adding to that sum the aggregate amount of refunds received by importers.

(d) Prohibited promotions

No promotion funded with assessments collected under this chapter may make—

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[2] So in original. The period probably should be a comma.

[3] So in original. Probably should be ''section''.

[4] See References in Text note below.

(1) a false or misleading claim on behalf of pork or a pork product; or

(2) a false or misleading statement with respect to an attribute or use of a competing product.

(e) Influencing legislation prohibited

No funds collected through assessments authorized by this section may, in any manner, be used for the purpose of influencing legislation, as defined in section 4911(d) and (e)(2) of title 26.

(f) Maintenance of books and records; audits

The Board shall—

(1) maintain such books and records, and prepare and submit to the Secretary such reports from time to time, as may be required by the Secretary for appropriate accounting of the receipt and disbursement of funds entrusted to the Board or a State association, as the case may be; and

(2) cause a complete audit report to be submitted to the Secretary at the end of each fiscal year.

(g) Investment by Board of funds collected

The Board, with the approval of the Secretary, may invest funds collected through assessments authorized under this section, pending disbursement for a plan or project, only in—

(1) an obligation of the United States, or of a State or political subdivision thereof;

(2) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(3) an obligation fully guaranteed as to principal and interest by the United States.

(Pub. L. 99–198, title XVI, §1620, Dec. 23, 1985, 99 Stat. 1614; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(B)(i), (iv), was in the original ''this title'' and was translated as reading ''this subtitle'', meaning subtitle B of title XVI of Pub. L. 99–198, which enacted this chapter, as the probable intent of Congress.

AMENDMENTS

1986—Subsecs. (c)(2)(A), (e). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4805, 4806, 4807, 4808, 4813, 4817, 4819 of this title.

§ 4810. Permissive provisions

(a) Recordkeeping and reporting requirements; incidental and necessary terms and conditions

On the recommendation of the Board, and with the approval of the Secretary, an order may contain one or more of the following provisions:

(1) Each person purchasing a porcine animal from a producer for commercial use, and each importer, shall—

(A) maintain and make available for inspection such books and records as may be required by the order; and

(B) file reports at the time, in the manner, and having the content prescribed by the order,

including documentation of the State of origin of a purchased porcine animal or the place of origin of an imported porcine animal, pork, or pork product.

(2) A term or condition—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this chapter; and

(B) necessary to effectuate the other provisions of such order.

(b) Availability of information to Secretary and Board; confidentiality; disclosure; issuance of general statement, statistical data, or name of violator of order

(1) Information referred to in subsection (a)(1) of this section shall be made available to the Secretary and the Board as is appropriate or necessary for the effectuation, administration, or enforcement of this chapter or an order.

(2)(A) Except as provided in subparagraphs (B) and (C), information obtained under subsection (a)(1) of this section shall be kept confidential by officers or employees of the Department of Agriculture or the Board.

(B) Such information may be disclosed only—

(i) in a suit or administrative hearing involving the order with respect to which the information was furnished or acquired—

(I) brought at the direction or on the request of the Secretary; or

(II) to which the Secretary or an officer of the United States is a party; and

(ii) if the Secretary considers such information to be relevant to such suit or hearing.

(C) Nothing in this section prohibits—

(i) the issuance of a general statement based on the reports of a number of persons subject to an order, or statistical data collected therefrom, if such statement or data does not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating an order, together with a statement of the particular provisions of the order violated by such person.

(c) Penalty for willful violations

A person who willfully violates subsection (a)(1) or (b) of this section shall, on conviction, be—

(1) subject to a fine of not more than $1,000 or imprisoned for not more than 1 year, or both; and

(2) if such person is an employee of the Department of Agriculture or the Board, removed from office.

(Pub. L. 99–198, title XVI, §1621, Dec. 23, 1985, 99 Stat. 1617.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4805 of this title.

§ 4811. Referendum

(a) Continuation of order

For the purpose of determining whether an order then[1] effect shall be continued during the period beginning not earlier than 24 months after the issuance of the order and ending not later than 30 months after the issuance of the order, the Secretary shall conduct a referendum among persons who have been pork producers and importers during a representative period, as determined by the Secretary.

(b) Factors determining continuation; termination of order

(1) Such order shall be continued only if the Secretary determines that such order has been approved by not less than a majority of the producers and importers voting in the referendum.

(2) If the continuation of such order is not approved by a majority of the producers and importers voting in the referendum, the Secretary shall terminate—

(A) collection of assessments under the order not later than 6 months after the date of such determination; and

(B) the order in an orderly manner as soon as practicable after the date of such determination.

(c) Reimbursement for cost

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred in connection with a referendum conducted under this section or section 4812 of this title.

(d) Manner of conducting

A referendum shall be conducted in such manner as prescribed by the Secretary.

(e) Amendment of initial order

A referendum to amend the initial order shall be conducted pursuant to this section.

(Pub. L. 99–198, title XVI, § 1622, Dec. 23, 1985, 99 Stat. 1618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4809, 4812, 4813, 4817 of this title.

§ 4812. Suspension and termination of orders

(a) Authority of Secretary

If after the initial referendum provided for in section 4811(a) of this title the Secretary determines that an order, or a provision of the order, obstructs or does not tend to effectuate the declared policy of this chapter, the Secretary shall terminate or suspend the operation of such order or provision.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date; one referendum within 2-year period

(1)(A) Except as provided in paragraph (2), after the initial referendum provided for in section 4811(a) of this title, on the request of a number of persons equal to at least 15 percent of persons who have been producers and importers during a representative period, as determined by the Secretary, the Secretary shall conduct a referendum to determine whether the producers and importers favor the termination or suspension of the order.

(B) The Secretary shall—

(i) suspend or terminate collection of assessments under the order not later than 6 months after the date the Secretary determines that suspension or termination of the order is favored by a majority of the producers and importers voting in the referendum; and

(ii) terminate the order in an orderly manner as soon as practicable after the date of such determination.

(2) Except with respect to a referendum required to be conducted under section 4811 of this title, the Secretary shall not be required by paragraph (1) to conduct more than one referendum under this chapter in a 2-year period.

(c) Termination or suspension not to be considered an order

The termination or suspension of an order, or a provision of an order, shall not be considered an order within the meaning of this chapter.

(Pub. L. 99–198, title XVI, § 1623, Dec. 23, 1985, 99 Stat. 1618.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4811 of this title.

§ 4813. Refunds

(a) Demand for refund; persons eligible

Notwithstanding any other provision of this chapter, prior to the approval of the continuation of an order pursuant to the referendum required under section 4811(a) of this title, any person shall have the right to demand and receive from the Board a refund of an assessment collected under section 4809 of this title if such person—

(1) is responsible for paying such assessment; and

(2) does not support the program established under this chapter.

(b) Form and time within which demand to be made

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board and approved by the Secretary, but not later than 30 days after the end of the month in which the assessment was paid.

(c) Payment of refund on submission of satisfactory proof

Such refund shall be made not later than 30 days after demand is received therefore[1] on submission of proof satisfactory to the Board that the producer, person, or importer—

(1) paid the assessment for which refund is sought; and

(2) did not collect such assessment from another producer, person, or importer.

(Pub. L. 99–198, title XVI, § 1624, Dec. 23, 1985, 99 Stat. 1619.)

[1] So in original. Probably should be followed by ''in''.

[1] So in original. Probably should be ''therefor''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4806, 4807, 4809 of this title.

§ 4814. Petition and review

(a)(1) A person subject to an order may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of such order or an exemption from such order.

(2) Such person shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) After such hearing, the Secretary shall make a determination granting or denying such petition.

(b)(1) A district court of the United States in the district in which such person resides or does business shall have jurisdiction to review such determination if a complaint for such purpose is filed not later than 20 days after the date such person receives notice of such determination.

(2) Service of process in such proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) If a court determines that such determination is not in accordance with law, the court shall remand such proceedings to the Secretary with directions to—

(A) make such ruling as the court shall determine to be in accordance with law; or

(B) take such further proceedings as, in the opinion of the court, the law requires.

(Pub. L. 99–198, title XVI, §1625, Dec. 23, 1985, 99 Stat. 1619.)

§ 4815. Enforcement

(a) Jurisdiction of district court; referral of civil actions to Attorney General

(1) A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating an order, rule, or regulation issued under this chapter.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to a person who committed such violation or by administrative action under subsection (b) of this section.

(b) Penalties for willful violations; issuance of cease-and-desist orders; judicial review of orders; penalty for failure to obey cease-and-desist order

(1)(A) A person who willfully violates an order, rule, or regulation issued by the Secretary under this chapter may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offense.

(C) In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order, rule, or regulation.

(D) No penalty may be assessed or cease-and-desist order issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

(E) An order issued under this paragraph by the Secretary shall be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than 30 days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the court of appeals of the United States for the circuit in which such person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by—

(i) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which such violation was found.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease-and-desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(c) Availability of additional remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 99–198, title XVI, §1626, Dec. 23, 1985, 99 Stat. 1620.)

§ 4816. Investigations

(a) Purposes

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether a person subject to this chapter has engaged, or is about to engage, in an act that constitutes, or will constitute, a violation of this chapter or an order, rule, or regulation issued under this chapter.

(b) Oaths and affirmations; subpenas

(1) For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry.

(2) Such attendance of witnesses and the production of such records may be required from any place in the United States.

(c) Judicial enforcement; contempt proceedings; service of process

(1) In the case of contumacy, or refusal to obey a subpoena, by a person, the Secretary may invoke the aid of a court of the United States with jurisdiction over such investigation or proceeding, or where such person resides or does business, in requiring the attendance and testimony of such person and the production of such records.

(2) The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation.

(3) A failure to obey an order issued under this section by the court may be punished by the court as a contempt thereof.

(4) Process in such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

(Pub. L. 99–198, title XVI, § 1627, Dec. 23, 1985, 99 Stat. 1621.)

§ 4817. Preemption

(a) Promotion and consumer education; funds from pork producers

This chapter is intended to occupy the field of—

(1) promotion and consumer education involving pork and pork products; and

(2) obtaining funds therefor from pork producers.

(b) Additional or different State regulation prohibited

The regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from this chapter may not be imposed by a State.

(c) Application of section

This section shall apply only during a period beginning on the date of the commencement of the collection of assessments under section 4809 of this title and ending on the date of the termination of the collection of assessments under section 4811(a)(3) or 4811(b)(1)(B)[1] of this title.

(Pub. L. 99–198, title XVI, § 1628, Dec. 23, 1985, 99 Stat. 1621.)

[1] So in original. Probably should be ''section 4811(b)(2)(A) or 4812(b)(1)(B)''.

§ 4818. Administrative provision

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 99–198, title XVI, § 1629, Dec. 23, 1985, 99 Stat. 1621.)

§ 4819. Authorization of appropriations

(a) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out this chapter, subject to reimbursement from the Board under section 4809(c)(3)(B)(iv) of this title.

(b) Sums appropriated to carry out this chapter shall not be available for payment of an expense or expenditure incurred by the Board in administering an order.

(Pub. L. 99–198, title XVI, § 1630, Dec. 23, 1985, 99 Stat. 1621.)

CHAPTER 80—WATERMELON RESEARCH AND PROMOTION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 4901. Congressional findings and declaration of policy

(a) Congress finds that—

(1) the per capita consumption of watermelons in the United States has declined steadily in recent years;

(2) watermelons are an important cash crop to many farmers in the United States and are an economical, enjoyable, and healthful food for consumers;

(3) approximately 2,607,600,000 pounds of watermelons with a farm value of $158,923,000 were produced in 1981 in the United States;

(4) watermelons move in the channels of interstate commerce, and watermelons that do not move in such channels directly affect interstate commerce;

(5) the maintenance and expansion of existing markets and the establishment of new or improved markets and uses for watermelons are vital to the welfare of watermelon growers and those concerned with marketing, using, handling, and importing watermelons, as well as the general economic welfare of the Nation; and

(6) the development and implementation of coordinated programs of research, development, advertising, and promotion are necessary to maintain and expand existing markets and establish new or improved markets and uses for watermelons.

(b) It is declared to be the policy of Congress that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the development, financing (through adequate assessments on watermelons harvested in the United States, or imported into the United States, for commercial use), and carrying out of an effective, continuous, and coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's competitive position in the marketplace, and establish, maintain, and expand domestic and foreign markets for watermelons. The purpose of this chapter is to so authorize the establishment of such procedure and the development, financing, and carrying out of such program. Nothing in this chapter may be construed to dictate quality standards nor provide for the control of production or otherwise limit the right of individual watermelon producers to produce watermelons.

(Pub. L. 99–198, title XVI, § 1642, Dec. 23, 1985, 99 Stat. 1622; Pub. L. 103–189, § 8(k)(1), (2), Dec. 14, 1993, 107 Stat. 2263.)

AMENDMENTS

1993—Subsec. (a)(5). Pub. L. 103–189, § 8(k)(1), substituted ''handling, and importing'' for ''and handling''.

Subsec. (b). Pub. L. 103–189, § 8(k)(2), inserted '', or imported into the United States,'' after ''harvested in the United States'' and struck out ''produced in the United States'' after ''foreign markets for watermelons''.

SHORT TITLE OF 1993 AMENDMENT

Section 1(a) of Pub. L. 103–189 provided that: ''This Act [amending this section and sections 4902 to 4904, 4906, 4908, and 4911 to 4914 of this title] may be cited as the 'Watermelon Research and Promotion Improvement Act of 1993'.''

SHORT TITLE

Section 1641 of Pub. L. 99–198 provided that: ''This subtitle [subtitle C (§§ 1641–1657) of Pub. L. 99–198, enacting this chapter] may be cited as the 'Watermelon Research and Promotion Act'.''

§ 4902. Definitions

As used in this chapter:

(1) The term ''Secretary'' means the Secretary of Agriculture.

(2) The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(3) The term ''watermelon'' means all varieties of watermelon grown by producers in the United States or imported into the United States.

(4) The term ''handler'' means any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons in a manner specified in a plan issued under this chapter or in regulations promulgated thereunder.

(5) The term ''producer'' means any person engaged in the growing of 10 or more acres of watermelons.

(6) The term ''importer'' means any person who imports watermelons into the United States.

(7) The term ''plan'' means an order issued by the Secretary under this chapter.

(8) The term ''promotion'' means any action taken by the Board, under this chapter, to present a favorable image for watermelons to the public with the express intent of improving the competitive position of watermelons in the marketplace and stimulating sales of watermelons, and shall include, but not be limited to, paid advertising.

(9) The term ''Board'' means the National Watermelon Promotion Board provided for in section 4906 of this title.

(10) The term ''United States'' means each of the several States and the District of Columbia.

(Pub. L. 99–198, title XVI, § 1643, Dec. 23, 1985, 99 Stat. 1623; Pub. L. 103–189, §§ 3(a), 8(a), (k)(3), 9(a), Dec. 14, 1993, 107 Stat. 2259, 2261, 2263, 2264.)

AMENDMENTS

1993—Pub. L. 103–189, § 8(k)(3)(A), substituted ''chapter:'' for ''chapter—'' in introductory provisions.

Pars. (1), (2). Pub. L. 103–189, § 8(k)(3)(B), (C), substituted ''The term'' for ''the term'' and a period for semicolon at end.

Par. (3). Pub. L. 103–189, § 8(a)(1), (k)(3)(B), substituted ''The term'' for ''the term'' and ''or imported into the United States.'' for the semicolon at end.

Pub. L. 103–189, § 3(a)(1), struck out ''the forty-eight contiguous States of'' after ''by producers in''.

Par. (4). Pub. L. 103–189, § 8(k)(3)(B), (C), substituted ''The term'' for ''the term'' and a period for semicolon at end.

Par. (5). Pub. L. 103–189, § 9(a), substituted ''10'' for ''five''.

Pub. L. 103–189, § 8(k)(3)(B), (C), substituted ''The term'' for ''the term'' and a period for semicolon at end.

Pars. (6), (7). Pub. L. 103–189, § 8(a)(2), (3), added pars. (6) and (7) and redesignated former pars. (6) and (7) as (8) and (9), respectively.

Par. (8). Pub. L. 103–189, § 8(a)(2), (k)(3)(D), redesignated par. (6) as (8) and substituted ''The term'' for ''the term'' and a period for ''; and'' at end.

Par. (9). Pub. L. 103–189, § 8(a)(2), (k)(3)(E), redesignated par. (7) as (9) and substituted ''The term'' for ''the term'' and ''4906'' for ''4903''.

Par. (10). Pub. L. 103–189, § 3(a)(2), added par. (10).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4906, 4912 of this title.

§ 4903. Issuance of plans

To effectuate the declared policy of this chapter, the Secretary shall, under the provisions of this chapter, issue, and from time to time may amend, orders (applicable to producers, handlers, and importers of watermelons) authorizing the collection of assessments on watermelons under this chapter and the use of such funds to cover the costs of research, development, advertising, and promotion with respect to watermelons under this chapter. Any plan shall be applicable to watermelons produced in the United States or imported into the United States.

(Pub. L. 99–198, title XVI, § 1644, Dec. 23, 1985, 99 Stat. 1623; Pub. L. 103–189, §§ 3(b), 8(b), Dec. 14, 1993, 107 Stat. 2259, 2261.)

AMENDMENTS

1993—Pub. L. 103–189, in first sentence, substituted '', handlers, and importers'' for ''and handlers'', struck out after first sentence ''Any order issued by the Secretary under this chapter shall hereinafter in this chapter be referred to as a 'plan'.'', and in last sentence, struck out ''the forty-eight contiguous States of'' after ''watermelons produced in'', and inserted ''or imported into the United States'' before period at end.

§ 4904. Notice and hearings

(a) When sufficient evidence, as determined by the Secretary, is presented to the Secretary by watermelon producers, handlers, and importers, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for a hearing on a proposed plan. Such hearing may be requested by watermelon producers, handlers, or importers or by any other interested person, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(b) After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue a plan if the Secretary finds, and sets forth in such plan, on the evidence introduced at the hearing that the issuance of the plan and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 99–198, title XVI, § 1645, Dec. 23, 1985, 99 Stat. 1623; Pub. L. 103–189, § 8(c), Dec. 14, 1993, 107 Stat. 2261.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–189 substituted '', handlers, and importers'' for ''and handlers'' and '', handlers, or importers'' for ''or handlers''.

§ 4905. Regulations

The Secretary may issue such regulations as may be necessary to carry out the provisions of this chapter and the powers vested in the Secretary under this chapter.

(Pub. L. 99–198, title XVI, § 1646, Dec. 23, 1985, 99 Stat. 1624.)

§ 4906. Required terms in plans

(a) Description of terms and provisions

Any plan issued under this chapter shall contain the terms and provisions described in this section.

(b) Establishment and powers of National Watermelon Promotion Board

The plan shall provide for the establishment by the Secretary of the National Watermelon Promotion Board and for defining its powers and duties, which shall include the powers to—

(1) administer the plan in accordance with its terms and conditions;

(2) make rules and regulations to effectuate the terms and conditions of the plan;

(3) receive, investigate, and report to the Secretary complaints of violations of the plan; and

(4) recommend to the Secretary amendments to the plan.

(c) Membership of Board; representation of interests; appointment; nomination; eligibility of producers; importer representation

(1) The plan shall provide that the Board shall be composed of representatives of producers and handlers, and one representative of the public, appointed by the Secretary from nominations submitted in accordance with this subsection. An equal number of representatives of producers and handlers shall be nominated by producers and handlers, and the representative of the public shall be nominated by the other members of the Board, in such manner as may be prescribed by the Secretary. If producers and handlers fail to select nominees for appointment to the Board, the Secretary may appoint persons on the basis of representation as provided for in the plan. If the Board fails to nominate a public representative, the Secretary shall choose such representative for appointment.

(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.

(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the

Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.

(d) Compensation and expenses of Board

The plan shall provide that all Board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the Board.

(e) Budget on fiscal period basis

The plan shall provide that the Board shall prepare and submit to the Secretary for the Secretary's approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research, development, advertising, and promotion.

(f) Assessments; payments; notice

The plan shall provide for the fixing by the Secretary of assessments to cover costs incurred under the budgets provided for in subsection (e) of this section, and under section 4907(f) of this title, based on the Board's recommendation as to the appropriate rate of assessment, and for the payment of the assessments to the Board..[1] In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.

(g) Scope of expenditures; restrictions; assessments on per-unit basis; importers

The plan shall provide the following:

(1) Funds received by the Board shall be used for research, development, advertising, or promotion of watermelons and such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this chapter.

(2) No advertising or sales promotion program under this chapter shall make any reference to private brand names nor use false or unwarranted claims in behalf of watermelons or their products or false or unwarranted statements with respect to attributes or use of any competing products.

(3) No funds received by the Board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsections (b)(4) and (f) of this section.

(4) Assessments shall be made on watermelons produced by producers and watermelons handled by handlers, and the rate of such assessments in the case of producers and handlers shall be the same, on a per-unit basis, for producers and handlers. If a person performs both producing and handling functions, both assessments shall be paid by such person.

(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.

(h) Refunds

(1) Except as provided in paragraph (2), the plan shall provide that, notwithstanding any other provisions of this chapter, any watermelon producer or handler (or importer who is subject to the plan) against whose watermelons an assessment is made and collected under this chapter and who is not in favor of supporting the research, development, advertising, and promotion program provided for under this chapter shall have the right to demand a refund of the assessment from the Board, under regulations, and on a form and within a time period (not less than 90 days), prescribed by the Board and approved by the Secretary. A producer or handler (or importer who is subject to the plan) who timely makes demand in accord with the regulations, on submission of proof satisfactory to the Board that the producer, handler, or importer paid the assessment for which the refund is sought, shall receive such refund within 60 days after demand therefor.

(2) If approved in the referendum required by section 4914(b) of this title relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before December 14, 1993, to eliminate the refund provision.

(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.

(i) Submission of programs or projects; approval by Secretary

The plan shall provide that the Board, subject to the provisions of subsections (e), (f), and (g) of this section, shall develop and submit to the Secretary, for the Secretary's approval, any research, development, advertising, or promotion

[1] So in original.

program or project, and that a program or project must be approved by the Secretary before becoming effective.

(j) Contract authority

The plan shall provide the Board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected under this chapter.

(k) Recordkeeping; accounting and audit reports

The plan shall provide that the Board shall (1) maintain books and records, (2) prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and (3) cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

(*l*) Certification

The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 4902(5) of this title.

(Pub. L. 99–198, title XVI, § 1647, Dec. 23, 1985, 99 Stat. 1624; Pub. L. 103–189, §§ 4–7, 8(d)–(f), (k)(4), 9(b), Dec. 14, 1993, 107 Stat. 2260–2262, 2264.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–189, §§ 4, 8(d), designated existing provisions as par. (1), substituted ''other members of the Board'' for ''producer and handler members of the Board'' in second sentence, and added pars. (2) and (3).

Subsec. (f). Pub. L. 103–189, §§ 5(1), 6, substituted ''payment of the assessments to the Board.'' for ''collection of the assessments by the Board'' and inserted at end ''In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.''

Subsec. (g). Pub. L. 103–189, § 8(k)(4)(A), substituted ''the following:'' for ''that—'' in introductory provisions.

Subsec. (g)(1). Pub. L. 103–189, §§ 5(2), 8(k)(4)(B), substituted ''Funds received'' for ''funds collected'' and a period for semicolon at end.

Subsec. (g)(2). Pub. L. 103–189, § 8(k)(4)(C), substituted ''No'' for ''no'' and a period for semicolon at end.

Subsec. (g)(3). Pub. L. 103–189, §§ 5(2), 8(k)(4)(D), substituted ''No'' for ''no'', ''received'' for ''collected'', and a period for ''; and'' at end.

Subsec. (g)(4). Pub. L. 103–189, § 8(e)(1), substituted ''Assessments'' for ''assessments'' and inserted ''in the case of producers and handlers'' after ''such assessments''.

Subsec. (g)(5). Pub. L. 103–189, § 8(e)(2), added par. (5).

Subsec. (h). Pub. L. 103–189, §§ 7, 8(f), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), the'' for ''The'', inserted ''(or importer who is subject to the plan)'' after ''or handler'' the first two places appearing, substituted '', handler, or importer paid the assessment'' for ''or handler paid the assessment'', and added pars. (2) and (3).

Subsec. (*l*). Pub. L. 103–189, § 9(b), added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4902, 4907, 4908 of this title.

§ 4907. Permissive terms in plans

(a) Description of terms and provisions; prohibition

Any plan issued under this chapter may contain one or more of the terms and provisions described in this section, but except as provided in section 4906 of this title no others.

(b) Exemptions

The plan may provide for the exemption, from the provisions of the plan, of watermelons used for nonfood uses, and authority for the Board to establish satisfactory safeguards against improper use of such exemption.

(c) Designation of different handler payment and reporting schedules for assessments

The plan may provide for the designation of different handler payment and reporting schedules with respect to assessments, as provided for in sections 4906 and 4908 of this title, to recognize differences in marketing practices and procedures used in different production areas.

(d) Advertising and sales promotion programs or projects

The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and other sales promotion of watermelons and for the disbursement of necessary funds for such purposes. Any such program or project shall be directed toward increasing the general demand for watermelons, and promotional activities shall comply with the provisions of section 4906(g) of this title.

(e) Marketing objectives of research and development projects and studies

The plan may provide for establishing and carrying out research and development projects and studies to the end that the marketing and use of watermelons may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) Reserve funds; limitation

The plan may provide authority for the accumulation of reserve funds from assessments collected under this chapter, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when watermelon production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for two years operation.

(g) Foreign market sales

The plan may provide for the use of funds from assessments collected under this chapter, with the approval of the Secretary, for the development and expansion of sales of watermelons in foreign markets.

(h) Other terms and conditions

The plan may contain terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of the plan.

(Pub. L. 99–198, title XVI, § 1648, Dec. 23, 1985, 99 Stat. 1625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4906, 4912 of this title.

§ 4908. Assessment procedures

(a) Persons responsible for remittance of assessments; recordkeeping; equal and unitary assessments

(1) Each handler required to pay assessments under a plan, as provided for under section 4906(f) of this title, shall be responsible for payment to the Board, as it may direct, of the assessments. A handler also shall collect from any producer, or shall deduct from the proceeds paid to any producer, on whose watermelons a producer assessment is made, the assessments required to be paid by the producer. The handler shall remit producer assessments to the Board as the Board directs. Such handler shall maintain a separate record with respect to each producer for whom watermelons were handled. Such records shall indicate the total quantity of watermelons handled by the handler, including those handled for producers and for the handler, the total quantity of watermelons handled by the handler that are included under the terms of the plan, as well as those that are exempt under the plan, and such other information as may be prescribed by the Board. To facilitate the collection and payment of assessments, the Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures used in any State or area. The handler shall be assessed an equal amount as the producer. No more than one assessment on a producer nor more than one assessment on a handler shall be made on any watermelons.

(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

(ii) the total quantity of watermelons that are exempt from the plan; and

(iii) such other information as may be prescribed by the Board.

(D) No more than 1 assessment shall be made on any imported watermelon.

(b) Inspection of records

Handlers and importers responsible for payment of assessments under subsection (a) of this section shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the Board and to the Secretary that is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any plan or regulation issued under this chapter.

(c) Confidentiality of information; disclosure authority; general or violation statements; penalties; removal from office

All information obtained under subsections (a) and (b) of this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this subsection shall be deemed to prohibit—

(1) the issuance of general statements based on the reports of a number of handlers or importers subject to a plan if such statements do not identify the information furnished by any person; or

(2) the publication by direction of the Secretary of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both, and shall be removed from office.

(Pub. L. 99–198, title XVI, § 1649, Dec. 23, 1985, 99 Stat. 1626; Pub. L. 103–189, § 8(g), Dec. 14, 1993, 107 Stat. 2262.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–189, § 8(g)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 103–189, § 8(g)(2), inserted ''and importers'' after ''Handlers''.

Subsec. (c)(1). Pub. L. 103–189, § 8(g)(3), inserted ''or importers'' after ''handlers''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4907, 4912 of this title.

§ 4909. Petition and review

(a) Any person subject to a plan may file a written petition with the Secretary, stating that the plan or any provision of the plan, or any obligation imposed in connection therewith, is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The person shall be given an opportunity for a hearing on the petition, in accordance with regulations prescribed by the Secretary. After the hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with the law.

(b) The district courts of the United States in any district in which the person is an inhabitant, or in which the person's principal place of business is located, are hereby vested with jurisdiction to review such ruling, provided that a

complaint for that purpose is filed within twenty days from the date of the entry of the ruling. Service of process in such proceedings may be had on the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand the proceedings to the Secretary with directions either to (1) make such ruling as the court shall determine to be in accordance with law, or (2) take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted under subsection (a) of this section shall not impede or delay the United States or the Secretary from obtaining relief under section 4910(a)[1] of this title.

(Pub. L. 99–198, title XVI, § 1650, Dec. 23, 1985, 99 Stat. 1627.)

REFERENCES IN TEXT

Section 4910(a) of this title, referred to in subsec. (b), was in the original ''section 1851(a)'', a nonexistent section in Pub. L. 99–198, and has been translated as if the reference had been to ''section 1651(a)'' to reflect the probable intent of Congress.

§ 4910. Enforcement

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation made or issued under this chapter. The facts relating to any civil action that may be brought under this subsection shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of the plan or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing the violations.

(b)(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person thereunder, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation. No penalty shall be assessed nor cease and desist order issued unless the person is given notice and opportunity for a hearing before the Secretary with respect to the violation. The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person affected by the order files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days after the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record on which the violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2), of not more than $500 for each offense. Each day during which the failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 99–198, title XVI, § 1651, Dec. 23, 1985, 99 Stat. 1627.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4909 of this title.

§ 4911. Investigation and power to subpoena

(a) The Secretary may make such investigations as the Secretary deems necessary to carry out effectively the Secretary's responsibilities under this chapter or to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this chapter, or of any plan or regulation issued under this chapter. For the purpose of an investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a handler (or an importer who is subject to the plan), the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring the person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

[1] See References in Text note below.

Any failure to obey such order of the court may be punished by the court as contempt thereof. All process in any such case may be served in the judicial district in which the person is an inhabitant or wherever the person may be found. The site of any hearing held under this subsection shall be within the judicial district in which the person is an inhabitant or in which the person's principal place of business is located.

(b) No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based on, or growing out of, any alleged violation of this chapter, or of any plan or regulation issued thereunder, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, no person shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 99–198, title XVI, §1652, Dec. 23, 1985, 99 Stat. 1628; Pub. L. 103–189, §8(h), Dec. 14, 1993, 107 Stat. 2262.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–189, in first sentence, substituted ''a person'' for ''a handler or any other person'', in fourth sentence, inserted ''(or an importer who is subject to the plan)'' after ''a handler'', and in last sentence, substituted ''the person'' for ''the handler or other person''.

§ 4912. Requirement of referendum

(a) The Secretary shall conduct a referendum among producers, handlers, and importers not exempt under sections 4902(5) and 4907(b) of this title who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons, for the purpose of ascertaining whether the issuance of a plan is approved or favored by producers, handlers, and importers. The ballots and other information or reports that reveal or tend to reveal the vote of any producer, handler, or importer or the person's volume of watermelons produced, handled, or imported shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall be subject to the penalties provided in section 4908(c) of this title.

(b) A plan issued under this chapter shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.

(Pub. L. 99–198, title XVI, §1653, Dec. 23, 1985, 99 Stat. 1629; Pub. L. 103–189, §§2, 8(i), Dec. 14, 1993, 107 Stat. 2259, 2262.)

AMENDMENTS

1993—Pub. L. 103–189 designated existing provisions as subsec. (a), added subsec. (b), and in subsec. (a) substituted '', handlers, and importers'' for ''and handlers'' in two places and '', handling, or importing'' for ''or handling'' in first sentence, substituted '', handler, or importer'' for ''or handler'' and '', handled, or imported'' for ''or handled'' in sentence beginning with ''The ballots'', and struck out after first sentence ''The referendum shall be conducted at the county extension offices. No plan issued under this chapter shall be effective unless the Secretary determines that the issuance of the plan is approved or favored by not less than two-thirds of the producers and handlers voting in such referendum, or by the producers and handlers of not less than two-thirds of the watermelons produced and handled during the representative period by producers and handlers voting in such referendum, and by not less than a majority of the producers and a majority of the handlers voting in the referendum.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4914 of this title.

§ 4913. Suspension or termination of plans

(a) Whenever the Secretary finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this chapter, the Secretary shall terminate or suspend the operation of the plan or provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or at least 10 percent of the combined total of the watermelon producers, handlers, and importers eligible to vote in a referendum, to determine if watermelon producers, handlers, and importers favor the termination or suspension of the plan. The Secretary shall terminate or suspend the plan at the end of the marketing year whenever the Secretary determines that the termination or suspension is favored by a majority of those voting in the referendum, and who produce, handle, or import more than 50 per cent of the combined total of the volume of the watermelons produced by the producers, handled by the handlers, or imported by the importers voting in the referendum.

(Pub. L. 99–198, title XVI, §1654, Dec. 23, 1985, 99 Stat. 1630; Pub. L. 103–189, §8(j), Dec. 14, 1993, 107 Stat. 2263.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–189, §8(j)(3), struck out at end ''Any such referendum shall be conducted at county extension offices.''

Pub. L. 103–189, §8(j)(2)(C), which directed the substitution of '', handled by the handlers, or imported by the importers'' for ''or handled by the handlers,'' in second sentence, was executed by making the substitution in text which did not contain a comma after the word ''handlers'', to reflect the probable intent of Congress.

Pub. L. 103–189, §8(j)(1)–(2)(B), in first sentence, substituted ''at least 10 percent of the combined total'' for ''10 per centum or more'' and '', handlers, and importers'' for ''and handlers'' in two places, and in second sentence, substituted '', handle, or import'' for ''or handle'' and ''50 percent of the combined total'' for ''50 per centum''.

§ 4914. Amendment procedure

(a) In general

Before a plan issued by the Secretary under this chapter may be amended, the Secretary

shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 4912 of this title.

(b) Separate consideration of amendments

(1) In general

The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 4912 of this title before the Secretary alters the plan as in effect on the day before December 14, 1993.

(2) Amendments

The amendments referred to in paragraph (1) are the amendments to a plan required under—

(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

(3) Importers

When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.

(Pub. L. 99–198, title XVI, §1655, Dec. 23, 1985, 99 Stat. 1630; Pub. L. 103–189, §10, Dec. 14, 1993, 107 Stat. 2264.)

REFERENCES IN TEXT

The Watermelon Research and Promotion Improvement Act of 1993, referred to in subsec. (b)(1), (2), is Pub. L. 103–189, Dec. 14, 1993, 107 Stat. 2259, which amended this section and sections 4901 to 4904, 4906, 4908, and 4911 to 4913 of this title, and enacted provisions set out as a note under section 4901 of this title. Section 7 of the Act amended section 4906 of this title. Section 8 of the Act amended sections 4901 to 4904, 4906, 4908, and 4911 to 4913 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 4901 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–189 amended section generally. Prior to amendment, section read as follows: ''The provisions of this chapter applicable to plans shall be applicable to amendments to plans.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4906 of this title.

§4915. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 99–198, title XVI, §1656, Dec. 23, 1985, 99 Stat. 1630.)

§4916. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter, except that the funds so appropriated shall not be available for the payment of any expenses or expenditures of the Board in administering any provision of any plan issued under authority of this chapter.

(Pub. L. 99–198, title XVI, §1657, Dec. 23, 1985, 99 Stat. 1630.)

CHAPTER 81—NATIONAL COMMISSION ON AGRICULTURE AND RURAL DEVELOPMENT POLICY

§§ 5001 to 5007. Omitted

CODIFICATION

Sections 5001 to 5007 were omitted pursuant to section 5007 which provided that this chapter and the National Commission on Agriculture and Rural Development Policy established by this chapter terminated 5 years after Dec. 23, 1985.

Section 5001, Pub. L. 99–198, title XVII, §1722, Dec. 23, 1985, 99 Stat. 1637; Pub. L. 100–71, title V, §519(a)(2), July 11, 1987, 101 Stat. 475, defined ''Commission'', ''Governor'', and ''State''.

Section 5002, Pub. L. 99–198, title XVII, §1723, Dec. 23, 1985, 99 Stat. 1637; Pub. L. 100–71, title V, §519(a)(2), July 11, 1987, 101 Stat. 475, provided for establishment of the Commission, appointment of its members by President, election of Chairman, and meetings of the Commission.

Section 5003, Pub. L. 99–198, title XVII, §1724, Dec. 23, 1985, 99 Stat. 1638, related to studies to be conducted by the Commission.

Section 5004, Pub. L. 99–198, title XVII, §1725, Dec. 23, 1985, 99 Stat. 1639, provided for annual reports to President and Congress.

Section 5005, Pub. L. 99–198, title XVII, §1726, Dec. 23, 1985, 99 Stat. 1639, provided for administrative operations of the Commission, member compensation, appointment and compensation of director and staff, and maintenance of records.

Section 5006, Pub. L. 99–198, title XVII, §1727, Dec. 23, 1985, 99 Stat. 1640, authorized appropriations to carry out chapter.

Section 5007, Pub. L. 99–198, title XVII, §1728, Dec. 23, 1985, 99 Stat. 1640, provided that this chapter and the Commission terminate five years after Dec. 23, 1985.

SHORT TITLE

Section 1721 of subtitle C (§§1721–1728) of title XVII of Pub. L. 99–198, as amended by Pub. L. 100–71, title V, §519(a)(1), July 11, 1987, 101 Stat. 475, provided that this subtitle, which enacted this chapter, could be cited as the ''National Commission on Agriculture and Rural Development Policy Act of 1985''.

CHAPTER 82—STATE AGRICULTURAL LOAN MEDIATION PROGRAMS

Sec.

5101. Qualifying States.
(a) In general.
(b) Determination by Secretary.
(c) Requirements of State mediation programs.
5102. Matching grants to States.
(a) Matching grants.
(b) Amount of grant.
(c) Use of grant.
(d) Penalty.
5103. Participation of Federal agencies.
(a) Duties of Secretary of Agriculture.
(b) Duties of Farm Credit Administration.
5104. Regulations.

Sec.
5105. Report.
5106. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6995 of this title.

§ 5101. Qualifying States

(a) In general

A State is a qualifying State if the Secretary of Agriculture (hereinafter in this chapter referred to as the ''Secretary'') determines that the State has in effect a mediation program that meets the requirements of subsection (c) of this section.

(b) Determination by Secretary

Within 15 days after the Secretary receives from the Governor of a State a description of the mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c) of this section, the Secretary shall determine whether the State is a qualifying State.

(c) Requirements of State mediation programs

(1) Issues covered

To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

(A) Wetlands determinations.

(B) Compliance with farm programs, including conservation programs.

(C) Agricultural credit.

(D) Rural water loan programs.

(E) Grazing on National Forest System lands.

(F) Pesticides.

(G) Such other issues as the Secretary considers appropriate.

(2) Persons eligible for mediation

The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

(3) Certification conditions

The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

(B) is authorized or administered by an agency of the State government or by the Governor of the State;

(C) provides for the training of mediators;

(D) provides that the mediation sessions shall be confidential;

(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.

(Pub. L. 100–233, title V, § 501, Jan. 6, 1988, 101 Stat. 1662; Pub. L. 100–399, title V, § 501, Aug. 17, 1988, 102 Stat. 1005; Pub. L. 103–354, title II, § 282(a), Oct. 13, 1994, 108 Stat. 3233.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–354, § 282(a)(1), substituted ''a mediation program'' for ''an agricultural loan mediation program''.

Subsec. (b). Pub. L. 103–354, § 282(a)(2), struck out ''agricultural loan'' before ''mediation program''.

Subsec. (c). Pub. L. 103–354, § 282(a)(3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

''(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

''(2) is authorized or administered by an agency of the State government or by the Governor of the State;

''(3) provides for the training of mediators;

''(4) provides that the mediation sessions shall be confidential; and

''(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.''

1988—Subsec. (b). Pub. L. 100–399 struck out comma after ''Governor of a State''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5102, 5103 of this title.

§ 5102. Matching grants to States

(a) Matching grants

Within 60 days after the Secretary certifies the State as a qualifying State under section 5101(b) of this title, the Secretary shall provide financial assistance to the State, in accordance with subsection (b) of this section, for the operation and administration of the mediation program.

(b) Amount of grant

(1) In general

Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) of this section not more than 70 percent of the cost of the operation and administration of the mediation program within the State.

(2) Maximum amount

The Secretary shall not pay more than $500,000 per year to a single State under subsection (a) of this section.

(c) Use of grant

Each State that receives an amount paid under subsection (a) of this section shall use

that amount only for the operation and administration of the mediation program of the State with respect to which the amount was paid.

(d) Penalty

If the Secretary determines that a State has not complied with subsection (c) of this section, such State shall not be eligible for additional financial assistance under this chapter.

(Pub. L. 100–233, title V, § 502, Jan. 6, 1988, 101 Stat. 1663; Pub. L. 102–554, § 22, Oct. 28, 1992, 106 Stat. 4161; Pub. L. 103–354, title II, § 282(f)(1)(A), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Subsecs. (a), (b)(1), (c). Pub. L. 103–354 struck out ''agricultural loan'' before ''mediation program''.

1992—Subsec. (b)(1). Pub. L. 102–554, § 22(1), substituted ''70'' for ''50''.

Subsec. (c). Pub. L. 102–554, § 22(2), inserted before period at end ''with respect to which the amount was paid''.

§ 5103. Participation of Federal agencies

(a) Duties of Secretary of Agriculture

(1) In general

The Secretary, with respect to each program or agency under the jurisdiction of the Secretary—

(A) shall prescribe rules requiring each such program or agency to participate in good faith in any State mediation program certified under section 5101 of this title;

(B) shall participate in mediation programs certified under section 5101 of this title; and

(C) shall—

(i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program certified under section 5101 of this title; and

(ii) if applicable, present and explore debt restructuring proposals advanced in the course of such mediation.

(2) Nonbinding on Secretary

The Secretary shall not be bound by any determination made in a program described in section 5101 of this title if the Secretary has not agreed to such determination.

(b) Duties of Farm Credit Administration

The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program described in section 5101 of this title; and

(2) to present and explore debt restructuring proposals advanced in the course of such mediation.

(Pub. L. 100–233, title V, § 503, Jan. 6, 1988, 101 Stat. 1663; Pub. L. 100–399, title V, § 502, Aug. 17, 1988, 102 Stat. 1005; Pub. L. 103–354, title II, § 282(b), Oct. 13, 1994, 108 Stat. 3234.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–354, § 282(b)(2), in introductory provisions inserted ''or agency'' after ''each program'' and struck out ''that makes, guarantees, or insures agricultural loans'' after ''of the Secretary''.

Subsec. (a)(1)(A). Pub. L. 103–354, § 282(b)(1), (3), inserted ''or agency'' after ''such program'', struck out ''agricultural loan'' after ''any State'', and inserted ''certified under section 5101 of this title'' after ''mediation program''.

Subsec. (a)(1)(B). Pub. L. 103–354, § 282(b)(1), (4), struck out '', effective beginning on January 6, 1988,'' after ''shall'', and ''agricultural loan'' after ''participate in'', and inserted ''certified under section 5101 of this title'' after ''mediation programs''.

Subsec. (a)(1)(C)(i). Pub. L. 103–354, § 282(b)(1), (5)(A), struck out ''agricultural loan'' before ''mediation program'' and substituted ''certified under'' for ''described in''.

Subsec. (a)(1)(C)(ii). Pub. L. 103–354, § 282(b)(5)(B), inserted ''if applicable,'' before ''present''.

Subsec. (b)(1). Pub. L. 103–354, § 282(b)(1), struck out ''agricultural loan'' before ''mediation program''.

1988—Subsec. (a)(1)(B). Pub. L. 100–399, § 502(a), inserted ''effective beginning'' before ''on''.

Subsec. (a)(2). Pub. L. 100–399, § 502(b), substituted ''section 5101 of this title'' for ''paragraph (1)''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of Title 12, Banks and Banking.

§ 5104. Regulations

The Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this chapter. The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.

(Pub. L. 100–233, title V, § 504, Jan. 6, 1988, 101 Stat. 1664; Pub. L. 103–354, title II, § 282(c), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 in first sentence substituted ''The'' for ''Within 150 days after January 6, 1988, the'' and inserted at end ''The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.''

§ 5105. Report

Not later than January 1, 1998, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State mediation programs receiving matching grants under this chapter;

(2) recommendations for improving the delivery of mediation services to producers; and

(3) the savings to the States as a result of having a mediation program.

(Pub. L. 100–233, title V, § 505, Jan. 6, 1988, 101 Stat. 1664; Pub. L. 103–354, title II, § 282(d), (f)(1), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 in introductory provisions substituted ''1998'' for ''1990'', in par. (1) struck out ''agricultural loan'' before ''mediation programs'', and in par. (3) substituted ''a mediation'' for ''an agricultural loan mediation''.

§ 5106. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter $7,500,000 for each of the fiscal years 1988 through 2000.

(Pub. L. 100–233, title V, § 506, Jan. 6, 1988, 101 Stat. 1664; Pub. L. 101–624, title XVIII, § 1853, Nov. 28, 1990, 104 Stat. 3837; Pub. L. 103–354, title II, § 282(e), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 substituted ''2000'' for ''1995''.
1990—Pub. L. 101–624 substituted ''1995'' for ''1991''.

CHAPTER 83—AGRICULTURAL COMPETITIVENESS AND TRADE

SUBCHAPTER I—FINDINGS, POLICY, AND PURPOSE

Sec.
5201. Findings.
5202. Policy.
5203. Purpose.

SUBCHAPTER II—AGRICULTURAL TRADE INITIATIVES

PART A—GENERAL PROVISIONS

5211, 5212. Repealed.
5213. Joint development assistance agreements with certain trading partners.
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PART B—FOREIGN AGRICULTURAL SERVICE

5231 to 5233. Repealed.
5234. Cooperator organizations.
(a) Sense of Congress.
(b) Commodities for cooperator organizations.
(c) Relation to funds.
(d) Conflicts of interest.
(e) Evaluation.
5235. Authorization of additional appropriations.

SUBCHAPTER I—FINDINGS, POLICY, AND PURPOSE

§ 5201. Findings

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4[1] of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

[1] See References in Text note below.

(Pub. L. 100–418, title IV, § 4101, Aug. 23, 1988, 102 Stat. 1388.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in pars. (8) and (9), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in pars. (8) and (9), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), referred to in par. (9), was repealed by Pub. L. 101–624, title XV, § 1574, Nov. 28, 1990, 104 Stat. 3702. See subchapter II (§ 5621 et seq.) of chapter 87 of this title.

SHORT TITLE

Section 4001 of title IV of Pub. L. 100–418 provided that: ''This title [enacting this chapter, section 2112 of Title 16, Conservation, and sections 1401, 1402, and 1403 of Title 21, Food and Drugs, amending sections 608c, 608e–1, 626, 1704, 1707a, 1726, 1736*o*, 1736s, 1736t, 1736v, 1736x, 1736bb, and 1736bb–3 to 1736bb–6 of this title, section 713a–14 of Title 15, Commerce and Trade, and section 620 of Title 21, and enacting provisions set out as notes under sections 624, 1431, 1446, 1691, and 1736t of this title and section 1401 of Title 21] may be cited as the 'Agricultural Competitiveness and Trade Act of 1988'.''

§ 5202. Policy

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 2901(b) of title 19 to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

(Pub. L. 100–418, title IV, § 4102, Aug. 23, 1988, 102 Stat. 1390.)

§ 5203. Purpose

It is the purpose of this chapter—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

(Pub. L. 100–418, title IV, § 4103, Aug. 23, 1988, 102 Stat. 1390.)

SUBCHAPTER II—AGRICULTURAL TRADE INITIATIVES

PART A—GENERAL PROVISIONS

§§ 5211, 5212. Repealed. Pub. L. 101–624, title XV, § 1571, Nov. 28, 1990, 104 Stat. 3702

Section 5211, Pub. L. 100–418, title IV, § 4201, Aug. 23, 1988, 102 Stat. 1390, related to annual reports by Secretary of Agriculture on long-term agricultural trade strategy. See section 5711 of this title.

Section 5212, Pub. L. 100–418, title IV, § 4202, Aug. 23, 1988, 102 Stat. 1391, directed Secretary of Agriculture to provide technical services to United States Trade Representative on matters concerning agricultural trade. See section 5675 of this title.

§ 5213. Joint development assistance agreements with certain trading partners

(a) Development of plan

With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) Agreement

The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreedon development activities in developing countries.

(Pub. L. 100–418, title IV, § 4203, Aug. 23, 1988, 102 Stat. 1392.)

§ 5214. Reorganization evaluation

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress,

together with the views and recommendations of the private sector advisory committee.

(Pub. L. 100–418, title IV, § 4204, Aug. 23, 1988, 102 Stat. 1392.)

§§ 5215, 5216. Repealed. Pub. L. 101–624, title XV, § 1571, Nov. 28, 1990, 104 Stat. 3702

Section 5215, Pub. L. 100–418, title IV, § 4205, Aug. 23, 1988, 102 Stat. 1392, authorized Secretary of Agriculture to contract with individuals for services to be performed outside United States. See section 5673 of this title.

Section 5216, Pub. L. 100–418, title IV, § 4206, Aug. 23, 1988, 102 Stat. 1392, provided for establishment of a trade assistance office within Foreign Agricultural Service.

PART B—FOREIGN AGRICULTURAL SERVICE

§§ 5231 to 5233. Repealed. Pub. L. 101–624, title XV, § 1571, Nov. 28, 1990, 104 Stat. 3702

Section 5231, Pub. L. 100–418, title IV, § 4211, Aug. 23, 1988, 102 Stat. 1393, provided for staffing of Foreign Agricultural Service. See section 5694 of this title.

Section 5232, Pub. L. 100–418, title IV, § 4212, Aug. 23, 1988, 102 Stat. 1394, provided for an agricultural attaché educational program. See section 1749 of this title.

Section 5233, Pub. L. 100–418, title IV, § 4213, Aug. 23, 1988, 102 Stat. 1394, provided for the allocation of agricultural attaché resource time.

§ 5234. Cooperator organizations

(a) Sense of Congress

It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) Commodities for cooperator organizations

The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) Relation to funds

Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) Conflicts of interest

The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) Evaluation

It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

(Pub. L. 100–418, title IV, § 4214, Aug. 23, 1988, 102 Stat. 1394.)

§ 5235. Authorization of additional appropriations

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

(Pub. L. 100–418, title IV, § 4215, Aug. 23, 1988, 102 Stat. 1395.)

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§ 5301. Congressional statement of purposes

The purposes of this chapter are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

(Pub. L. 101–445, § 2, Oct. 22, 1990, 104 Stat. 1034.)

SHORT TITLE

Section 1 of Pub. L. 101–445 provided that: ''This Act [enacting this chapter] may be cited as the 'National Nutrition Monitoring and Related Research Act of 1990'.''

§ 5302. Definitions

As used in this chapter—

(1) the term ''comprehensive plan'' means the comprehensive plan prepared under section 5313 of this title;

(2) the term ''coordinated program'' means the National Nutrition Monitoring and Related Research Program established by section 5311(a) of this title;

(3) the terms ''Interagency Board for Nutrition Monitoring and Related Research'' and ''Board'' mean the Federal coordinating body established by section 5311(c) of this title;

(4) the term ''Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System'' means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 3178 of this title;

(5) the term ''local government'' means a local general unit of government or local educational unit;

(6) the terms ''National Nutrition Monitoring Advisory Council'' and ''Council'' mean the advisory body established under section 5331 of this title;

(7) the term ''nutrition monitoring and related research'' means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(8) the term ''nutritional quality'' means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of nonnutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and

(9) the term ''Secretaries'' means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

(Pub. L. 101–445, § 3, Oct. 22, 1990, 104 Stat. 1035.)

SUBCHAPTER I—NUTRITION MONITORING AND RELATED RESEARCH

§ 5311. Establishment of coordinated program

(a) In general

There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this chapter.

(b) Implementation responsibility

The Secretaries shall be responsible for the implementation of the coordinated program.

(c) Establishment of Board

To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human

Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following October 22, 1990, and when appropriate thereafter.

(d) Administrator

To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

(Pub. L. 101–445, title I, §101, Oct. 22, 1990, 104 Stat. 1035.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5331 of this title.

§ 5312. Functions of Secretaries

(a) In general

The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program, identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 5313 of this title;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this chapter to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 5313(a)(3) of this title) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this chapter, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 5313(a)(5) and 5313(b)(9) of this title);

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such report at least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) Biennial report

The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following October 22, 1990, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 5313 of this title;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8) of this section, and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 5332 of this title; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8) of this section.

(Pub. L. 101–445, title I, §102, Oct. 22, 1990, 104 Stat. 1036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5332 of this title.

§ 5313. Development of comprehensive plan for National Nutrition Monitoring and Related Research Program

(a) Comprehensive plan

The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low-income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low-income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low-income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

(b) Components of plan

The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) Additional requirements of plan

The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and

activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(d) Publication of plan

(1) Proposed plan

Within 12 months after October 22, 1990, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) Final plan

Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) Prohibition on construing

Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

(Pub. L. 101–445, title I, §103, Oct. 22, 1990, 104 Stat. 1037.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5312, 5314, 5331 of this title.

§ 5314. Implementation of comprehensive plan

(a) In general

The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 5313(d)(2) of this title and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 5313(a) of this title and section 5313(b) of this title;

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 5313(c) of this title; and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) Existing law not affected

Nothing in this subchapter may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

(Pub. L. 101–445, title I, §104, Oct. 22, 1990, 104 Stat. 1040.)

§ 5315. Scientific research and development in support of coordinated program and comprehensive plan

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this chapter.

(Pub. L. 101–445, title I, §105, Oct. 22, 1990, 104 Stat. 1040.)

§ 5316. Annual budget submission

(a) Annual report

The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) Existing authority not affected

Nothing in this subchapter is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

(Pub. L. 101–445, title I, §106, Oct. 22, 1990, 104 Stat. 1040.)

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SUBCHAPTER II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

§ 5331. Structure of Council

(a) In general

(1) Establishment

The President shall establish, within ninety days after October 22, 1990, a National Nutri-

tion Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this chapter, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) Membership

The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) Ex officio members

The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) Selection criteria

Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(c) Particular representation requirements

The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b) of this section, and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) Chairperson

The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(e) Term of office

The term of office of each of the voting members of the Council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) Initial appointment

The initial members of the Council shall be appointed or designated not later than ninety days after October 22, 1990.

(g) Meetings

The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) Limitation on Federal employment

Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5.

(i) Executive Secretary

The Administrator of Nutrition Monitoring and Related Research (if appointed under section 5311(d) of this title) shall serve as the Executive Secretary of the Council.

(j) Termination

The Council shall terminate 10 years after the final comprehensive plan is prepared under section 5313 of this title.

(Pub. L. 101–445, title II, § 201, Oct. 22, 1990, 104 Stat. 1041.)

EX. ORD. NO. 12747. NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

Ex. Ord. No. 12747, Jan. 25, 1991, 56 F.R. 3391, provided:

By the authority vested in me as President by the Constitution and the laws of the United States, including the National Nutrition Monitoring and Related Research Act of 1990 (''Act'') (Public Law 101–445, October 22, 1990) [7 U.S.C. 5301 et seq.] and the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. *Establishment*. There is established the National Nutrition Monitoring Advisory Council (''Council''). The Council shall assist in carrying out the purposes of the Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan required by section 103 of the Act [7 U.S.C. 5313], and serve in an advisory capacity to the Secretary of Agriculture and the Secretary of Health and Human Services (''Secretaries'') with respect to their responsibilities and functions under the Act.

SEC. 2. *Membership*. (A) *Composition*. The Council shall consist of nine voting members. Five of the members shall be appointed by the President upon the recommendation of the Secretaries. Four of the members shall be appointed by the Congress, of whom one shall be appointed by the Speaker of the House of Representatives, one shall be appointed by the minority leader of the House of Representatives, one shall be appointed by the President pro tempore of the Senate, and one shall be appointed by the minority leader of the Senate. The Council shall also include the joint chairpersons of the Interagency Board for Nutrition Monitoring and Related Research as ex officio nonvoting members.

(B) *Selection Criteria*. Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(C) *Particular Representation Requirements*. The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (B), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations, and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(D) *Chairperson*. The Chairperson of the Council shall be elected from and by the Council membership. The term of office shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(E) *Term of Office*. The term of office of each of the voting members of the Council shall be 5 years, except that of the five members first appointed by the President, two members shall be appointed for a term of 2 years, two members for a term of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of the term. No voting member shall be eligible to serve continuously for more than two consecutive terms.

(F) *Executive Secretary*. The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d) of the Act [7 U.S.C. 5311(d)]) shall serve as the Executive Secretary of the Council.

SEC. 3. *Functions of the Council*. The Council shall:

(a) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(b) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(c) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated programs; and

(d) submit to the Secretaries annual reports that shall: (1) contain the components specified in paragraphs (b) and (c); and (2) be included in full in the biennial reports of the Secretaries to the President for transmittal to the Congress under section 102(b) of the Act [7 U.S.C. 5312(b)].

SEC. 4. *Meetings*. The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

SEC. 5. *Administration*. (a) The heads of executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Council, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) Members of the Council shall serve without compensation for their work on the Council. While engaged in the work of the Council, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). Appointed members of the Council may not be employed by the Federal Government.

(c) To the extent provided by law and subject to the availability of appropriations, the Department of Agriculture shall provide the Council with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

SEC. 6. *General provision*. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the Council shall be performed by the Secretary of Agriculture, in accordance with guidelines and procedures established by the Administrator of General Services.

SEC. 7. The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103 of the Act.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5302 of this title.

§ 5332. Functions of Council

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 5312(b) of this title.

(Pub. L. 101–445, title II, § 202, Oct. 22, 1990, 104 Stat. 1042.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5312 of this title.

SUBCHAPTER III—DIETARY GUIDANCE

§ 5341. Establishment of dietary guidelines

(a) Report

(1) In general

At least every five years the Secretaries shall publish a report entitled ''Dietary Guidelines for Americans''. Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) Basis of guidelines

The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) Approval by Secretaries

(1) Review

Any Federal agency that proposes to issue any dietary guidance for the general popu-

lation or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) Basis of review

(A) In general

During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the ''Dietary Guidelines for Americans'' or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the ''Dietary Guidelines for Americans'' and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the ''Dietary Guidelines for Americans'' the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) Review of comments

After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) Announcement

Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) Notification of disapproval

If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) Review of disapproval

If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) Limitation on definition of guidance

For purposes of this subsection, the term ''dietary guidance for the general population'' does not include any rule or regulation issued by a Federal agency.

(4) "Identified population subgroups" defined

For purposes of this subsection, the term ''identified population subgroups'' shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) Existing authority not affected

This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(Pub. L. 101–445, title III, § 301, Oct. 22, 1990, 104 Stat. 1042.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1758, 1760.

§ 5342. Nutrition training report

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after October 22, 1990, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

(Pub. L. 101–445, title III, § 302, Oct. 22, 1990, 104 Stat. 1044.)

CHAPTER 85—ADMINISTRATION OF ENVIRONMENTAL PROGRAMS

Sec.

5401. Establishment of Agricultural Council on Environmental Quality.

Sec.

(a) Establishment.
(b) Membership.
5402. Office of Agricultural Environmental Quality.
(a) Establishment.
(b) Director.
(c) Staff.
(d) Duties of Director.
5403. Environmental Quality Policy Statement.
(a) Environmental Quality Policy Statement, implementation plan, and annual report.
(b) Implementation plan.
(c) Annual environmental quality report.
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5405. Agricultural air quality research oversight.
(a) Findings.
(b) Purpose.
(c) Oversight coordination.
(d) Task force.

§ 5401. Establishment of Agricultural Council on Environmental Quality

(a) Establishment

The Secretary shall establish an Agricultural Council on Environmental Quality in the Department of Agriculture (hereafter in this chapter referred to as the ''Council''). The Council shall be under the direct authority of the Secretary, and shall be responsible for carrying out the provisions of this chapter, and for coordination and direction of all environmental policies and programs of the Department.

(b) Membership

Membership of the Council shall consist of the Secretary, the Deputy Secretary, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Science and Education, other under and assistant secretaries as may be designated by the Secretary, and the Director of the Office of Agricultural Environmental Quality, established in section 5402 of this title, who shall serve as the Executive Director of the Council. The Secretary shall designate a member of the Council, other than the Executive Director, as chair of the Council.

(Pub. L. 101–624, title XIV, §1471, Nov. 28, 1990, 104 Stat. 3619.)

§ 5402. Office of Agricultural Environmental Quality

(a) Establishment

The Secretary shall establish an Office of Agricultural Environmental Quality in the Department of Agriculture (hereafter in this chapter referred to as the ''Office'').

(b) Director

The Office shall be administered by a director who shall be appointed by the Secretary. The Director shall be an individual who has demonstrated technical expertise and experience in agricultural and environmental matters.

(c) Staff

(1) Appointments

The Director may appoint such employees as may be necessary to assist the Director in carrying out this section. Such employees shall include individuals who have professional expertise in matters related to environmental quality, including (but not limited to) agricultural production, water quality, wetland, wildlife conservation, soil conservation, and agricultural chemical usage.

(2) Liaisons

The Administrator of the Environmental Protection Agency and the Secretary of the Interior shall detail to the Office upon request of the Secretary, on a reimbursable basis, at least one employee, respectively, with expertise in matters related to agriculture and environmental quality. Such detailed employees shall serve as a liaison for their respective agencies with the Department of Agriculture to assist the Director in carrying out the provisions of this section. The term of the detail shall not exceed 3 years.

(3) Additional staff

Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, employees of such agency to the Office to assist the Director.

(d) Duties of Director

(1) In general

The Director shall assist the Council in developing a departmental and agency-specific environmental quality policy statement and implementation plan and an annual agricultural environmental quality report, as specified in section 5403 of this title. The Director shall coordinate and monitor the activities of the Department regarding initiatives and programs related to environmental quality and the interpretation of departmental policies affecting environmental quality. The Director shall serve as a member of the Council and as its Executive Director.

(2) Additional duties

The Director shall also be responsible for—

(A) recommending to the Council environmental protection goals and specific programs, initiatives, and policies that will balance the needs of production agriculture with environmental concerns;

(B) providing advice to the Council on the development, implementation, and review of activities of agencies of the Department to ensure consistency with the Department's environmental protection goals;

(C) coordinating environmental policy within the Department through the program managers, and between the Department and other Federal agencies, regional authorities, State and local governments, land-grant and other colleges and universities, and nonprofit and commercial organizations, regarding programs and actions relating to environmental quality;

(D) serving as a coordinator for the Department's data, information, programs, and initiatives dealing with environmental quality;

(E) developing the plans and reports required as specified by this chapter; and

(F) providing such staff as may be necessary to support the activities of the Council.

(Pub. L. 101–624, title XIV, § 1472, Nov. 28, 1990, 104 Stat. 3619.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5401, 5506 of this title.

§ 5403. Environmental Quality Policy Statement

(a) Environmental Quality Policy Statement, implementation plan, and annual report

(1) Policy statement

The Council shall develop an Environmental Quality Policy Statement that identifies goals and objectives for addressing the effects of agriculture on environmental quality. The policy statement shall be based upon an assessment, in accordance with paragraph (2), of the current status and level of effort, in terms of staff and funding, of programs at the Department of Agriculture to evaluate, prevent, and mitigate environmental problems that may result from agricultural production. The policy statement shall be revised at least every 5 years.

(2) Assessment

The assessment under paragraph (1) shall include:

(A) Detailed descriptions of the roles of the involved Departmental agencies.

(B) A description of current efforts to coordinate the individual activities of each of the involved departmental agencies.

(C) Recommendations for precluding any undesirable duplication of efforts within the Department and among the Department and other Federal and State programs.

(D) Specific recommendations for new initiatives in monitoring, research, extension, and technical assistance efforts to address present and potential environmental quality problems.

The assessment may incorporate existing documents and planning processes within the Department.

(b) Implementation plan

The Director, subject to the approval of the Council, shall prepare a plan to implement the Environmental Quality Policy Statement. The plan shall include an assessment of the activities of each departmental agency to mitigate or reduce any negative effects on environmental quality of agricultural policies, programs, and practices under their respective jurisdictions and shall describe in detail new departmental and agency-specific initiatives intended to achieve the goals and objectives of the policy statement. The plan shall be revised at least every 5 years.

(c) Annual environmental quality report

Not later than January 31, 1992, and annually thereafter, the Council, through the Director, shall prepare and submit an annual report to the Congress, other appropriate Federal and State agencies, and the public on the progress being made toward the goals and objectives established in the Environmental Quality Policy Statement. The report shall also include—

(1) a review of the environmental activities and initiatives of the Department during the preceding year;

(2) specific action taken to coordinate the environmental programs of the Department with programs of other Federal agencies and related State programs; and

(3) such recommendations as the Secretary considers appropriate regarding current or additional environmental protection programs, initiatives, or policies that will balance the needs of production agriculture while addressing environmental concerns.

(d) Authorization of appropriations

There are hereby authorized to be appropriated annually not to exceed $2,000,000 to carry out this chapter.

(Pub. L. 101–624, title XIV, § 1473, Nov. 28, 1990, 104 Stat. 3620; Pub. L. 102–237, title II, § 201(d), Dec. 13, 1991, 105 Stat. 1847.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–237, § 201(d)(1), substituted ''paragraph (2)'' for ''subparagraph (B)''.

Subsec. (a)(2). Pub. L. 102–237, § 201(d)(2), substituted ''paragraph (1)'' for ''subparagraph (A)'' in introductory provisions.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5402 of this title.

§ 5404. Good Neighbor Environmental Board

(a) Establishment

The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the ''Board'').

(b) Purpose

The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) Membership

The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) Annual reports to President and Congress

(1) In general

The Board shall submit to the President and the Congress of the United States an annual report on—

(A) the environmental and infrastructure projects referred to in subsection (a) of this section that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) Transmission of copies to Board members

The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

(Pub. L. 102–532, § 6, Oct. 27, 1992, 106 Stat. 3513.)

CODIFICATION

Section was enacted as part of the Enterprise for the Americas Initiative Act of 1992, and not as part of subtitle F (§ 1471 et seq.) of title XIV of Pub. L. 101–624 which comprises this chapter.

DELEGATION OF AUTHORITY

Authority of President under this section delegated to Administrator of Environmental Protection Agency by section 10 of Ex. Ord. No. 12916, May 13, 1994, 59 F.R. 25780, set out as a note under section 3473 of Title 19, Customs Duties.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5405. Agricultural air quality research oversight

(a) Findings

Congress finds that—

(1) various studies have alleged that agriculture is a source of PM–10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) Purpose

The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) Oversight coordination

(1) Intergovernmental cooperation

The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) Correct data

The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies not report erroneous data with respect to agricultural air quality.

(d) Task force

(1) Establishment

The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) Composition

The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) Duties

The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.

(Pub. L. 104–127, title III, § 391, Apr. 4, 1996, 110 Stat. 1025.)

CODIFICATION

Section was enacted as part of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of subtitle F (§ 1471 et seq.) of title XIV of Pub. L. 101–624 which comprises this chapter.

CHAPTER 86—WATER QUALITY RESEARCH, EDUCATION, AND COORDINATION

Sec.

5501 to 5505. Repealed.
5506. Water policy with respect to agrichemicals.
(a) Authority.
(b) Effect on existing authority.
(c) Participation.

§§ 5501 to 5505. Repealed. Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563

Section 5501, Pub. L. 101–624, title XIV, § 1481, Nov. 28, 1990, 104 Stat. 3622; Pub. L. 104–127, title VIII, § 831, Apr. 4, 1996, 110 Stat. 1168, set forth short title and purpose of chapter, provided definitions, and authorized appropriations.

Section 5502, Pub. L. 101–624, title XIV, § 1482, Nov. 28, 1990, 104 Stat. 3622, related to soil and water activities.

Section 5503, Pub. L. 101–624, title XIV, § 1483, Nov. 28, 1990, 104 Stat. 3623; Pub. L. 102–237, title II, § 201(e), Dec. 13, 1991, 105 Stat. 1847, required establishment of water quality coordination program within each State.

Section 5504, Pub. L. 101–624, title XIV, § 1484, Nov. 28, 1990, 104 Stat. 3624, established water quality and nutrient management research program.

Section 5505, Pub. L. 101–624, title XIV, § 1485, Nov. 28, 1990, 104 Stat. 3626; Pub. L. 102–237, title II, § 201(f), Dec. 13, 1991, 105 Stat. 1847; Pub. L. 104–66, title I, § 1011(r), Dec. 21, 1995, 109 Stat. 710, directed establishment of re-

pository of agriculture and ground water quality planning information.

§ 5506. Water policy with respect to agrichemicals

(a) Authority

The Department of Agriculture shall be the principal Federal agency responsible and accountable for the development and delivery of educational programs, technical assistance, and research programs for the users and dealers of agrichemicals to insure that—

(1) the use, storage, and disposal of agrichemicals by users is prudent, economical, and environmentally sound; and

(2) agrichemical users, dealers, and the general public understand the implications of their actions and the potential effects on water.

The Secretary is authorized to undertake such programs and assistance in cooperation with other Federal, State, and local governments and agencies, and appropriate nonprofit organizations. The Secretary shall disseminate the results of efforts in extension, technical assistance, research, and related activities. The Secretary shall undertake activities under this subtitle in coordination with the Office of Agricultural Environmental Quality in section 5402 of this title.

(b) Effect on existing authority

The authority granted in subsection (a) of this section does not alter or effect the responsibility of the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(c) Participation

The following agencies shall participate in the Department's water program: the Agricultural Research Service; the Agricultural Stabilization and Conservation Service; the Animal and Plant Health Inspection Service; the Cooperative State Research Service in conjunction with the system of State agricultural experiment stations; the Economic Research Service; the Extension Service, in conjunction with State and county cooperative extension services; the Forest Service; the National Agricultural Library; the National Agricultural Statistics Service; the Soil Conservation Service; and other agencies within the Department deemed appropriate by the Secretary.

(Pub. L. 101–624, title XIV, § 1499, Nov. 28, 1990, 104 Stat. 3632; Pub. L. 102–237, title II, § 201(g), Dec. 13, 1991, 105 Stat. 1847; Pub. L. 104–127, title VIII, § 859(b), Apr. 4, 1996, 110 Stat. 1173.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (a), means subtitle H (§§ 1491–1499) of title XIV of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3627, which enacted sections 136i–1 and 5506 of this title, amended sections 136a, 136a–1, 136d, 136w–3, and 450i of this title, and enacted provisions set out as a note under section 136a of this title. For complete classification of this subtitle to the Code, see Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Agriculture and Water Policy Coordination Act which comprises this chapter.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 struck out ''and section 3125c of this title'' before ''does not alter''.

1991—Subsec. (a). Pub. L. 102–237, § 201(g)(1), inserted ''Agricultural'' before ''Environmental Quality'' and substituted ''section 5402 of this title'' for ''section 1612 of this Act''.

Subsec. (b). Pub. L. 102–237, § 201(g)(2), substituted ''Effect'' for ''Affect'' in heading and inserted reference to section 3125c of this title.

Subsec. (c). Pub. L. 102–237, § 201(g)(3), inserted ''and'' after ''Animal''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

CHAPTER 87—EXPORT PROMOTION

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5723. Authorization of appropriations.

CODIFICATION

The Agricultural Trade Act of 1978, comprising this chapter, was originally enacted as Pub. L. 95–501, Oct. 21, 1978, 92 Stat. 1685, which enacted sections 1707b to 1707d, 1765a to 1765h, 1769, and 2211a of this title, amended sections 1707a, 1761, 1762, 1764, 1765, and 1766b of this title and section 5314 of Title 5, Government Organization and Employees, redesignated sections 1762(d), (f), and 1763 as sections 1766a to 1766c of this title, and enacted provisions set out as notes under sections 612c–3, 1761, and 2211a of this title and section 2431 of Title 19, Customs Duties. The Act is shown herein, however, as having been added by Pub. L. 101–624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668, because of the extensive amendments, renumbering, reorganization of subject matter, and expansion of the basic Act's provisions by Pub. L. 101–624.

SUBCHAPTER I—GENERAL PROVISIONS

§ 5601. Purpose

It is the purpose of this chapter to increase the profitability of farming and to increase op-

portunities for United States farms and agricultural enterprises by—

(1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;

(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

(3) providing for the coordination and efficient implementation of all agricultural export programs.

(Pub. L. 95–501, title I, § 101, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3669.)

PRIOR PROVISIONS

A prior section 101 of Pub. L. 95–501 amended section 1707a of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–465, title IV, § 411(a)(1), Dec. 8, 1994, 108 Stat. 4962, provided that: ''This subsection [amending section 5651 of this title] may be cited as the 'Export Enhancement Program Amendments of 1994'.''

SHORT TITLE

Section 1 of Pub. L. 95–501, as added by Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3669, provided that: ''This Act [enacting this chapter] may be cited as the 'Agricultural Trade Act of 1978'.''

§ 5602. Definitions

As used in this chapter—

(1) Agricultural commodity

The term ''agricultural commodity'' means any agricultural commodity, food, feed, fiber, or livestock (including livestock as it is defined in section 1471(2) of this title and insects), and any product thereof.

(2) Developing country

The term ''developing country'' means a country that—

(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

(B) has the potential to become a commercial market for agricultural commodities.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(4) Service

The term ''Service'' means the Foreign Agricultural Service of the Department of Agriculture.

(5) Unfair trade practice

(A) In general

Subject to subparagraph (B), the term ''unfair trade practice'' means any act, policy, or practice of a foreign country that—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party; or

(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

(B) Consistency with 1974 Trade Act

Nothing in this chapter may be construed to authorize the Secretary to make any determination regarding an unfair trade practice that is inconsistent with section 2411 of title 19.

(6) United States

The term ''United States'' includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7) United States agricultural commodity

The term ''United States agricultural commodity'' means—

(A) an agricultural commodity or product entirely produced in the United States; or

(B) a product of an agricultural commodity—

(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) that the Secretary determines to be a high value agricultural product.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46 in waters that are not waters (including the territorial sea) of a foreign country.

(8) Independent states of the former Soviet Union

The term ''independent states of the former Soviet Union'' means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(Pub. L. 95–501, title I, § 102, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3669; amended Pub. L. 102–511, title VII, § 702, Oct. 24, 1992, 106 Stat. 3349; Pub. L. 104–127, title II, § 243(c), Apr. 4, 1996, 110 Stat. 967.)

AMENDMENTS

1996—Par. (7). Pub. L. 104–127 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) with respect to any agricultural commodity other than a product of an agricultural commodity, an agricultural commodity entirely produced in the United States; and

''(B) with respect to a product of an agricultural commodity—

''(i) a product all of the agricultural components of which are entirely produced in the United States; or

''(ii) any other product the Secretary may designate that contains any agricultural component that is not entirely produced in the United States if—

''(I) such component is an added, de minimis component,

''(II) such component is not commercially produced in the United States, and

''(III) there is no acceptable substitute for such component that is commercially produced in the United States.''

1992—Par. (1). Pub. L. 102–511, § 702(a), substituted ''feed, fiber, or livestock (including livestock as it is defined in section 1471(2) of this title and insects)'' for ''feed, or fiber''.

Par. (8). Pub. L. 102–511, § 702(b), added par. (8).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1736*o*, 3293 of this title.

§ 5603. Agricultural export promotion strategy

(a) In general

The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

(2) any accession to membership in the World Trade Organization;

(3) the continued economic growth in the Pacific Rim; and

(4) other developments.

(b) Purpose of strategy

The strategy developed under subsection (a) of this section shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

(c) Goals of strategy

The strategy developed under subsection (a) of this section shall have the following goals:

(1) Increase the value of United States agricultural exports each year.

(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

(3) Increase the value of United States high-value and value-added agricultural exports each year.

(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

(5) Ensure that to the extent practicable—

(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

(d) Priority markets

(1) Identification of markets

In developing the strategy required under subsection (a) of this section, the Secretary shall annually identify as priority markets—

(A) those markets in which imports of agricultural products show the greatest potential for increase; and

(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

(2) Identification of supporting offices

The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31 each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).

(Pub. L. 95–501, title I, § 103, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3670; amended Pub. L. 102–237, title III, § 308, Dec. 13, 1991, 105 Stat. 1856; Pub. L. 104–127, title II, § 241(a), Apr. 4, 1996, 110 Stat. 963.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions requiring development of long-term agricultural trade strategy and providing for goals and contents of strategy, establishment of priority markets, review of strategy, confidentiality, withholding of information from Congress, and termination of section on Dec. 31, 1995.

1991—Subsec. (d)(2). Pub. L. 102–237 inserted a closing parenthesis before period at end.

USE OF DEPARTMENT OF AGRICULTURE PROGRAMS FOR PROMOTION OF WOOD AND PROCESSED WOOD PRODUCTS

Section 4404 of Pub. L. 100–418 provided that: ''The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.''

CROSS REFERENCES

North American Free Trade Agreement Implementation Act, see section 3301 et seq. of Title 19, Customs Duties.

Uruguay Round Agreements Act, see section 3501 et seq. of Title 19.

§ 5604. Preservation of traditional markets

The Secretary shall, in implementing programs of the Department of Agriculture intended to encourage or assist exports of agricultural commodities, seek to preserve traditional markets for United States agricultural commodities.

(Pub. L. 95–501, title I, § 104, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3672.)

§ 5605. Independence of authorities

Each authority granted under this chapter shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(Pub. L. 95–501, title I, § 105, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3672.)

§ 5606. Implementation of commitments under Uruguay Round Agreements

Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

(1) submit the evaluation to the United States Trade Representative; and

(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.

(Pub. L. 95–501, title I, § 106, as added Pub. L. 104–127, title II, § 242(a), Apr. 4, 1996, 110 Stat. 964.)

CROSS REFERENCES

Uruguay Round Agreements Act, see section 3501 et seq. of Title 19, Customs Duties.

SUBCHAPTER II—AGRICULTURAL EXPORT PROGRAMS

PART A—PROGRAMS

§ 5621. Direct credit sales program

(a) Short-term program

To promote the sale of agricultural commodities, the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

(b) Intermediate-term program

Subject to subsection (c) of this section, to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years in a manner that will directly benefit United States agricultural producers.

(c) Determinations

The Commodity Credit Corporation shall not finance an export sale under subsection (b) of this section unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to ''on a long-term basis'' shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.

(d) Use of program

(1) General uses

The Commodity Credit Corporation may use export sales financing authorized under this section—

(A) to increase exports of agricultural commodities;

(B) to compete against foreign agricultural exports;

(C) to assist countries in meeting their food and fiber needs, particularly—

(i) developing countries; and

(ii) countries that are emerging markets that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c) of this section.

(2) General restrictions

Export sales financing authorized under this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

(e) Terms of credit assistance

Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

(f) Restrictions

The Commodity Credit Corporation may not make export sales financing authorized under this section available in connection with sales of an agricultural commodity to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(Pub. L. 95–501, title II, § 201, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3672; amended Pub. L. 102–511, title VII, § 707(a)–(c), Oct. 24, 1992, 106 Stat. 3350, 3351; Pub. L. 104–127, title II, § 277(c)(2), Apr. 4, 1996, 110 Stat. 979.)

REFERENCES IN TEXT

The cargo preference laws, referred to in subsec. (d)(2), include act Mar. 26, 1934, ch. 90, 48 Stat. 500, and act Aug. 26, 1954, ch. 936, 68 Stat. 832, which are classified to sections 1241–1 and 1241, respectively, of Title 46, Appendix, Shipping.

PRIOR PROVISIONS

A prior section 201 of Pub. L. 95–501 enacted section 1707b of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Subsec. (d)(1)(C)(ii). Pub. L. 104–127 substituted ''emerging markets'' for ''emerging democracies''.

1992—Subsec. (c). Pub. L. 102–511, § 707(a), inserted sentence at end.

Subsec. (d)(1)(C). Pub. L. 102–511, § 707(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''to assist countries, particularly developing countries, in meeting their food and fiber needs; and''.

Subsec. (f). Pub. L. 102–511, § 707(c), added subsec. (f).

REGULATIONS

Section 707(d) of Pub. L. 102–511 required Secretary of Agriculture to issue final regulations to implement this section not later than 30 days after Oct. 24, 1992, prior to repeal by Pub. L. 104–127, title II, § 276, Apr. 4, 1996, 110 Stat. 977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5625, 5641, 5661, 5662 of this title.

§ 5622. Export credit guarantee program

(a) Short-term credit guarantees

(1) In general

The Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products, from privately owned stocks on credit terms that do not exceed a 3-year period.

(2) Supplier credits

In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.

(b) Intermediate-term credit guarantees

Subject to the provisions of subsection (c) of this section, the Commodity Credit Corporation may guarantee the repayment of credit made available by financial institutions in the United States to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products, from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period in a manner that will directly benefit United States agricultural producers.

(c) Required determinations

The Commodity Credit Corporation shall not guarantee under subsection (b) of this section the repayment of credit made available to finance an export sale unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to ''on a long-term basis'' shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.

(d) Purpose of program

The Commodity Credit Corporation may use export credit guarantees authorized under this section—

(1) to increase exports of agricultural commodities;

(2) to compete against foreign agricultural exports;

(3) to assist countries in meeting their food and fiber needs, particularly—

(A) developing countries; and

(B) countries that are emerging markets that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(4) for such other purposes as the Secretary determines appropriate, consistent with the provisions of subsection (c) of this section.

(e) Restrictions on use of credit guarantees

Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales with respect to which credit is guaranteed under this section.

(f) Restrictions

(1) In general

The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(2) Criteria for determination

In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) of this section for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

(B) whether the country is addressing issues such as—

(i) the convertibility of the currency of the country;

(ii) adequate legal protection for foreign investments;

(iii) the viability of the financial markets of the country; and

(iv) adequate legal protection for the private property rights of citizens of the country; or

(C) any other factors that are relevant to the ability of the country to service the debt of the country.

(g) Terms

Export credit guarantees issued pursuant to this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

(h) United States agricultural commodities

The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.

(i) Ineligibility of financial institutions

(1) In general

A financial institution shall be ineligible to receive an assignment of a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that such financial institution—

(A) is the financial institution issuing the letter of credit or a subsidiary of such institution; or

(B) is owned or controlled by an entity that owns or controls that financial institution issuing the letter of credit.

(2) Third country banks

The Commodity Credit Corporation may guarantee under subsections (a) and (b) of this section the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.

(j) Conditions for fish and processed fish products

In making available any guarantees of credit under this section in connection with sales of fish and processed fish products, the Secretary shall make such guarantees available under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to sales of other agricultural commodities under this section.

(k) Processed and high-value products

(1) In general

In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance is issued to promote the export of bulk or raw agricultural commodities.

(2) Limitation

The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.

(Pub. L. 95–501, title II, § 202, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3673; amended Pub. L. 102–237, title III, § 334, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102–511, title VII, §§ 708, 709(a), Oct. 24, 1992, 106 Stat. 3351; Pub. L. 104–127, title II, §§ 243(a), 277(c)(3), Apr. 4, 1996, 110 Stat. 965, 979.)

REFERENCES IN TEXT

The cargo preference laws, referred to in subsec. (e), include act Mar. 26, 1934, ch. 90, 48 Stat. 500, and act Aug. 26, 1954, ch. 936, 68 Stat. 832, which are classified to sections 1241–1 and 1241, respectively, of Title 46, Appendix, Shipping.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 95–501 enacted section 1707c of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 243(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(3)(B). Pub. L. 104–127, § 277(c)(3), substituted ''emerging markets'' for ''emerging democracies''.

Subsec. (f). Pub. L. 104–127, § 243(a)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (h). Pub. L. 104–127, § 243(a)(3), added subsec. (h) and struck out heading and text of former subsec. (h). Text read as follows: ''The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities. The Commodity Credit Corporation shall not finance or guarantee under this section the value of any foreign agricultural component.''

Subsec. (i). Pub. L. 104–127, § 243(a)(4), designated existing provisions as par. (1), inserted heading, struck out former par. (1) which read as follows: ''is not in a sound financial condition;'', redesignated pars. (2) and (3) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (k). Pub. L. 104–127, § 243(a)(5), added subsec. (k) and struck out heading and text of former subsec. (k). Text read as follows:

''(1) IN GENERAL.—In issuing export credit guarantees under this section in connection with sales to the independent states of the former Soviet Union, the Commodity Credit Corporation shall, to the extent practicable and subject to paragraph (2), ensure that no less than 35 percent of the total amount of credit guarantees issued for a fiscal year are issued to promote the export of processed and high-value agricultural products and that the balance are issued to promote the export of bulk or raw agricultural commodities.

''(2) LIMITATION.—The 35 percent requirement of paragraph (1) shall apply for a fiscal year only to the extent that the percentage of the total amount of credit guarantees issued for that fiscal year under this section to promote the export to all countries of processed and high-value agricultural products is less than 25 percent.''

1992—Subsecs. (a), (b). Pub. L. 102–511, § 709(a)(1), inserted '', including processed agricultural products and high-value agricultural products,'' after ''agricultural commodities''.

Subsec. (c). Pub. L. 102–511, § 708(a), inserted sentence at end.

Subsec. (d)(3). Pub. L. 102–511, § 708(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''to assist countries, particularly developing countries, in meeting their food and fiber needs; and''.

Subsec. (k). Pub. L. 102–511, § 709(a)(2), added subsec. (k).

1991—Subsec. (i). Pub. L. 102–237 substituted ''issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that'' for ''or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that''.

REGULATIONS

Section 243(d) of Pub. L. 104–127 provided that: ''Not later than 180 days after the date of enactment of this Act [Apr. 4, 1996], the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section [amending this section and sections 5602 and 5641 of this title].''

PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS

Section 1542 of title XV of Pub. L. 101–624, as amended by Pub. L. 102–237, title III, § 338, Dec. 13, 1991, 105 Stat. 1859; Pub. L. 102–511, title VII, § 706, Oct. 24, 1992, 106 Stat. 3350; Pub. L. 103–182, title III, § 321(g), Dec. 8, 1993, 107 Stat. 2112; Pub. L. 104–127, title II, §§ 277(a), 278, Apr. 4, 1996, 110 Stat. 977, 979, provided that:

''(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.

''(b) FACILITIES AND SERVICES.—A portion of such export credit guarantees shall be made available for—

''(1) the establishment or improvement of facilities, or

''(2) the provision of services or United States produced goods,

in emerging markets by United States persons to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities and products thereof if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities (as defined in section 102(7) of the Agricultural Trade Act of 1978 [7 U.S.C. 5602(7)]). The Commodity Credit Corporation shall give priority under this subsection to—

''(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

''(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.

''(c) CONSULTATIONS.—Before the authority under this section is exercised, the Secretary of Agriculture shall consult with exporters of United States agricultural commodities (as defined in section 102(7) of the Agricultural Trade Act of 1978 [7 U.S.C. 5602(7)]), nongovernmental experts, and other Federal Government agencies in order to ensure that facilities in an emerging market for which financing is guaranteed under paragraph (1)(B) do not primarily benefit countries which are in close geographic proximity to that emerging market.

''(d) E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging markets and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and emerging markets, as follows:

''(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT OF PROGRAM.—For each of the fiscal years 1991 through 2002, the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary'), in order to develop, maintain, or expand markets for United States agricultural exports, is directed to make available to emerging markets the expertise of the United States to make assessments of the food and rural business systems needs of such democracies [markets], make recommendations on measures necessary to enhance the effectiveness of the systems, including potential reductions in trade barriers, and identify and carry out specific opportunities and projects to enhance the effectiveness of those systems.

''(ii) EXTENT OF PROGRAM.—The Secretary shall implement this paragraph with respect to at least 3 emerging markets in each fiscal year.

''(B) EXPERTS FROM THE UNITED STATES.—The Secretary may implement the requirements of subparagraph (A)—

''(i) by providing assistance to teams consisting primarily of agricultural consultants, farmers, other persons from the private sector, and government officials expert in assessing the food and rural business systems of other countries to enable such teams to conduct the assessments, make the recommendations, and identify the opportunities and projects specified in subparagraph (A) in emerging markets;

''(ii) by providing necessary subsistence expenses in the United States and necessary transportation expenses by individuals designated by emerging markets to enable such individuals to consult with food and rural business system experts in the United States to enhance such systems of such emerging markets; and

''(iii) by providing for necessary subsistence expenses in emerging markets and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging markets.

''(C) COST-SHARING.—The Secretary shall encourage the nongovernmental experts described in subparagraph (B) to share the costs of, and otherwise assist in, the participation of such experts in the program under this paragraph.

''(D) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide, or pay the necessary costs for, technical assistance (including the establishment of extension services) to enable individuals or other entities to implement the recommendations or to carry out the opportunities and projects identified under paragraph (1)(A). Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.

''(E) REPORTS TO SECRETARY.—A team that receives assistance under subparagraph (B) shall prepare such reports as the Secretary may designate.

''(F) ADVISORY COMMITTEE.—To provide the Secretary with information that may be useful to the Secretary in carrying out the provisions of this paragraph, the Secretary shall establish an advisory committee composed of representatives of the various sectors of the food and rural business systems of the United States.

''(G) USE OF CCC.—The Secretary shall implement this paragraph through the funds and facilities of the Commodity Credit Corporation. The authority provided under this paragraph shall be in addition to and not in place of any other authority of the Secretary or the Commodity Credit Corporation.

''(H) LEVEL OF ASSISTANCE.—The Secretary shall provide assistance under this paragraph of not more than $10,000,000 in any fiscal year.

''(2) AGRICULTURAL INFORMATION PROGRAM.—

''(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging markets export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in emerging markets in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of free market food production and distribution systems in emerging markets and the enhancement of agricultural trade with the United States.

''(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

''(i) compile, through contacts with the governments of emerging markets and private sector officials in emerging markets, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

''(ii) make such information available through an appropriate agency of the Department of Agri-

culture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

''(iii) carry out a program—

''(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

''(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i);

''(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and emerging markets, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises; and

''(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.

''(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to emerging markets.

''(D) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.

''(e) FOREIGN DEBT BURDENS.—

''(1) EFFECT OF CREDITS.—In carrying out the program described in subsection (a), the Secretary of Agriculture shall ensure that the credits for which repayment is guaranteed under subsection (a) do not negatively affect the political and economic situation in emerging markets by excessively adding to the foreign debt burdens of such countries.

''(2) CONSULTATION AND REPORT.—Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not later than 6 months after the effective date of this title [Nov. 28, 1990], and not later than the end of each 6-month period occurring thereafter, the Secretary of Agriculture, in consultation with other appropriate Federal departments, shall prepare and transmit to the Committee on Foreign Affairs [now Committee on International Relations] and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report to assist the Congress in assessing the extent to which credits for which repayment is guaranteed under subsection (a) meet the requirements of paragraph (1). The report shall include—

''(A) the amount and allocation, by country, of credit guarantees issued under subsection (a);

''(B) the aggregate foreign debt burdens of countries receiving commodities or facilities under such credit guarantees, expressed in terms of debt on account of agricultural commodities or products thereof, or facilities for which guarantees may be made under subsection (a)(1)(B), and all other debt;

''(C) the activities of creditor governments and private creditors to reschedule or reduce payments due on existing debt owed to such creditors by a country in cases where such country has been unable to fully meet its debt obligations; and

''(D) an analysis of—

''(i) the economic effects of the foreign debt burden of each recipient country, and in particular the economic effects on each recipient country of the credits for which repayment is guaranteed under subsection (a); and

''(ii) the relationship between any negative economic effects on any recipient country caused by its overall foreign debt burden and debt incurred under subsection (a) and such country's political stability.

''(f) EMERGING MARKET.—In this section and section 1543 [7 U.S.C. 3293], the term 'emerging market' means any country that the Secretary determines—

''(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

''(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.''

PRESIDENTIAL DETERMINATION OF EMERGING DEMOCRACIES

Determination of President of the United States, No. 95–35, Aug. 10, 1995, 60 F.R. 44723, provided:

Pursuant to the authority vested in me by section 1542(f) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended (7 U.S.C. 5622 note) (hereinafter ''the Act''), I hereby determine that the following countries are taking the steps set forth in section 1542(f) of the Act to qualify as emerging democracies for purposes of that section:

Albania, Bangladesh, Belarus, Bosnia and Herzegovina, Bulgaria, Cambodia, Croatia, Czech Republic, Egypt, El Salvador, Estonia, the Former Yugoslav Republic of Macedonia, Ghana, Guatemala, Hungary, Jordan, Kazakhstan, Latvia, Lithuania, Morocco, Namibia, Nicaragua, Pakistan, Panama, the Philippines, Poland, Romania, Russia, Slovak Republic, Slovenia, South Africa, Tanzania, Tunisia, Ukraine, Yemen, and Zimbabwe.

In making this determination, I have considered the eligibility only of those countries for which programs are underway or currently contemplated by the Department of Agriculture.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5625, 5641, 5661, 5662 of this title.

§ 5623. Market access program

(a) In general

The Commodity Credit Corporation shall establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program.

(b) Type of assistance

Assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

(c) Requirements for participation

To be eligible for cost-share assistance under this section, an organization shall—

(1) be an eligible trade organization;

(2) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

(3) meet any other requirements established by the Secretary.

(d) Eligible trade organizations

An eligible trade organization shall be—

(1) a United States agricultural trade organization or regional State-related organiza-

tion that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

(2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or

(3) a private organization that promotes the export and sale of agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

(e) Approved marketing plan

(1) In general

A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other market oriented export promotion activities to be carried out by the eligible trade organization with respect to which assistance under this section is being requested.

(2) Requirements

To be approved by the Secretary, a marketing plan submitted under this subsection shall—

(A) specifically describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expended in implementing the marketing plan;

(B) establish specific market goals to be achieved as a result of the market access program; and

(C) contain whatever additional requirements are determined by the Secretary to be necessary.

(3) Amendments

A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

(4) Branded promotion

An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

(f) Other terms and conditions

(1) Multi-year basis

The Secretary may provide assistance under this section on a multi-year basis, subject to annual review by the Secretary for compliance with the approved marketing plan.

(2) Termination of assistance

The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the market access program;

(C) the eligible trade organization is not adequately contributing its own resources to the market access program; or

(D) the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

(3) Evaluations

The Secretary shall monitor the expenditure of funds received under this section by recipients of such funds. The Secretary shall make evaluations of such expenditure, including—

(A) an evaluation of the effectiveness of the program in developing or maintaining markets for United States agricultural commodities;

(B) an evaluation of whether assistance provided under this section is necessary to maintain such markets; and

(C) a thorough accounting of the expenditure of such funds by the recipient.

The Secretary shall make an initial evaluation of expenditures of a recipient not later than 15 months after the initial provision of funds to the recipient.

(4) Use of funds

Funds made available to carry out this section—

(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 632(a) of title 15, excluding—

(i) a cooperative;

(ii) an association described in section 291 of this title; and

(iii) a nonprofit trade association; and

(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.

(g) Level of marketing assistance

(1) In general

The Secretary shall justify in writing the level of assistance provided to an eligible trade organization under the program under this section and the level of cost-sharing required of such organization.

(2) Limitation

Assistance provided under this section for activities described in subsection (e)(4) of this section shall not exceed 50 percent of the cost of implementing the marketing plan, except that the Secretary may determine not to apply such limitation in the case of agricultural commodities with respect to which there has been a favorable decision by the United States Trade Representative under section 2411 of title 19. Criteria for determining that the limitation shall not apply shall be consistent and documented.

(3) Staged reduction in assistance

In the case of participants that received assistance under section 1736s of this title prior

to November 28, 1990, and with respect to which assistance under this section would be limited under paragraph (2), any such reduction in assistance shall be phased down in equal increments over a 5-year period.

(Pub. L. 95–501, title II, § 203, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3674; amended Pub. L. 102–237, title III, § 309, Dec. 13, 1991, 105 Stat. 1856; Pub. L. 103–66, title I, § 1302(b)(1), Aug. 10, 1993, 107 Stat. 330; Pub. L. 103–465, title IV, § 411(d), Dec. 8, 1994, 108 Stat. 4963; Pub. L. 104–127, title II, § 244(a)(1), (b), Apr. 4, 1996, 110 Stat. 967, 968.)

REFERENCES IN TEXT

Section 1736s of this title, referred to in subsec. (g)(3), was repealed by Pub. L. 101–624, title XV, § 1572(3), Nov. 28, 1990, 104 Stat. 3702.

PRIOR PROVISIONS

A prior section 203 of Pub. L. 95–501 enacted section 1707d of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Pub. L. 104–127, § 244(a)(1)(A), substituted ''access'' for ''promotion'' in section catchline.

Subsecs. (e)(2)(B), (f)(2)(B), (C). Pub. L. 104–127, § 244(a)(1)(B), substituted ''market access program'' for ''marketing promotion program''.

Subsec. (f)(4). Pub. L. 104–127, § 244(b), added par. (4).

1994—Subsec. (c). Pub. L. 103–465, § 411(d)(1), struck out par. (1) designation and heading, redesignated subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, and realigned margins, and struck out former par. (2) which related to assistance to counter or offset adverse effects of subsidy, import quota, or other unfair trade practice of foreign country, except in the case of activities conducted by small entities operating through regional State-related organizations.

Subsec. (f)(2)(C) to (E). Pub. L. 103–465, § 411(d)(2), inserted ''or'' at end of subpar. (C), redesignated subpar. (E) as (D), and struck out former subpar. (D) which read as follows: ''the unfair trade practice that was the basis of the provision of assistance has been discontinued and marketing assistance is no longer required to offset its effects; or''.

1993—Subsec. (c)(2). Pub. L. 103–66 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall provide export assistance under this section on a priority basis in the case of an unfair trade practice.''

1991—Subsec. (g)(3). Pub. L. 102–237 substituted ''November 28, 1990,'' for ''the date of enactment of this Act''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

PROHIBITION ON ASSISTANCE TO MINK ASSOCIATIONS

Pub. L. 105–277, div. A, § 101(a) [title VII, § 718], Oct. 21, 1998, 112 Stat. 2681, 2681–27, as amended by Pub. L. 106–31, title V, § 5001(b), May 21, 1999, 113 Stat. 109, provided that: ''Hereafter, none of the funds made available in annual appropriations Acts may be used to provide assistance to, or to pay the salaries of personnel to carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.''

SECRETARIAL ACTIONS TO ACHIEVE SAVINGS IN MARKET ACCESS PROGRAM; REGULATIONS

Section 1302(b), (c) of Pub. L. 103–66, as amended by Pub. L. 104–127, title II, § 244(a)(2)(A)(ii), Apr. 4, 1996, 110 Stat. 968, provided that:

''(b) SECRETARIAL ACTIONS TO ACHIEVE SAVINGS.—In order to enable the Secretary of Agriculture to achieve the savings required in the market access program established by section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) as a result of the amendments made by this section [amending this section and section 5641 of this title]:

''(1) UNFAIR TRADE PRACTICES.—[Amended subsec. (c)(2) of this section.]

''(2) GUIDELINES.—The Secretary of Agriculture should implement changes in the market access program established by section 203 of such Act, beginning with fiscal year 1994, in order to improve the effectiveness of the program and to meet the following objectives:

''(A) PRIORITY.—In providing assistance for branded promotion, the Secretary should give priority to small-sized entities.

''(B) GRADUATION.—The Secretary should not provide assistance under the program to promote a specific branded product in a single market for more than 5 years unless the Secretary determines that further assistance is necessary in order to meet the objectives of the program.

''(C) CONTRIBUTION LEVEL.—

''(i) IN GENERAL.—The Secretary should require a minimum contribution level of 10 percent from an eligible trade organization that receives assistance for nonbranded promotion.

''(ii) INCREASES IN CONTRIBUTION LEVEL.—The Secretary may increase the contribution level in any subsequent year that an eligible trade organization receives assistance for nonbranded promotion.

''(D) ADDITIONALITY.—The Secretary should require each participant in the program to certify that any Federal funds received supplement, but do not supplant, private or third party participant funds or other contributions to program activities.

''(E) INDEPENDENT AUDITS.—If as a result of an evaluation or audit of activities of a participant under the program, the Secretary determines that a further review is justified in order to ensure compliance with the requirements of the program, the Secretary should require the participant to contract for an independent audit of the program activities, including activities of any subcontractor.

''(3) TOBACCO.—No funds made available under the market access program may be used for activities to develop, maintain, or expand foreign markets for tobacco.

''(c) REGULATIONS.—Not later than 90 days after the date of enactment of this Act [Aug. 10, 1993], the Secretary of Agriculture shall issue regulations to implement this section [amending this section and section 5641 of this title] and the amendments made by this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5641, 5662 of this title.

§ 5624. Barter of agricultural commodities

(a) In general

The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign products under such terms and conditions as the Secretary or the Corporation shall prescribe.

(b) Eligible commodities

Unless otherwise specified, eligible commodities shall include—

(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

(c) Barter by exporters of agricultural commodities

(1) Purpose

The Secretary or the Commodity Credit Corporation shall encourage exporters of agricultural commodities to barter such commodities for foreign products—

(A) to acquire such foreign products needed by such exporters; and

(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

(2) Eligible activities

The Secretary or the Commodity Credit Corporation may provide eligible commodities to exporters to assist such exporters in barter transactions.

(3) Technical assistance

The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

(d) Transfer of foreign products to other Government agencies

The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other Government agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

(e) Corporation authority not limited

Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

(f) Prohibited activities

The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

(Pub. L. 95–501, title II, § 204, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3676; amended Pub. L. 102–237, title III, § 320, Dec. 13, 1991, 105 Stat. 1857.)

AMENDMENTS

1991—Subsec. (d). Pub. L. 102–237 amended heading and substituted ''Government'' for ''government'' in text.

§ 5625. Combination of programs

The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 5622 of this title are combined with direct credits from the Commodity Credit Corporation under section 5621 of this title to reduce the effective rate of interest on export sales of agricultural commodities.

(Pub. L. 95–501, title II, § 205, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3677.)

PART B—IMPLEMENTATION

§ 5641. Funding levels

(a) Direct credit programs

The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 5621 of this title.

(b) Export credit guarantee programs

(1) Export credit guarantees

The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 5622 of this title.

(2) Limitation on origination fee

Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 5622(a) of this title in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).

(c) Market access programs

The Commodity Credit Corporation or the Secretary shall make available for market access activities authorized to be carried out by the Commodity Credit Corporation under section 5623 of this title—

(1) in addition to any funds that may be specifically appropriated to implement a market access program, not less than $200,000,000 for each of the fiscal years 1991 through 1993, not less than $110,000,000 for each of the fiscal years 1994 through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

(2) any funds that may be specifically appropriated to carry out a market access program under section 5623 of this title.

(Pub. L. 95–501, title II, § 211, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat.

3677; amended Pub. L. 103–66, title I, § 1302(a), Aug. 10, 1993, 107 Stat. 330; Pub. L. 104–127, title II, §§ 243(b), 244(a)(2)(B), (c), Apr. 4, 1996, 110 Stat. 967, 968.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, § 243(b), added subsec. (b) and struck out former subsec. (b) which authorized short and intermediate term export credit guarantees for each of fiscal years 1991 through 1995 and further provided for limitation on origination fees for short-term guarantees.

Subsec. (c). Pub. L. 104–127, § 244(a)(2)(B)(i), (ii), substituted ''Market access programs'' for ''Marketing promotion programs'' in heading and ''market access activities'' for ''market promotion activities'' in introductory provisions.

Subsec. (c)(1). Pub. L. 104–127, § 244(c), struck out ''and'' after ''1993,'' and substituted ''through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002,'' for ''through 1997,''.

Pub. L. 104–127, § 244(a)(2)(B)(iii), substituted ''market access program'' for ''market development program''.

Subsec. (c)(2). Pub. L. 104–127, § 244(a)(2)(B)(iv), substituted ''market access program'' for ''marketing promotion program''.

1993—Subsec. (c)(1). Pub. L. 103–66 substituted ''through 1993, and not less than $110,000,000 for each of the fiscal years 1994 through 1997,'' for ''through 1995''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 244(c) of Pub. L. 104–127 provided that the amendment made by that section is effective Oct. 1, 1995.

SUBCHAPTER III—EXPORT ENHANCEMENT PROGRAM

§ 5651. Export enhancement program

(a) In general

The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.

(b) Export bonus

(1) In general

In carrying out the program established under this section, the Commodity Credit Corporation may—

(A) make agricultural commodities, acquired by the Commodity Credit Corporation, available to exporters, users, processors, or foreign purchasers at no cost either directly or through the issuance of commodity certificates; and

(B) make cash payments to exporters, users, and processors.

(2) Calculation of bonus levels

The Commodity Credit Corporation shall—

(A) maintain an established procedure for evaluating program bonus requests, with guidelines for determining prevailing market prices for targeted commodities and destinations to be used in the calculation of acceptable bonus levels;

(B) use a clear set of established procedures for measuring transportation and incidental costs to be used in the calculation of acceptable bonus levels and for determining the amount of such costs actually incurred; and

(C) maintain consistent and effective controls and procedures for auditing and reviewing payment of bonuses and for securing refunds where appropriate.

(3) Disclosure of information

The Secretary may, notwithstanding the provisions of section 552 of title 5, provide for withholding from the public the procedures and guidelines established under paragraphs (2)(A) and (B) if the Secretary determines that release of such information would adversely affect the operation of the program. Nothing in this paragraph shall be construed to authorize the withholding of information, including such procedures and guidelines, from the Congress.

(4) Competitive disadvantage

The Secretary shall take such action as is necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

(5) Different commodities

The Commodity Credit Corporation may provide to an exporter, user, or processor, or foreign purchaser, under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

(6) Other export programs

The Commodity Credit Corporation may provide bonuses under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

(7) Avoidance of preferential application

When using the authorities of this section to promote the exporting of wheat, the Secretary shall make reasonable efforts to avoid giving a preference to one class of wheat disproportionately more than another class.

(8) Displacement

The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

(c) Priority in case of livestock

In the case of proposals for bonuses for dairy cattle or other appropriate livestock, the Commodity Credit Corporation shall give priority to proposals that include, in connection with the purchase of the livestock, appropriate herd management training, veterinary services, nutritional training, and other technical assistance necessary for the adaptation of the livestock to foreign environments.

(d) Inapplicability of price restrictions

Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(e) Funding levels

(1) In general

The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

(A) $350,000,000 for fiscal year 1996;
(B) $250,000,000 for fiscal year 1997;
(C) $500,000,000 for fiscal year 1998;
(D) $550,000,000 for fiscal year 1999;
(E) $579,000,000 for fiscal year 2000;
(F) $478,000,000 for fiscal year 2001; and
(G) $478,000,000 for fiscal year 2002.

(2) Set-asides

(A) For each fiscal year, the Corporation shall, to the extent practicable and subject to subparagraph (B), ensure that no less than 25 percent of the total of—

(i) the funds expended, and
(ii) the value of any commodities made available,

under this section in connection with sales of agricultural commodities to the independent states of the former Soviet Union is used to promote the export of processed and high-value United States agricultural products and that the balance of the funds expended and commodities made available under this section in connection with such sales is used to promote the export of bulk or raw United States agricultural commodities.

(B) The 25 percent requirement of subparagraph (A) shall apply for a fiscal year only to the extent that the percentage of the total of—

(i) the funds expended, and
(ii) the value of commodities made available,

for that fiscal year under this section to promote the export to all countries of processed and high-value United States agricultural products is less than 15 percent.

(f) Effect on third countries

It is not the purpose of the program established under this section to affect adversely the exports of fairly traded agricultural commodities.

(g) Consistency with international obligations

Notwithstanding any other provision of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements.

(h) Priority funding for intermediate products

(1) In general

Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

(2) Additional assistance

Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.

(Pub. L. 95–501, title III, §301, as added Pub. L. 101–624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3678; amended Pub. L. 102–237, title III, §311, Dec. 13, 1991, 105 Stat. 1856; Pub. L. 102–511, title VII, §709(b), Oct. 24, 1992, 106 Stat. 3352; Pub. L. 103–465, title IV, §411(a)(3), (4), Dec. 8, 1994, 108 Stat. 4963; Pub. L. 104–127, title II, §245, Apr. 4, 1996, 110 Stat. 968.)

PRIOR PROVISIONS

A prior section 301 of Pub. L. 95–501 amended sections 1761, 1762, 1764, and 1765 of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–127, §245(a), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 2001 not less than $500,000,000 of the funds or commodities of the Commodity Credit Corporation to carry out the program established under this section.''

Subsec. (h). Pub. L. 104–127, §245(b), added subsec. (h).

1994—Subsec. (a). Pub. L. 103–465, §411(a)(3), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Commodity Credit Corporation shall carry out in accordance with this section a program to discourage unfair trade practices by making United States agricultural commodities, including processed agricultural products and high-value agricultural products, competitive.''

Subsec. (e)(1). Pub. L. 103–465, §411(a)(4)(A), substituted ''2001'' for ''1995''.

Subsec. (g). Pub. L. 103–465, §411(a)(4)(B), added subsec. (g).

1992—Subsec. (a). Pub. L. 102–511, §709(b)(1), inserted '', including processed agricultural products and high-value agricultural products,'' after ''agricultural commodities''.

Subsec. (e). Pub. L. 102–511, §709(b)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

1991—Subsecs. (f), (g). Pub. L. 102–237 redesignated subsec. (g) as (f).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 245(a) of Pub. L. 104–127 provided that the amendment made by that section is effective Oct. 1, 1995.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to

the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

CROSS REFERENCES

Uruguay Round Agreements, see section 3501 et seq. of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5653, 5661, 5662 of this title.

§ 5652. Relief from unfair trade practices

(a) Use of programs

(1) In general

The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

(2) Commodities specified

Paragraph (1) shall apply in the case of articles for which the United States has instituted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

(b) Consultations required

For any article described in subsection (a)(2) of this section, the Secretary shall—

(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2) of this section; and

(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1) of this section.

(Pub. L. 95–501, title III, § 302, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3680.)

§ 5653. Equitable treatment of high-value and value-added United States agricultural commodities

In the case of any program, such as that established under section 5651 of this title, operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities and value-added products of United States agricultural commodities.

(Pub. L. 95–501, title III, § 303, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3680.)

SUBCHAPTER IV—GENERAL PROVISIONS

PART A—PROGRAM CONTROLS

§ 5661. Program controls for export programs

(a) Arrival certification

With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 5621, 5622, or 5651 of this title, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.

(b) Diversion

The unauthorized diversion of commodities under the programs authorized in sections 5621, 5622, and 5651 of this title is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

(c) Good faith

The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this chapter with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

(Pub. L. 95–501, title IV, § 401, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3680; amended Pub. L. 104–127, title II, § 246, Apr. 4, 1996, 110 Stat. 969.)

PRIOR PROVISIONS

A prior section 401 of Pub. L. 95–501 enacted sections 1765a to 1765h and 1769 of this title, amended section 1766b of this title, and redesignated sections 1762(d), (f), and 1763, as sections 1766a to 1766c of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 5621, 5622, and 5651 of this title, the Commodity Credit Corporation shall—

''(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities; and

''(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.''

§ 5662. Compliance provisions

(a) Records

(1) In general

In the administration of the programs established under sections 5621, 5622, 5623, and 5651 of this title the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

(2) Confidentiality

The personally identifiable information contained in reports under subsection (a) of this section may be withheld in accordance with section 552(b)(4) of title 5. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18 shall be subject to section 1905 of title 18. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(b) Violation

If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this chapter, or has otherwise violated program requirements under this chapter, the Commodity Credit Corporation may—

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) Suspension and debarment

The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by this chapter if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or other participant has violated the terms and conditions of the program or of this chapter and that the violation is of such a nature as to warrant suspension or debarment.

(d) False certifications

The provisions of section 1001 of title 18 shall apply to any false certifications issued under this chapter.

(Pub. L. 95–501, title IV, § 402, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3681; amended Pub. L. 104–127, title II, § 247, Apr. 4, 1996, 110 Stat. 969.)

AMENDMENTS

1996—Subsec. (a)(2), (3). Pub. L. 104–127 redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: ''The Secretary may require by regulation an exporter or other participant in the programs to make records available to the Secretary with respect to non-program transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary.''

§ 5663. Departmental administration system

(a) In general

With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

(2) establish a centralized system to permit the Foreign Agricultural Service to provide the history and current status of any proposal;

(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

(b) Accessibility of information

Information pertaining to the status of a particular proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary.

(Pub. L. 95–501, title IV, § 403, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3682.)

§ 5664. Repealed. Pub. L. 104–127, title II, § 248, Apr. 4, 1996, 110 Stat. 969

Section, Pub. L. 95–501, title IV, § 404, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3682; amended Pub. L. 102–237, title III, § 312, Dec. 13, 1991, 105 Stat. 1856, related to regulations to implement export promotion provisions.

PART B—MISCELLANEOUS PROVISIONS

§ 5671. Agricultural embargo protection

(a) Prerequisites; scope of compensation

Notwithstanding any other provision of law, if—

(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commod-

ity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

(b) Amount of payments

If the Secretary makes payments available to producers under subsection (a) of this section, the amount of such payment shall be determined—

(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

(B) the crop acreage base established for the commodity; by

(C) the amount by which the average market price per unit of such commodity received by producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

(c) Time for payments

Payments under paragraph (1) of subsection (b) of this section shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

(d) Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

(e) Regulations

The Secretary may issue such regulations as are determined necessary to carry out this section.

(Pub. L. 95–501, title IV, § 411, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3682.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(1), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

The Agricultural Act of 1949, referred to in subsec. (b)(1), (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. Title I of the Act is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5672 of this title.

§ 5672. Development of plans to alleviate adverse impact of embargoes

To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

(1) develop a comprehensive contingency plan that shall include—

(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

(2) for any suspension or restriction for which compensation is not provided under section 5671 of this title, prepare and submit to

the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

(3) for any suspension or restriction for which compensation is provided under section 5671 of this title, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 5671 of this title; and

(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

(Pub. L. 95–501, title IV, § 412, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3684.)

§ 5673. Contracting authority to expand agricultural export markets

(a) In general

The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) Not employees of United States

Individuals referred to in subsection (a) of this section shall not be regarded as officers or employees of the United States.

(Pub. L. 95–501, title IV, § 413, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3685.)

§ 5674. Trade consultations concerning imports

(a) Consultation between agencies

The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

(b) Consultation with Trade Representative

The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

(c) Monitoring compliance with sanitary and phytosanitary measures

The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

(B) any notice given by the Secretary to the United States Trade Representative.

(Pub. L. 95–501, title IV, § 414, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3685; amended Pub. L. 104–127, title II, § 242(b), Apr. 4, 1996, 110 Stat. 965.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–127 added subsec. (c).

CROSS REFERENCES

Uruguay Round Agreements, see section 3501 et seq. of Title 19, Customs Duties.

§ 5675. Technical assistance in trade negotiations

The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

(Pub. L. 95–501, title IV, § 415, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3685.)

§ 5676. Limitation on use of certain export promotion programs

(a) In general

The Secretary may provide that a person shall be ineligible for participation in an export program established under title I of the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1701 et seq.], or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to

section 612c of this title with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 1313(j)(2) of title 19, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) Vegetable oil

A person shall be ineligible for participation in any of the export programs referred to in subsection (a) of this section with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 1313 of title 19, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) Certification

If the Secretary takes action under the authority granted under subsection (a) of this section, a person applying to export any agricultural commodity under the export programs referred to in subsection (a) of this section shall certify that none of the commodity has been or will be used as the basis of a claim for any refund specified in subsection (a) of this section, except that regardless of whether the Secretary takes action under the authority granted under subsection (a) of this section, a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b) of this section.

(d) Regulations

The Secretary shall promulgate regulations to carry out this section.

(e) Applicability

This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to November 28, 1990, for an export sale.

(Pub. L. 95–501, title IV, § 416, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3685; amended Pub. L. 102–237, title III, § 313, Dec. 13, 1991, 105 Stat. 1856.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsec. (a), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended. Title I of the Act is classified generally to subchapter II (§ 1701 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

AMENDMENTS

1991—Subsec. (e). Pub. L. 102–237 substituted ''November 28, 1990'' for ''the effective date of this section''.

§ 5677. Trade compensation and assistance programs

(a) In general

Except as provided in subsection (f) of this section, notwithstanding any other provision of law, if, after April 4, 1996, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a ''program'').

(b) Compensation or provision of funds

Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1) of this section; or

(2) make available an amount of funds calculated under subsection (c)(2) of this section, to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

(c) Determination of amount of compensation or funds

(1) Compensation

If the Secretary makes payments available to producers under subsection (b)(1) of this section, the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

(2) Determination of amount of funds

For each fiscal year of a program, the amount of funds made available under subsection (b)(2) of this section shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

(d) Duration of program

For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) of this section for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

(e) Commodity Credit Corporation

The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

(f) Exception to carrying out program

This section shall not apply to any suspension of trade due to a war or armed hostility.

(g) Partial year embargoes

If the Secretary makes funds available under subsection (b)(2) of this section, regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) of this section

shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

(h) Short supply embargoes

If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1310 of this title.

(Pub. L. 95–501, title IV, § 417, as added Pub. L. 104–127, title II, § 249, Apr. 4, 1996, 110 Stat. 969.)

§ 5678. Edward R. Madigan United States Agricultural Export Excellence Award

(a) Findings

Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing $54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) Establishment

There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription ''Edward R. Madigan United States Agricultural Export Excellence Award''. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the ''Secretary'') may prescribe.

(c) Selection of recipient

The President or the Secretary (on the basis of recommendations received from the board established under subsection (h) of this section) shall periodically provide the award to companies and other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) Presentation of award

The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper.

(e) Publication of award

An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) Categories for which award may be given

Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) Criteria for qualification

An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) of this section in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) of this section during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) Board

(1) Selection

The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) Meetings

The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1) of this section.

(3) Recommendations of board

The board shall report its recommendations concerning the making of the award to the Secretary.

(4) Term

Each member of the board may serve a term of not to exceed 3 years.

(i) Funding

The Secretary may seek and accept gifts from public and private sources to carry out this section.

(Pub. L. 104–127, title II, § 261, Apr. 4, 1996, 110 Stat. 972.)

CODIFICATION

Section was enacted as part of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of the Agricultural Trade Act of 1978 which comprises this chapter.

SUBCHAPTER V—FOREIGN AGRICULTURAL SERVICE

§ 5691. Repealed. Pub. L. 103–354, title II, § 225(e)(1), Oct. 13, 1994, 108 Stat. 3214

Section, Pub. L. 95–501, title V, § 501, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3686, established position of Under Secretary of Agriculture for International Affairs and Commodity Programs.

A prior section 501 of Pub. L. 95–501 enacted section 2211a of this title, amended section 5314 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 2211a of this title, prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

§ 5692. Administrator of Foreign Agricultural Service

(a) Establishment

There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

(b) Duties

The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(c) Use of service

In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attaché Service.

(Pub. L. 95–501, title V, § 502, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 5693. Duties of Foreign Agricultural Service

The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

(1) acquiring information pertaining to agricultural trade;

(2) carrying out market promotion and development activities;

(3) providing agricultural technical assistance and training; and

(4) carrying out the programs authorized under this chapter, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.

(Pub. L. 95–501, title V, § 503, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3686; amended Pub. L. 104–127, title II, § 250, Apr. 4, 1996, 110 Stat. 971.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in par. (4), is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''Duties'' for ''Establishment'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this chapter, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 5694. Staff of Foreign Agricultural Service

(a) Personnel of Service

To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

(b) Rank of Foreign Agricultural Service officers in foreign missions

Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

(Pub. L. 95–501, title V, § 504, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3686.)

PRIOR PROVISIONS

Provisions similar to those in subsec. (b) of this section appear in the following appropriation acts:

Pub. L. 101–506, title IV, Nov. 5, 1990, 104 Stat. 1343.

Pub. L. 100–202, § 101(k) [title IV, § 401], Dec. 22, 1987, 101 Stat. 1329–322, 1329–350.

LANGUAGE PROFICIENCY AND EVALUATION OF FOREIGN AGRICULTURAL SERVICE OFFICERS

Section 1556 of title XV of Pub. L. 101–624, as amended by Pub. L. 104–127, title II, § 281(b), Apr. 4, 1996, 110 Stat. 980, provided that:

''(a) ASSESSMENT OF FOREIGN LANGUAGE COMPETENCE.—The Foreign Agricultural Service shall re-

vise its evaluation reports for its Foreign Service officers so as to require in a separate entry an assessment of the officer's effectiveness in using, in his or her work, a foreign language or foreign languages tested at the General Professional Speaking Proficiency level or above, in cases where the supervisor is capable of making such an assessment.

''(b) PRECEDENCE IN PROMOTION.—The Director of Personnel of the Foreign Agricultural Service shall instruct promotion panels to take account of language ability and, all criteria for promotion otherwise being equal, to give precedence in promotions to officers who have achieved at least the General Professional Speaking Proficiency level in 1 or more foreign languages over officers who lack that level of proficiency.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1748 of this title.

§ 5695. Authorization of appropriations

There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 95–501, title V, § 505, formerly § 506, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3687; renumbered § 505, Pub. L. 102–237, title III, § 314, Dec. 13, 1991, 105 Stat. 1856.)

SUBCHAPTER VI—REPORTS

§ 5711. Repealed. Pub. L. 104–127, title II, § 241(c)(1), Apr. 4, 1996, 110 Stat. 964

Section, Pub. L. 95–501, title VI, § 601, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3687; amended Pub. L. 102–237, title III, § 315, Dec. 13, 1991, 105 Stat. 1856, required Secretary to periodically prepare long-term agricultural trade strategy reports.

§ 5712. Export reporting and contract sanctity

(a) Export sales reports

(1) In general

All exporters of wheat and wheat flour, feed grains, oil seeds, cotton, beef, and products thereof, and other commodities that the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period:

(A) type, class, and quantity of the commodity sought to be exported;

(B) the marketing year of shipment; and

(C) destination, if known.

(2) Confidentiality and compilation of reports

Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting.

(3) Immediate reporting

All exporters of agricultural commodities produced in the United States shall, upon request of the Secretary, immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as the Secretary may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.

(4) Monthly reporting permitted

The Secretary may, with respect to any commodity or type or class thereof during any period in which the Secretary determines that—

(A) there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements,

(B) total supplies of such commodity in the exporting countries are estimated to be in surplus,

(C) anticipated exports will not result in excessive drain on domestic supplies, and

(D) to require the reports to be made will unduly hamper export sales,

provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(b) Failure to report

Any person who knowingly fails to make any report required under this section shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.

(c) Contract sanctity

Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity under an export sales contract—

(1) that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity, and

(2) the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed,

except that the President may prohibit or curtail the export of any agricultural commodity during a period for which the President has declared a national emergency or for which the Congress has declared war.

(Pub. L. 95–501, title VI, § 602, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3688; amended Pub. L. 102–237, title III, § 327, Dec. 13, 1991, 105 Stat. 1858; Pub. L. 106–78, title IX, § 921, Oct. 22, 1999, 113 Stat. 1206.)

AMENDMENT OF SECTION

For termination of amendment by section 942 of Pub. L. 106–78, see Termination Date of 1999 Amendment note below.

PRIOR PROVISIONS

A prior section 602 of Pub. L. 95–501 enacted section 1765b–1 of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–78, §§ 921, 942, temporarily inserted '', beef,'' after ''cotton'' in introductory provisions. See Termination Date of 1999 Amendment note below.

1991—Subsec. (a)(1). Pub. L. 102–237, § 327(1), substituted ''designate produced'' for ''designate as produced'' in introductory provisions.

Subsec. (a)(2). Pub. L. 102–237, § 327(2), struck out ''in accordance with subsection (c)'' after ''shall remain confidential''.

TERMINATION DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–78 to terminate 5 years after Oct. 22, 1999, see section 942 of Pub. L. 106–78, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

§ 5713. Other reports to Congress

Subject to section 6917 of this title, the Secretary shall, on a quarterly basis, prepare and submit to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this chapter, the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.], and under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] during the current fiscal year. Such information may be provided in individual reports or in a consolidated report.

(Pub. L. 95–501, title VI, § 603, as added Pub. L. 101–624, title XV, § 1531, Nov. 28, 1990, 104 Stat. 3689; amended Pub. L. 104–127, title II, §§ 241(c)(2), 251, Apr. 4, 1996, 110 Stat. 964, 971.)

REFERENCES IN TEXT

The Commodity Credit Corporation Charter Act, referred to in text, is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Agricultural Trade Development and Assistance Act of 1954, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

PRIOR PROVISIONS

A prior section 603 of Pub. L. 95–501 enacted provisions set out as a note under section 612c–3 of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

AMENDMENTS

1996—Pub. L. 104–127, § 251, in first sentence, substituted ''Subject to section 6917 of this title, the'' for ''The''.

Pub. L. 104–127, § 241(c)(2), in last sentence, substituted ''or in a consolidated report'' for '', in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 5711 of this title''.

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SUBCHAPTER VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

§ 5721. "Eligible trade organization" defined

In this subchapter, the term ''eligible trade organization'' means a United States trade organization that—

(1) promotes the export of 1 or more United States agricultural commodities or products; and

(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

(Pub. L. 95–501, title VII, § 701, as added Pub. L. 104–127, title II, § 252, Apr. 4, 1996, 110 Stat. 971.)

§ 5722. Foreign market development cooperator program

(a) In general

The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

(b) Administration

Funds made available to carry out this subchapter shall be used only to provide—

(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

(Pub. L. 95–501, title VII, § 702, as added Pub. L. 104–127, title II, § 252, Apr. 4, 1996, 110 Stat. 971.)

§ 5723. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for each of fiscal years 1996 through 2002.

(Pub. L. 95–501, title VII, § 703, as added Pub. L. 104–127, title II, § 252, Apr. 4, 1996, 110 Stat. 972.)

CHAPTER 88—RESEARCH

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SUBCHAPTER I—SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3222c of this title.

§ 5801. Purpose and definitions

(a) Purpose

It is the purpose of this subchapter to encourage research designed to increase our knowledge concerning agricultural production systems that—

(1) maintain and enhance the quality and productivity of the soil;

(2) conserve soil, water, energy, natural resources, and fish and wildlife habitat;

(3) maintain and enhance the quality of surface and ground water;

(4) protect the health and safety of persons involved in the food and farm system;

(5) promote the well being of animals; and

(6) increase employment opportunities in agriculture.

(b) Definitions

For purposes of this subchapter:

(1) The term ''sustainable agriculture'' shall have the same meaning given to that term by section 3103(17) of this title.

(2) The term ''integrated crop management'' means an agricultural management system that integrates all controllable agricultural production factors for long-term sustained productivity, profitability, and ecological soundness.

(3) The term ''integrated resource management'' means livestock management which utilizes an interdisciplinary systems approach which integrates all controllable agricultural production practices to provide long-term sustained productivity and profitable production of safe and wholesome food in an environmentally sound manner.

(4) The term ''agribusiness'' includes a producer or organization engaged in an agricultural enterprise with a profit motive.

(5) The term ''extension'' shall have the same meaning given to that term by section 3103(7) of this title.

(6) The term ''Secretary'' means the Secretary of Agriculture.

(7) The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or federally recognized Indian tribes.

(8) The term ''State agricultural experiment stations'' shall have the same meaning given to that term by section 3103(13) of this title.

(9) The term ''nonprofit organization'' means an organization, group, institute, or institution that—

(A) has a demonstrated capacity to conduct agricultural research or education programs;

(B) has experience in research, demonstration, education, or extension in sustainable agricultural practices and systems; and

(C) qualifies as a nonprofit organization under section 501(c) of title 26.

(Pub. L. 101–624, title XVI, §1619, Nov. 28, 1990, 104 Stat. 3733; Pub. L. 102–237, title IV, §407(2), Dec. 13, 1991, 105 Stat. 1864; Pub. L. 104–127, title VIII, §860(c)(1), Apr. 4, 1996, 110 Stat. 1173.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this subtitle'', meaning subtitle B (§§1619–1629) of title XVI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3733, which enacted this subchapter, repealed sections 4701 to 4710 of this title, and repealed provisions set out as a note under section 4701 of this title. For complete classification of subtitle B to the Code, see Tables.

AMENDMENTS

1996—Subsec. (b)(7) to (10). Pub. L. 104–127 redesignated pars. (8) to (10) as (7) to (9), respectively, and struck out former par. (7) which read as follows: ''The term 'Advisory Council' means the National Sustainable Agriculture Advisory Council established under section 5812(c) of this title.''

1991—Subsec. (b)(8). Pub. L. 102–237 substituted ''Mariana Islands'' for ''Marianas Islands''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

PART A—BEST UTILIZATION OF BIOLOGICAL APPLICATIONS

§ 5811. Research and extension projects

(a) Projects required

The Secretary shall conduct research and extension projects to obtain data, develop conclusions, demonstrate technologies, and conduct educational programs that promote the purposes of this part, including research and extension projects that—

(1) facilitate and increase scientific investigation and education in order to—

(A) reduce, to the extent feasible and practicable, the use of chemical pesticides, fertilizers, and toxic natural materials in agricultural production;

(B) improve low-input farm management to enhance agricultural productivity, profitability, and competitiveness; and

(C) promote crop, livestock, and enterprise diversification; and

(2) facilitate the conduct of projects in order to—

(A) study, to the extent practicable, agricultural production systems that are located in areas that possess various soil, climate, and physical characteristics;

(B) study farms that have been, and will continue to be, managed using farm production practices that rely on low-input and conservation practices;

(C) take advantage of the experience and expertise of farmers and ranchers through their direct participation and leadership in projects;

(D) transfer practical, reliable and timely information to farmers and ranchers concerning low-input sustainable farming practices and systems; and

(E) promote a partnership between farmers, nonprofit organizations, agribusiness, and public and private research and extension institutions.

(b) Agreements

The Secretary shall carry out this section through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities.

(c) Selection of projects

(1) In general

The Secretary shall select research and extension projects to be conducted under this section on the basis of—

(A) the relevance of the project to the purposes of this part;

(B) the appropriateness of the design of the project;

(C) the likelihood of obtaining the objectives of the project; and

(D) the national or regional applicability of the findings and outcomes of the proposed project.

(2) Priority

In conducting projects under this section, the Secretary shall give priority to projects that—

(A) closely coordinate research and extension activities;

(B) indicate the manner in which the findings of the project will be made readily usable by farmers;

(C) maximize the involvement and cooperation of farmers, including projects involving on-farm research and demonstration;

(D) involve a multidisciplinary systems approach; and

(E) involve cooperation between farms, non-profit organizations, colleges and universities, and government agencies.

(d) Diversification of research

The Secretary shall conduct projects and studies under this section in areas that are broadly representative of the diversity of United States agricultural production, including production on family farms, mixed-crop livestock farms and dairy operations.

(e) On-farm research

The Secretary may conduct projects and activities that involve on-farm research and demonstration in carrying out this section.

(f) Impact studies

The Secretary may approve study projects concerning the national and regional economic, global competitiveness, social and environmental implications of the adoption of low-input sustainable agricultural practices and systems.

(g) Project duration

(1) In general

The Secretary may approve projects to be conducted under this section that have a duration of more than one fiscal year.

(2) Sequence planting

In the case of a research project conducted under this section that involves the planting of a sequence of crops or crop rotations, the Secretary shall approve such projects for a term that is appropriate to the sequence or rotation being studied.

(h) Public access

The Secretary shall ensure that research projects conducted under this section are open for public observation at specified times.

(i) Indemnification

(1) In general

Subject to paragraph (2), the Secretary may indemnify the operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

(2) Subject to agreement

An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

(Pub. L. 101–624, title XVI, § 1621, Nov. 28, 1990, 104 Stat. 3734; Pub. L. 104–127, title VIII, § 860(c)(2), Apr. 4, 1996, 110 Stat. 1173.)

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104–127, § 860(c)(2)(A), redesignated subpars. (B) to (E) as (A) to (D), respectively, and struck out former subpar. (A) which read as follows: ''the recommendations of the Advisory Council;''.

Subsec. (c)(2). Pub. L. 104–127, § 860(c)(2)(B), redesignated subpars. (B) to (F) as (A) to (E), respectively, and struck out former subpar. (A) which read as follows: ''are recommended by the Advisory Council;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5812, 5814 of this title.

§ 5812. Program administration

(a) Duties of Secretary

The Secretary shall—

(1) administer the programs and projects conducted under sections 5811 and 5813 of this title through the Cooperative State Research Service in close cooperation with the Extension Service, Agricultural Research Service, and other appropriate agencies;

(2) establish a minimum of four Regional Administrative Councils in accordance with subsection (b) of this section; and

(3) in conjunction with such Regional Administrative Councils, identify regional host institutions required to carry out such programs or projects.

(b) Regional Administrative Councils

(1) Membership

The membership of the Regional Administrative Councils shall include representatives of—

(A) the Agricultural Research Service;

(B) the Cooperative State Research Service;

(C) the Extension Service;

(D) State cooperative extension services;

(E) State agricultural experiment stations;

(F) the Soil Conservation Service;

(G) State departments engaged in sustainable agriculture programs;

(H) nonprofit organizations with demonstrable expertise;

(I) farmers utilizing systems and practices of sustainable agriculture;

(J) agribusiness;

(K) the State or United States Geological Survey; and

(L) other persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities.

(2) Responsibilities

The Regional Administrative Councils shall—

(A) promote the programs established under this subchapter at the regional level;

(B) establish goals and criteria for the selection of projects authorized under this subchapter within the applicable region;

(C) appoint a technical committee to evaluate the proposals for projects to be considered under this subchapter by such council;

(D) review and act on the recommendations of the technical committee, and coordinate its activities with the regional host institution; and

(E) prepare and make available an annual report concerning projects funded under sections 5811 and 5813 of this title, together with an evaluation of the project activity.

(3) Conflict of interest

A member of the Regional Administrative Council or a technical committee may not participate in the discussion or recommendation of proposed projects if the member has or had a professional or business interest in, including the provision of consultancy services, the organization whose grant application is under review.

(Pub. L. 101–624, title XVI, § 1622, Nov. 28, 1990, 104 Stat. 3736; Pub. L. 104–127, title VIII, § 860(a), (b), Apr. 4, 1996, 110 Stat. 1173.)

AMENDMENTS

1996—Subsec. (a)(2) to (4). Pub. L. 104–127, § 860(b)(1), redesignated pars. (3) and (4) as (2) and (3), respectively, substituted ''subsection (b)'' for ''subsection (e)'' in par. (2), and struck out former par. (2) which read as follows: ''establish the Advisory Council in accordance with subsection (c) of this section;''.

Subsec. (b). Pub. L. 104–127, § 860(a), (b)(3), redesignated subsec. (e) as (b) and struck out former subsec. (b) which required Secretary, not later than Apr. 1, 1991, and each April 1 thereafter, to prepare and submit to congressional committees and to Advisory Council report describing results of programs carried out under sections 5811, 5813, and 5821 of this title and report describing progress of projects conducted under this subchapter.

Subsec. (b)(2). Pub. L. 104–127, § 860(b)(4), redesignated subpars. (B) to (F) as (A) to (E), respectively, and struck out former subpar. (A) which read as follows: ''make recommendations to the Advisory Council concerning research and extension projects that merit funding under sections 5811 and 5813 of this title;''.

Subsecs. (c) to (e). Pub. L. 104–127, § 860(b)(2), (3), redesignated subsec. (e) as (b) and struck out subsec. (c) which provided for membership of the National Sustainable Agriculture Advisory Council and subsec. (d) which set forth responsibilities of Advisory Council.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5813, 5814 of this title.

§ 5813. Federal-State matching grant program

(a) Establishment

The Secretary shall establish a Federal-State matching grant program to make grants to States to assist in the creation or enhancement of State sustainable agriculture research, extension, and education programs, in furtherance of this subchapter.

(b) Eligible programs and activities

States eligible to receive a grant under this section may conduct a variety of activities designed to carry out the purpose of this subchapter, including—

(1) activities that encourage the incorporation and integration of sustainable agriculture concerns in all State research, extension, and education projects;

(2) educational programs for farmers, educators, and the public;

(3) the development and funding of innovative research, extension, and education programs regarding sustainable agriculture;

(4) the conduct of research and demonstration projects;

(5) the provision of technical assistance to farmers and ranchers;

(6) activities that encourage farmer-to-farmer information exchanges;

(7) the incorporation of sustainable agriculture studies in undergraduate and graduate degree programs; and

(8) such other activities that are appropriate to the agricultural concerns of the State that are consistent with the purpose of this part.

(c) Submission of plan

(1) Required

States that elect to apply for a grant under this section shall prepare and submit, to the appropriate Regional Administrative Council established under section 5812 of this title, a State plan and schedule for approval by such council and the Secretary.

(2) Elements of plan

State plans prepared under paragraph (1) shall provide details of the proposed program to be implemented using funds provided under this section for fiscal years 1991 through 1995, or any 5-year period thereafter, and shall identify the sources of matching State funds for the same fiscal year.

(3) Participation of farmers

To be eligible for approval, State plans submitted under this subsection shall demonstrate that there will be extensive and direct participation of farmers in the development, implementation, and evaluation of the program.

(d) Grant award

(1) Limits

Subject to paragraph (2), the Secretary shall provide grants to eligible States in an amount not to exceed 50 percent of the cost of the establishment or enhancement of a State sustainable agriculture program under a plan approved by the Secretary under subsection (c) of this section for a period not to exceed 5 years.

(2) State contribution

To be eligible to receive a grant under this section, a State shall agree to pay, from State

appropriated funds, other State revenue, or from private contributions received by the State, not less than 50 percent of the cost of the establishment or enhancement of the sustainable agriculture program under an approved plan under subsection (c) of this section.

(Pub. L. 101–624, title XVI, § 1623, Nov. 28, 1990, 104 Stat. 3738.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5812 of this title.

§ 5814. Authorization of appropriations

There are authorized to be appropriated $40,000,000 for each fiscal year to carry out this part. Of amounts appropriated to carry out this part for a fiscal year, not less than $15,000,000, or not less than two thirds of any such appropriation, whichever is greater, shall be used to carry out sections 5811 and 5812 of this title.

(Pub. L. 101–624, title XVI, § 1624, Nov. 28, 1990, 104 Stat. 3739; Pub. L. 102–237, title IV, § 408, Dec. 13, 1991, 105 Stat. 1865.)

AMENDMENTS

1991—Pub. L. 102–237 substituted ''and 5812'' for ''and 5813''.

PART B—INTEGRATED MANAGEMENT SYSTEMS

§ 5821. Integrated management systems

(a) Establishment

The Secretary shall establish a research and education program concerning integrated resource management and integrated crop management in order to enhance research related to farming operations, practices, and systems that optimize crop and livestock production potential and are environmentally sound. The purpose of the program shall be—

(1) to encourage producers to adopt integrated crop and livestock management practices and systems that minimize or abate adverse environmental impacts, reduce soil erosion and loss of water and nutrients, enhance the efficient use of on-farm and off-farm inputs, and maintain or increase profitability and long-term productivity;

(2) to develop knowledge and information on integrated crop and livestock management systems and practices to assist agricultural producers in the adoption of these systems and practices;

(3) to accumulate and analyze information on agricultural production practices researched or developed under programs established under this subchapter, chapter 86 of this title,[1] and other appropriate programs of the Department of Agriculture to further the development of integrated crop and livestock management systems;

(4) to facilitate the adoption of whole-farm integrated crop and livestock management systems through demonstration projects on individual farms, including small and limited resource farms, throughout the United States; and

(5) to evaluate and recommend appropriate integrated crop and livestock management policies and programs.

(b) Development and adoption of integrated crop management practices

The Secretary shall encourage agricultural producers to adopt and develop individual, site-specific integrated crop management practices. On a priority basis, the Secretary shall develop and disseminate information on integrated crop management systems for agricultural producers in specific localities or crop producing regions where the Secretary determines—

(1) water quality is impaired as a result of local or regional agricultural production practices; or

(2) the adoption of such practices may aid in the recovery of endangered or threatened species.

(c) Development and adoption of integrated resource management practices

The Secretary shall, on a priority basis, develop programs to encourage livestock producers to develop and adopt individual, site-specific integrated resource management practices. These programs shall be designed to benefit producers and consumers through—

(1) optimum use of available resources and improved production and financial efficiency for producers;

(2) identifying and prioritizing the research and educational needs of the livestock industry relating to production and financial efficiency, competitiveness, environmental stability, and food safety; and

(3) utilizing an interdisciplinary approach.

(d) Authorization of appropriations

There are authorized to be appropriated for each fiscal year $20,000,000 to carry out this section through the Extension Service.

(Pub. L. 101–624, title XVI, § 1627, Nov. 28, 1990, 104 Stat. 3739; Pub. L. 104–127, title VIII, § 862(b)(2), Apr. 4, 1996, 110 Stat. 1174.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(3), was in the original ''this subtitle'', meaning subtitle B (§§ 1619–1629) of title XVI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3733, which enacted this subchapter, repealed sections 4701 to 4710 of this title, and repealed provisions set out as a note under section 4701 of this title. For complete classification of subtitle B to the Code, see Tables.

Chapter 86 of this title, referred to in subsec. (a)(3), was in the original ''subtitle G of title XIV'', meaning subtitle G (§§ 1481–1485) of title XIV of Pub. L. 101–624, which was repealed by Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–127 struck out ''and section 5881 of this title'' before ''and other appropriate''.

§ 5822. Integrated Farm Management Program Option

(a) Establishment

The Secretary of Agriculture (hereafter in this section referred to as the ''Secretary'') shall, by regulation, establish a voluntary program, to be

[1] See References in Text note below.

known as the ''Integrated Farm Management Program Option'' (hereafter referred to in this section as the ''program''), designed to assist producers of agricultural commodities in adopting integrated, multiyear, site-specific farm management plans by reducing farm program barriers to resource stewardship practices and systems.

(b) Definitions

(1) In general

For purposes of this section—

(A) The term ''resource-conserving crop'' means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and alternative crops.

(B) The term ''resource-conserving crop rotation'' means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

(C) The term ''farming operations and practices'' includes the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

(D) The term ''integrated farm management plan'' means a comprehensive, multiyear, site-specific plan that meets the requirements of subsection (f) of this section.

(2) Crops

For purposes of paragraph (1)(A)—

(A) The term ''grass'' means perennial grasses commonly used for haying or grazing.

(B) The term ''legume'' means forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

(C) The term ''small grain'' shall not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.

(D) The term ''alternative crops'' means experimental and industrial crops grown in arid and semiarid regions that conserve soil and water.

(c) Eligibility

To be eligible to participate in the program established by this section, a producer must—

(1) prepare and submit to the Secretary for approval an integrated farm management plan (hereafter referred to in this section as the ''plan'');

(2) actively apply the terms and conditions of the plan, as approved by the Secretary;

(3) devote to a resource-conserving crop, on the average through the life of the contract, not less than 20 percent of the crop acreage bases enrolled under such program;

(4) comply with the terms and conditions of any annual acreage limitation program in effect for the crop acreage bases contracted under the terms of this subsection; and

(5) keep such records as the Secretary may reasonably require.

(d) Acreage

In accepting contracts for the program, the Secretary, to the extent practicable, shall enroll not less than 3,000,000, nor more than 5,000,000, acres of cropland in each of the calendar years 1991 through 1995.

(e) Contracts

The Secretary shall enter into contracts with producers to enroll acreage in the program. Such contracts shall be for a period of not less than 3 years, but may, at the producer's option, be for a longer period of time (up to 5 years) and may be renewed upon mutual agreement between the Secretary and the producer.

(f) Requirements of plans

Each plan approved by the Secretary shall—

(1) specify the acreage and the crop acreage bases to be enrolled in the program;

(2) describe the resource-conserving crop rotation to be implemented and maintained on such acreage during the contract period to fulfill the purposes of the program;

(3) contain a schedule for the implementation, improvement and maintenance of the resource-conserving crop rotation described in the plan;

(4) describe the farming operations and practices to be implemented on such acreage and how such operations and practices could reasonably be expected to result in—

(A) the maintenance or enhancement of the overall productivity and profitability of the farm;

(B) the prevention of the degradation of farmland soils, the long-term improvement of the fertility and physical properties of such soils; and

(C) the protection of water supplies from contamination by managing or minimizing agricultural pollutants if their management or minimization results in positive economic and environmental benefits;

(5) assist the producer to comply with all Federal, State, and local requirements designed to protect soil, wetland, wildlife habitat, and the quality of groundwater and surface water; and

(6) contain such other terms as the Secretary may, by regulation, require.

(g) Administration; certification; termination

(1) Administration; technical assistance; flexibility; implementation; displacement

(A) Administration

The program shall be administered by the Secretary.

(B) Technical assistance

In administering the program, the Secretary, in consultation with the local conservation districts, and any State or local authorities deemed appropriate by the Secretary, shall provide technical assistance to producers in developing and implementing plans, evaluating the effectiveness of plans,

and assessing the costs and benefits of farming operations and practices. The plans may draw on handbooks and technical guides and may also include other practices appropriate to the particular circumstances of the producer and the purposes of the program.

(C) Flexibility

In administering the program, the Secretary shall provide sufficient flexibility for a producer to adjust or modify the producer's plan consistent with this section, except that such adjustments or modifications must be approved by the Secretary.

(D) Minimization of adverse effect

(i) In general

Notwithstanding any other provision of this section, the Secretary shall implement this section in such a manner as to minimize any adverse economic effect on the agribusinesses and other agriculturally related economic interests within any county, State, or region that may result from a decrease of harvested acres due to the operation of this section. In carrying out this section, the Secretary may restrict the total amount of crop acreage that may be removed from production, taking into consideration the total amount of crop acreage that has, or will be, removed from production under other price support, production adjustment, or conservation program activities.

(ii) Maximize conservation goals

The Secretary shall, to the greatest extent practicable, permit producers on a farm that desire to participate in the program authorized under this section to enroll acreage adequate to maximize conservation goals on such farm and ensure economic effectiveness of the program in each individual application.

(E) Displacement

The Secretary shall not approve any plan that will result in the involuntary displacement of farm tenants or lessees by landowners through the removal of substantial portions of the farm from production of a commodity. In the case of any tenant or lessee who has rented or leased the farm (with or without a written option for annual renewal or periodic renewals) for a period of two or more of the immediately preceding years, the Secretary shall consider the refusal by a landlord, without reasonable cause other than simply for the purpose of enrollment in the program, to renew such rental or lease as an involuntary displacement in the absence of a written consent to such nonrenewal by the tenant or lessee.

(2) Certification

The Secretary shall certify compliance by producers with the terms and conditions of the plans.

(3) Termination

The Secretary may terminate a contract entered into with a producer under this program if—

(A) the producer agrees to such termination, or

(B) the producer violates the terms and conditions of such contract.

(h) Program rules

(1) Base and yield protection

Notwithstanding any other provision of law, the Secretary shall not, except as provided in paragraph (6), reduce crop acreage bases, or farm program payment yields, as a result of the planting of a resource-conserving crop as part of a resource-conserving crop rotation.

(2) Resource-conserving crops on reduced acreage

Notwithstanding the provisions of title I of the Agricultural Act of 1949 [7 U.S.C. 1441 et seq.], acreage devoted to resource-conserving crops as part of a resource-conserving crop rotation under this program may also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program and up to 50 percent of the acreage so designated shall be without restrictions on haying and grazing, except as provided in paragraph (5)(B), except that such acreage that is devoted to perennial cover on which cost-share assistance for the establishment of the perennial cover has been provided, shall not be credited towards the producer's resource-conserving crop requirement under a contract under this section.

(3) Barley, oats, and wheat

Notwithstanding any other provisions of this section, barley, oats, or wheat planted as part of a resource-conserving crop on reduced acreage may not be harvested in kernel form.

(4) Payment acres

Notwithstanding any other provision of this Act, the Secretary shall not reduce farm program payments of participants in this program as a result of the planting a resource-conserving crop as part of a resource-conserving crop rotation on payment acres.

(5) Haying and grazing restriction

(A) In general

The Secretary shall not make any program payments to a producer who is otherwise eligible to receive with respect to acreage enrolled in the program if such producer hays or grazes such acreage (excluding acreage designated as conservation use acreage) during the 5-month period in each State during which haying and grazing of conserving use acres is not allowed under the provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or, if the crop planted on such acreage includes a small grain, before the producer harvests the small grain crop in kernel form.

(B) Limitation on permitted haying and grazing

Notwithstanding any other provision of this section, if the Secretary determines that implementation of this section will result in a significant adverse economic impact on hay or livestock prices in a particu-

lar geographic area, the Secretary may limit the quantity of hay that can be harvested or grazed from that area. Such limit may include restrictions on the number of times that hay may be harvested or grazed from the acres per year, the timing of such harvesting and grazing, or the number of years that such land may remain in the same hay stand, or a prohibition on the harvesting or grazing of hay from acres on which a small grain was not originally interplanted with the hay crop and harvested for grain.

(6) Base acre adjustments

The Secretary, only for the purpose of establishing a producer's crop acreage base under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], may make such adjustments as the Secretary determines to be fair and equitable to reflect resource-conserving crop rotation practices that were maintained by producers prior to participation in the program and to reflect such other factors as the Secretary determines should be considered, except that the total of such adjustments in any year shall not exceed the total farm program savings in the same year that would result from the implementation of plans.

(7) Payment acreage limitation

(A) In general

No producers enrolled in a resource-conserving crop rotation shall be eligible to receive payments under farm programs for wheat, feed grains, cotton, or rice under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] on acreage equal to the average number of traditionally underplanted acres for the three years prior to enrolling in this program.

(B) "Traditionally underplanted acreage" defined

(i) In general

Subject to clause (ii), for the purposes of this paragraph the term ''traditionally underplanted acreage'' means the difference in a particular year between the acreage that is part of a producer's crop acreage base that is not planted to the program crop and the part of the crop acreage base subject to an acreage limitation program or required to be set aside, but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1). In no case shall such acreage be less than zero.

(ii) Exception

In the case of a producer participating in a particular year in a program authorized under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E)[1] of the Agricultural Act of 1949, the term ''traditionally underplanted acreage'' means 8 percent of the producer's permitted acreage for such year.

(Pub. L. 101–624, title XIV, §1451, Nov. 28, 1990, 104 Stat. 3607; Pub. L. 101–508, title I, §1204(a), Nov. 5, 1990, 104 Stat. 1388–11; Pub. L. 102–237, title II, §201(a), Dec. 13, 1991, 105 Stat. 1846.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (h)(2), (5)(A), (6), (7)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title I of the Agricultural Act of 1949, is classified generally to subchapter II (§1441 et seq.) of chapter 35A of this title. Sections 101B, 103B, 105B, and 107B of the Act were classified to sections 1441–2, 1444–2, 1444f, and 1445b–3a of this title prior to repeal by Pub. L. 104–127, title I, §171(b)(2)(A)–(D), Apr. 4, 1996, 110 Stat. 938. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

This Act, referred to in subsec. (h)(4), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended, known as the Food, Agriculture, Conservation, and Trade Act of 1990. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 1101 of the Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (h)(7)(B)(i), is section 1101 of Pub. L. 101–508, which amended former sections 1441–2, 1444–2, 1444f, and 1445b–3a of this title.

CODIFICATION

Section was not enacted as part of subtitle B of title XVI of Pub. L. 101–624 which comprises this subchapter.

AMENDMENTS

1991—Subsec. (b)(1)(D). Pub. L. 102–237, §201(a)(1), substituted ''subsection (f)'' for ''subsection (e)''.

Subsec. (d). Pub. L. 102–237, §201(a)(2), inserted ''each of'' before ''the calendar''.

Subsec. (f)(5). Pub. L. 102–237, §201(a)(3), substituted ''assist'' for ''assisting''.

Subsec. (h)(7)(B)(i). Pub. L. 102–237, §201(a)(4)(A), inserted before period at end of first sentence '', but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–1)''.

Subsec. (h)(7)(B)(ii). Pub. L. 102–237, §201(a)(4)(B), substituted ''under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E)'' for ''under section 101B(c)(1)(B), section 103B(c)(1)(B), section 105A(c)(1)(B), or section 107A(c)(1)(B)''.

1990—Subsec. (d). Pub. L. 101–508, §1204(a)(1), substituted ''enroll not less than'' for ''enroll not more than''.

Subsec. (h)(7)(A). Pub. L. 101–508, §1204(a)(2), substituted ''shall be eligible'' for ''shall not be eligible''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(1) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as a note under section 511r of this title.

PART C—SUSTAINABLE AGRICULTURE TECHNOLOGY DEVELOPMENT AND TRANSFER PROGRAM

§ 5831. Technical guides and handbooks

(a) Development

Not later than two years after November 28, 1990, the Secretary shall develop and make available handbooks and technical guides, and any other educational materials that are appropriate for describing sustainable agriculture production systems and practices, as researched and developed under this subchapter, chapter 86 of this title,[1] and other appropriate research programs of the Department.

(b) Consultation and coordination

The Secretary shall develop the handbooks, technical guides, and educational materials in consultation with the Natural Resources Conservation Service and any other appropriate entities designated by the Secretary. The Secretary shall coordinate activities conducted under this section with those conducted under section 3861 of title 16.

(c) Topics of handbooks and guides

The handbooks and guides, and other educational materials, shall include detailed information on the selection of crops and crop-plant varieties, rotation practices, soil building practices, tillage systems, nutrient management, integrated pest management practices, habitat protection, pest, weed, and disease management, livestock management, soil, water, and energy conservation, and any other practices in accordance with or in furtherance of the purpose of this subchapter.

(d) Organization and contents

The handbooks and guides, and other educational materials, shall provide practical instructions and be organized in such a manner as to enable agricultural producers desiring to implement the practices and systems developed under this subchapter, chapter 86 of this title,[1] and other appropriate research programs of the Department to address site-specific, environmental and resource management problems and to sustain farm profitability, including—

(1) enhancing and maintaining the fertility, productivity, and conservation of farmland and ranch soils, ranges, pastures, and wildlife;

(2) maximizing the efficient and effective use of agricultural inputs;

(3) protecting or enhancing the quality of water resources; or

(4) optimizing the use of on-farm and nonrenewable resources.

(e) Availability

The Secretary shall ensure that handbooks and technical guides, and other educational materials are made available to the agricultural community and the public through colleges and universities, the State Cooperative Extension Service, the Soil Conservation Service, other State and Federal agencies, and any other appropriate entities.

[1] See References in Text note below.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 101–624, title XVI, § 1628, Nov. 28, 1990, 104 Stat. 3740; Pub. L. 102–237, title IV, § 407(3), Dec. 13, 1991, 105 Stat. 1864; Pub. L. 104–127, title VIII, §§ 860(c)(3), 862(b)(3), Apr. 4, 1996, 110 Stat. 1174.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (c), and (d), was in the original ''this subtitle'', meaning subtitle B (§§ 1619–1629) of title XVI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3733, which enacted this subchapter, repealed sections 4701 to 4710 of this title, and repealed provisions set out as a note under section 4701 of this title. For complete classification of subtitle B to the Code, see Tables.

Chapter 86 of this title, referred to in subsecs. (a) and (d), was in the original ''subtitle G of title XIV'', meaning subtitle G (§§ 1481–1485) of title XIV of Pub. L. 101–624, which was repealed by Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 862(b)(3), struck out ''section 5881 of this title,'' before ''and other appropriate''.

Subsec. (b). Pub. L. 104–127, § 860(c)(3), substituted ''Natural Resources Conservation Service'' for ''Advisory Council, the Soil Conservation Service,''.

Subsec. (d). Pub. L. 104–127, § 862(b)(3), struck out ''section 5881 of this title,'' before ''and other appropriate'' in introductory provisions.

1991—Subsec. (c). Pub. L. 102–237 substituted ''educational'' for ''education''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 3862.

§ 5832. National Training Program

(a) In general

The Secretary shall establish a National Training Program in Sustainable Agriculture to provide education and training for Cooperative Extension Service agents and other professionals involved in the education and transfer of technical information concerning sustainable agriculture in order to develop their understanding, competence, and ability to teach and communicate the concepts of sustainable agriculture to Cooperative Extension Service agents and to farmers and urban residents who need information on sustainable agriculture.

(b) Administration

The National Training Program shall be organized and administered by the Extension Service, in coordination with other appropriate Federal agencies. The Secretary shall designate an individual from the Cooperative Extension Service in each State to coordinate the National Training Program within that State. The coordinators shall be responsible, in cooperation with appropriate Federal and State agencies, for developing and implementing a statewide training program for appropriate field office personnel.

(c) Required training

(1) Agricultural agents

The Secretary shall ensure that all agricultural agents of the Cooperative Extension

Service have completed the National Training Program not later than the end of the five-year period beginning on November 28, 1990. Such training may occur at a college or university located within each State as designated by the coordinator designated under this section.

(2) Proof of training

Beginning three years after November 28, 1990, the Secretary shall ensure that all new Cooperative Extension Service agents employed by such Service are able to demonstrate, not later than 18 months after the employment of such agents, that such agents have completed the training program established in subsection (a) of this section.

(d) Regional training centers

(1) Designation

The Secretary shall designate not less than two regional training centers to coordinate and administer educational activities in sustainable agriculture as provided for in this section.

(2) Training program

Such centers shall offer intensive instructional programs involving classroom and field training work for extension specialists and other individuals who are required to transmit technical information.

(3) Prohibition on construction

Such centers shall be located at existing facilities, and no funds appropriated to carry out this part shall be used for facility construction.

(4) Administration

Such centers should be administered by entities that have a demonstrated capability relating to sustainable agriculture. The Secretary should consider utilizing existing entities with expertise in sustainable agriculture to assist in the design and implementation of the training program under paragraph (2).

(5) Coordination of resources

Such centers shall make use of information generated by the Department of Agriculture and the State agricultural experiment stations, and the practical experience of farmers, especially those cooperating in on-farm demonstrations and research projects, in carrying out the functions of such centers.

(e) Competitive grants

(1) In General

The Secretary shall establish a competitive grants program to award grants to organizations, including land-grant colleges and universities, to carry out sustainable agricultural training for county agents and other individuals that need basic information concerning sustainable agriculture practices.

(2) Short courses

The purpose of the grants made available under paragraph (1) shall be to establish, in various regions in the United States, training programs that consist of workshops and short courses designed to familiarize participants with the concepts and importance of sustainable agriculture.

(f) Regional specialists

To assist county agents and farmers implement production practices developed under this subchapter, chapter 86 of this title,[1] and other appropriate research programs of the Department, regional sustainable agriculture specialists may be designated within each State who shall report to the State coordinator of that State. The specialists shall be responsible for developing and coordinating local dissemination of sustainable agriculture information in a manner that is useful to farmers in the region.

(g) Information availability

The Cooperative Extension Service within each State shall transfer information developed under this subchapter, chapter 86 of this title,[1] and other appropriate research programs of the Department through a program that shall—

(1) assist in developing farmer-to-farmer information exchange networks to enable farmers making transitions to more sustainable farming systems to share ideas and draw on the experiences of other farmers;

(2) help coordinate and publicize a regular series of sustainable agriculture farm tours and field days within each State;

(3) plan for extension programming, including extensive farmer input and feedback, in the design of new and ongoing research endeavors related to sustainable agriculture;

(4) provide technical assistance to individual farmers in the design and implementation of farm management plans and strategies for making a transition to more sustainable agricultural systems;

(5) consult and work closely with the Soil Conservation Service and the Agricultural Stabilization and Conservation Service in carrying out the information, technical assistance, and related programs;

(6) develop, coordinate, and direct special education and outreach programs in areas highly susceptible to groundwater contamination, linking sustainable agriculture information with water quality improvement information;

(7) develop information sources relating to crop diversification, alternative crops, on-farm food or commodity processing, and on-farm energy generation;

(8) establish a well-water testing program designed to provide those persons dependent upon underground drinking water supplies with an understanding of the need for regular water testing, information on sources of testing, and an understanding of how to interpret test results and provide for the protection of underground water supplies;

(9) provide specific information on water quality practices developed through the research programs in chapter 86 of this title;[1]

(10) provide specific information on nutrient management practices developed through the research programs in chapter 86 of this title;[1] and

(11) provide information concerning whole-farm management systems integrating re-

[1] See References in Text note below.

search results under this subchapter, chapter 86 of this title,[1] and other appropriate research programs of the Department.

(h) "Appropriate field office personnel" defined

For purposes of this section, the term ''appropriate field office personnel'' includes employees of the Extension Service, Soil Conservation Service, and other appropriate Department of Agriculture personnel, as determined by the Secretary, whose activities involve the provision of agricultural production and conservation information to agricultural producers.

(i) Authorization of appropriations

There are authorized to be appropriated $20,000,000 for each fiscal year to carry out the National Training Program.

(Pub. L. 101–624, title XVI, § 1629, Nov. 28, 1990, 104 Stat. 3741; Pub. L. 102–237, title IV, § 407(4), Dec. 13, 1991, 105 Stat. 1864; Pub. L. 104–127, title VIII, § 862(b)(4), Apr. 4, 1996, 110 Stat. 1174; Pub. L. 105–185, title VI, § 606(f), June 23, 1998, 112 Stat. 604.)

REFERENCES IN TEXT

Chapter 86 of this title, referred to in subsecs. (f) and (g), was in the original ''subtitle G of title XIV'', meaning subtitle G (§§ 1481–1485) of title XIV of Pub. L. 101–624, which was repealed by Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–185 struck out ''section 5881 of this title,'' before ''and other appropriate research'' in introductory provisions.

1996—Subsecs. (f), (g)(11). Pub. L. 104–127 struck out ''section 5881 of this title,'' before ''and other appropriate''.

1991—Subsec. (c)(1). Pub. L. 102–237 substituted ''ensure'' for ''insure''.

SUBCHAPTER II—NATIONAL GENETIC RESOURCES PROGRAM

§ 5841. Establishment, purpose, and functions of National Genetic Resources Program

(a) In general

The Secretary of Agriculture shall provide for a National Genetic Resources Program.

(b) Purpose

The program is established for the purpose of maintaining and enhancing a program providing for the collection, preservation, and dissemination of genetic material of importance to American food and agriculture production.

(c) Administration

The program shall be administered by the Secretary through the Agricultural Research Service.

(d) Functions

The Secretary, acting through the program, shall—

(1) provide for the collection, classification, preservation, and dissemination of genetic material of importance to the food and agriculture sectors of the United States;

(2) conduct research on the genetic materials collected and on methods for storage and preservation of those materials;

(3) coordinate the activities of the program with similar activities occurring domestically;

(4) unless otherwise prohibited by law, have the right to make available on request, without charge and without regard to the country from which the request originates, the genetic material that the program assembles;

(5) expand the types of genetic resources included in the program to develop a comprehensive genetic resources program which includes plants (including silvicultural species), animal, aquatic, insect, microbiological, and other types of genetic resources of importance to food and agriculture, as resources permit; and

(6) engage in such other activities as the Secretary determines appropriate and as the resources of the program permit.

(Pub. L. 101–624, title XVI, § 1632, Nov. 28, 1990, 104 Stat. 3744; Pub. L. 104–127, title VIII, § 832(a), Apr. 4, 1996, 110 Stat. 1168.)

AMENDMENTS

1996—Subsec. (d)(4). Pub. L. 104–127 added par. (4) and struck out former par. (4) which read as follows: ''make available upon request, without charge and without regard to the country from which such request originates, the genetic material which the program assembles;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5842 of this title.

§ 5842. Appointment and authority of Director

(a) Director

There shall be at the head of the program an official to be known as the Director of the National Genetic Resources Program who shall be appointed by the Secretary. The Director shall perform such duties as are assigned to the Director by this subchapter and such other duties as the Secretary may prescribe.

(b) Administrative authority

In carrying out this subchapter, the Secretary, acting through the Director—

(1) shall be responsible for the overall direction of the program and for the establishment and implementation of general policies respecting the management and operation of activities within the program;

(2) may secure for the program consultation services and advice of persons from the United States and abroad;

(3) may accept voluntary and uncompensated services; and

(4) may perform such other administrative functions as the Secretary determines are needed to effectively carry out this subchapter.

(c) Duties

The Director shall—

(1) advise participants on the program activities;

(2) coordinate, review and facilitate the systematic identification and evaluation of, relevant information generated under the program;

(3) promote the effective transfer of the information described in paragraph (2) to the ag-

riculture and food production community and to entities that require such information; and

(4) monitor the effectiveness of the activities described in paragraph (3).

(d) Biennial reports

The Director shall prepare and transmit to the Secretary and to the Congress a biennial report containing—

(1) a description of the activities carried out by and through the program and the policies of the program, and such recommendations respecting such activities and policies as the Director considers to be appropriate;

(2) a description of the necessity for, and progress achieved toward providing, additional programs and activities designed to include the range of genetic resources described in section 5841(d)(5) of this title in the activities of the program; and

(3) an assessment of events and activities occurring internationally as they relate to the activities and policies of the program.

(e) Initial reports

Not later than one year after November 28, 1990, the Director shall transmit to the Secretary and to the Congress a report—

(1) describing the projected needs over a 10-year period in each of the areas of genetic resources described in section 5841(d)(5) of this title, including the identification of existing components of a comprehensive program, policies and activities needed to coordinate those components, and additional elements not in existence which are required for the development of a comprehensive genetic resources program as described in such section;

(2) assessing the international efforts and activities related to the program, and their effect upon and coordination with the program; and

(3) evaluating the potential effect of various national laws, including national quarantine requirements, as well as treaties, agreements, and the activities of international organizations on the development of a comprehensive international system for the collection and maintenance of genetic resources of importance to agriculture.

(Pub. L. 101–624, title XVI, §1633, Nov. 28, 1990, 104 Stat. 3744; Pub. L. 102–237, title IV, §404(a)(2), Dec. 13, 1991, 105 Stat. 1864.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''Resources Program'' for ''Resources program''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5843 of this title.

§ 5843. Advisory council

(a) Establishment and membership

The Secretary shall establish an advisory council for the program for the purpose of advising, assisting, consulting with, and making recommendations to, the Secretary and Director concerning matters related to the activities, policies and operations of the program. The advisory council shall consist of ex officio members and not more than nine members appointed by the Secretary.

(b) Ex officio members

The ex officio members of the advisory council shall consist of the following persons (or their designees):

(1) The Director.

(2) The Assistant Secretary of Agriculture for Science and Education.

(3) The Director of the National Agricultural Library.

(4) The Director of the National Institutes of Health.

(5) The Director of the National Science Foundation.

(6) The Secretary of Energy.

(7) The Director of the Office of Science and Technology Policy.

(8) Such additional officers and employees of the United States as the Secretary determines are necessary for the advisory council to effectively carry out its functions.

(c) Appointment of other members

The members of the advisory council who are not ex officio members shall be appointed by the Secretary as follows:

(1) Two-thirds of the members shall be appointed from among the leading representatives of the scientific disciplines relevant to the activities of the program, including agricultural sciences, environmental sciences, natural resource sciences, health sciences, and nutritional sciences.

(2) One-third of the members shall be appointed from the general public and shall include leaders in fields of public policy, trade, international development, law, or management.

(d) Compensation

Members of the advisory council shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the advisory council, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(e) Term of office of appointees; vacancies

(1) Term

The term of office of a member appointed under subsection (c) of this section is four years, except that any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(2) Initial appointment

The Secretary shall make appointments to the advisory council so as to ensure that the terms of the members appointed under subsection (c) of this section do not all expire in the same year. A member may serve after the expiration of the member's term until a successor takes office.

(3) Reappointment

A member who is appointed for a term of four years may not be reappointed to the advi-

sory council before two years after the date of expiration of such term of office.

(4) Vacancies

If a vacancy occurs in the advisory council among the members appointed under subsection (c) of this section, the Secretary shall make an appointment to fill such vacancy within 90 days after the date such vacancy occurs.

(f) Chair

The Secretary shall select as the chair of the advisory council one of the members appointed under subsection (c) of this section. The term of office of the chair shall be two years.

(g) Meetings

The advisory council shall meet at the call of the chair or on the request of the Director, but at least two times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director.

(h) Staff

The Director shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions.

(i) Orientation and training

The Director shall provide such orientation and training for new members of the advisory council as may be appropriate for their effective participation in the functions of the advisory council.

(j) Comments and recommendations

The advisory council may prepare, for inclusion in a report submitted under section 5842 of this title—

(1) comments respecting the activities of the advisory council during the period covered by the report;

(2) comments on the progress of the program in meeting its objectives; and

(3) recommendations respecting the future directions, program, and policy emphasis of the program.

(k) Reports

The advisory council may prepare such reports as the advisory council determines to be appropriate.

***(l)* Application of Advisory Committee Act**

Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. App.) relating to the termination of an advisory committee shall not apply to the advisory council established under this section.

(Pub. L. 101–624, title XVI, § 1634, Nov. 28, 1990, 104 Stat. 3745; Pub. L. 102–237, title IV, § 407(5), Dec. 13, 1991, 105 Stat. 1864.)

REFERENCES IN TEXT

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (*l*), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (*l*). Pub. L. 102–237 substituted ''council established'' for ''committee established''.

§ 5844. Definitions and authorization of appropriations

(a) Definitions

For purposes of this subchapter:

(1) The term ''program'' means the National Genetic Resources Program.

(2) The term ''Secretary'' means the Secretary of Agriculture.

(3) The term ''Director'' means the Director of the National Genetic Resources Program.

(b) Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out this subchapter for each of the fiscal years 1991 through 2002.

(Pub. L. 101–624, title XVI, § 1635, Nov. 28, 1990, 104 Stat. 3747; Pub. L. 104–127, title VIII, § 832(b), Apr. 4, 1996, 110 Stat. 1168; Pub. L. 105–185, title III, § 301(b)(1), June 23, 1998, 112 Stat. 562.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–185 substituted ''2002'' for ''1997''.

1996—Subsec. (b). Pub. L. 104–127 substituted ''1997'' for ''1995''.

SUBCHAPTER III—NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM

§ 5851. Short title and purposes

(a) Short title

This subchapter may be cited as the ''National Agricultural Weather Information System Act of 1990''.

(b) Purposes

The purposes of this subchapter are—

(1) to provide a nationally coordinated agricultural weather information system, based on the participation of universities, State programs, Federal agencies, and the private weather consulting sector, and aimed at meeting the weather and climate information needs of agricultural producers;

(2) to facilitate the collection, organization, and dissemination of advisory weather and climate information relevant to agricultural producers, through the participation of the private sector and otherwise;

(3) to provide for research and education on agricultural weather and climate information, aimed at improving the quality and quantity of weather and climate information available to agricultural producers, including research on short-term forecasts of thunderstorms and on extended weather forecasting techniques and models;

(4) to encourage, where feasible, greater private sector participation in providing agricultural weather and climate information, to encourage private sector participation in educating and training farmers and others in the proper utilization of agricultural weather and climate information, and to strengthen their ability to provide site-specific weather forecasting for farmers and the agricultural sector in general; and

(5) to ensure that the weather and climate data bases needed by the agricultural sector

are of the highest scientific accuracy and thoroughly documented, and that such data bases are easily accessible for remote computer access.

(Pub. L. 101–624, title XVI, § 1637, Nov. 28, 1990, 104 Stat. 3747.)

§ 5852. Agricultural Weather Office

(a) Establishment of Office and administration of system

(1) Establishment required

The Secretary of Agriculture shall establish in the Department of Agriculture an Agricultural Weather Office to plan and administer the National Agricultural Weather Information System. The system shall be comprised of the office established under this section and the activities of the State agricultural weather information systems described in section 5854 of this title.

(2) Director

The Secretary shall appoint a Director to manage the activities of the Agricultural Weather Office and to advise the Secretary on scientific and programmatic coordination for climate, weather, and remote sensing.

(b) Authority

The Secretary, acting through the Office, may undertake the following activities to carry out this subchapter:

(1) Enter into cooperative projects with the National Weather Service to—

(A) support operational weather forecasting and observation useful in agriculture;

(B) sponsor joint workshops to train agriculturalists about the optimum utilization of agricultural weather and climate data;

(C) jointly develop improved computer models and computing capacity; and

(D) enhance the quality and availability of weather and climate information needed by agriculturalists.

(2) Obtain standardized weather observation data collected in near real time through State agricultural weather information systems.

(3) Make, through the Cooperative State Research Service, competitive grants under subsection (c) of this section for research in atmospheric sciences and climatology.

(4) Make grants to eligible States under section 5854 of this title to plan and administer State agricultural weather information systems.

(5) Coordinate the activities of the Office with the weather and climate research activities of the Cooperative State Research Service, the National Academy of Sciences, the National Science Foundation Atmospheric Services Program, and the National Climate Program.

(6) Encourage private sector participation in the National Agricultural Weather Information System through mutually beneficial cooperation with the private sector, particularly in generating weather and climatic data useful for site-specific agricultural weather forecasting.

(c) Competitive grants program

(1) Grants authorized

With funds allocated to carry out this subsection, the Secretary of Agriculture may make grants to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations and corporations, and individuals to carry out research in all aspects of atmospheric sciences and climatology that can be shown to be important in both a basic and developmental way to understanding, forecasting, and delivering agricultural weather information.

(2) Competitive basis

Grants made under this subsection shall be made on a competitive basis.

(d) Priority

In selecting among applications for grants under subsection (c) of this section, the Secretary shall give priority to proposals which emphasize—

(1) techniques and processes that relate to weather-induced agricultural losses, and to improving the advisory information on weather extremes such as drought, floods, freezes, and storms well in advance of their actual occurrence;

(2) the improvement of site-specific weather data collection and forecasting; or

(3) the impact of weather on economic and environmental costs in agricultural production.

(Pub. L. 101–624, title XVI, § 1638, Nov. 28, 1990, 104 Stat. 3748; Pub. L. 102–237, title IV, § 407(6), Dec. 13, 1991, 105 Stat. 1865.)

AMENDMENTS

1991—Subsec. (b)(5). Pub. L. 102–237 substituted ''National Science Foundation'' for ''National Sciences Foundation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5855 of this title.

§ 5853. National Advisory Board on Agricultural Weather

(a) Establishment

The Secretary of Agriculture shall establish the Advisory Board on Agricultural Weather (hereinafter referred to in this section as the ''Board'') to advise the Director of the Agricultural Weather Office with respect to carrying out this subchapter.

(b) Composition

The Board shall be composed of nine members, appointed by the Secretary in consultation with the Director of the National Weather Service. Two of the members shall be from each of the four regions of the cooperative extension service. Of the two members from each region, one shall be an agricultural producer and one shall be an agricultural or atmospheric scientist. At least two members of the Board shall be appointed from among individuals who are engaged in providing private meteorology services or consulting with a private meteorology firm.

(c) Chairperson

The Board shall elect a chairperson from among its members.

(d) Term

Each Board member shall be appointed for a three-year term, except that to ensure that members of the Board serve staggered terms, the Secretary shall appoint three of the original members of the Board to appointments for one year, and three of the original members to appointments for two years.

(e) Meetings

The Board shall meet not less than twice annually.

(f) Compensation

Members of the Board shall serve without compensation, but while away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as individuals employed in Government service are allowed travel expenses under section 5703 of title 5.

(g) Federal Advisory Committee Act

Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

(Pub. L. 101–624, title XVI, § 1639, Nov. 28, 1990, 104 Stat. 3749; Pub. L. 102–237, title IV, § 407(7), Dec. 13, 1991, 105 Stat. 1865.)

REFERENCES IN TEXT

Section 14(a)(2) of the Federal Advisory Committee Act, referred to in subsec. (g), is section 14(a)(2) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 made technical amendment to reference to this subchapter to correct reference to corresponding provision of original act.

§ 5854. State agricultural weather information systems

(a) Advisory program grants

(1) Grants required

With funds allocated to carry out this section, the Secretary of Agriculture shall make grants to not fewer than 10 eligible States to plan and administer, in cooperation with persons described in paragraph (2), advisory programs for State agricultural weather information systems.

(2) Persons described

The persons referred to in paragraph (1) are the Director of the Agricultural Weather Office, the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service, and other persons as appropriate (such as the directors of the appropriate State agricultural experiment stations and State extension programs).

(b) Consultation

For purposes of selecting among applications submitted by States for grants under this section, the Secretary shall take into consideration the recommendation of the Advisory Board on Agricultural Weather and consult with the Director.

(c) Eligibility requirements

To be eligible to receive a grant under this section, the chief executive officer of a State shall submit to the Secretary an application that contains—

(1) assurances that the State will expend such grant to plan and administer a State agricultural weather system that will—

(A) collect observational weather data throughout the State and provide such data to the National Weather Service and the Agricultural Weather Office;

(B) develop methods for packaging information received from the national system for use by agricultural producers (with State Cooperative Extension Services and the private sector to serve as the primary conduit of agricultural weather forecasts and climatic information to producers); and

(C) develop programs to educate agricultural producers on how to best use weather and climate information to improve management decisions; and

(2) such other assurances and information as the Secretary may require by rule.

(Pub. L. 101–624, title XVI, § 1640, Nov. 28, 1990, 104 Stat. 3749.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5852, 5855 of this title.

§ 5855. Funding

(a) Allocation of funds

(1) Cooperative work

Not less than 15 percent and not more than 25 percent of the funds appropriated for a fiscal year to carry out this subchapter shall be used for cooperative work with the National Weather Service entered into under section 5852(b)(1) of this title.

(2) Competitive grants program

Not less than 15 percent and not more than 25 percent of such funds shall be used by the Cooperative State Research Service for a competitive grants program under section 5852(c) of this title.

(3) Weather information systems

Not less than 25 percent and not more than 35 percent of such funds shall be divided equally between the participating States selected for that fiscal year under section 5854 of this title.

(4) Other purposes

The remaining funds shall be allocated for use by the Agricultural Weather Office and the Extension Service in carrying out generally the provisions of this subchapter.

(b) Limitations on use of funds

Funds provided under the authority of this subchapter shall not be used for the construction of facilities. Each State or agency receiving funds shall not use more than 30 percent of such funds for equipment purchases. Any use of the funds in facilitating the distribution of agricultural and climate information to producers shall

be done with consideration for the role that the private meteorological sector can play in such information delivery.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 to carry out this subchapter for each of the fiscal years 1991 through 1997.

(Pub. L. 101–624, title XVI, §1641, Nov. 28, 1990, 104 Stat. 3750; Pub. L. 104–127, title VIII, §833, Apr. 4, 1996, 110 Stat. 1168.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–127 substituted ''1997'' for ''1995''.

SUBCHAPTER IV—RESEARCH REGARDING PRODUCTION, PREPARATION, PROCESSING, HANDLING, AND STORAGE OF AGRICULTURAL PRODUCTS

§§ 5871 to 5874. Repealed. Pub. L. 104–127, title VIII, § 861, Apr. 4, 1996, 110 Stat. 1174

Section 5871, Pub. L. 101–624, title XVI, §1644, Nov. 28, 1990, 104 Stat. 3751, provided for establishment of research and grant program.

Section 5872, Pub. L. 101–624, title XVI, §1645, Nov. 28, 1990, 104 Stat. 3752, related to advisory committee and grant process.

Section 5873, Pub. L. 101–624, title XVI, §1646, Nov. 28, 1990, 104 Stat. 3753, provided for reports to Congress.

Section 5874, Pub. L. 101–624, title XVI, §1647, Nov. 28, 1990, 104 Stat. 3754, provided for appropriations for research and grant program.

SUBCHAPTER V—PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM

§§ 5881 to 5885. Repealed. Pub. L. 104–127, title VIII, § 862(a), Apr. 4, 1996, 110 Stat. 1174

Section 5881, Pub. L. 101–624, title XVI, §1650, Nov. 28, 1990, 104 Stat. 3754, related to plant and animal pest and disease control program.

Section 5882, Pub. L. 101–624, title XVI, §1651, Nov. 28, 1990, 104 Stat. 3754, related to pest and disease control data base and pesticide resistance monitoring.

Section 5883, Pub. L. 101–624, title XVI, §1652, Nov. 28, 1990, 104 Stat. 3755; Pub. L. 102–237, title IV, §407(8), Dec. 13, 1991, 105 Stat. 1865, related to research on control and eradication of exotic pests.

Section 5884, Pub. L. 101–624, title XVI, §1653, Nov. 28, 1990, 104 Stat. 3755, provided for study of biology and behavior of chinch bugs.

Section 5885, Pub. L. 101–624, title XVI, §1654, Nov. 28, 1990, 104 Stat. 3756, authorized appropriations for plant, pest, and disease control program.

SUBCHAPTER VI—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 917, 2204f, 6911, 6944, 7621 of this title.

§ 5901. Short title, purposes, and definitions

(a) Short title

This subchapter may be cited as the ''Alternative Agricultural Research and Commercialization Act of 1990''.

(b) Purpose

Through the encouragement of and the provision of assistance to agricultural research, development, and commercialization, it is the purpose of this subchapter—

(1) to authorize research in modification of agricultural commodities, and associated research, in order to develop and produce marketable products other than food, feed, or traditional forest or fiber products;

(2) to commercialize new nonfood, nonfeed uses for traditional and new agricultural commodities in order to create jobs, enhance the economic development of the rural economy, and diversify markets for raw agricultural and forestry products;

(3) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to assist the commercialization of new nonfood, nonfeed uses for agricultural and forestry products;

(4) to direct, to the maximum extent possible, research and commercialization efforts toward the production of new nonfood, nonfeed products from agricultural commodities that can be raised by family-sized agricultural producers; and

(5) to foster economic development in rural areas of the United States through the introduction of new nonfood, nonfeed products obtained from agricultural commodities.

(c) Definitions

For purposes of this subchapter:

(1) The term ''agricultural commodity'' means a plant or animal species (including a species propagated or raised in a controlled environment or a tree species) and the products derived from that species.

(2) The term ''alternative agricultural product'' means a new use, application, or material that—

(A) is derived from an agricultural commodity; and

(B) is not in widespread commercial use and is not expected to significantly displace a use, application, or material derived from an agricultural commodity that already is in widespread commercial use.

(3) The term ''commercialization'' or ''commercialize'' includes—

(A) activities associated with the development of alternative agricultural products or industrial plants;

(B) the application of technology and techniques to the development of industrial products and alternative agricultural products; and

(C) the market development of new nonfood, nonfeed uses of new and traditional agricultural commodities and processes that will lead to the creation of goods and services that may be marketed for profit.

(4) CORPORATE BOARD.—The term ''Corporate Board'' means the Board of Directors of the Corporation described in section 5903 of this title.

(5) CORPORATION.—The term ''Corporation'' means the Alternative Agricultural Research and Commercialization Corporation established under section 5902 of this title.

(6) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director

of the Corporation appointed under section 5903(e) of this title.

(7) The term ''Fund'' means the Alternative Agricultural Research and Commercialization Revolving Fund.

(8) The term ''host institution'' means an existing entity that is located in the region that is—

(A) a university or other institution of higher education;

(B) a Department of Agriculture laboratory;

(C) a State agricultural experiment station;

(D) a State cooperative extension service facility; or

(E) another organization that is involved in the development or commercialization of new nonfood, nonfeed uses for agricultural commodities, or is involved in rural economic development.

(9) The term ''new nonfood, nonfeed product development'' means targeted research, including fundamental and applied research, concerning—

(A) the production and processing of agricultural commodities for the purposes of developing new nonfood, nonfeed products;

(B) the uses of new nonfood, nonfeed products; and

(C) steps necessary to make a nonfood, nonfeed product available for the marketplace.

(10) The term ''new nonfood, nonfeed product'' means an item that is primarily not a food, feed, or traditional forest or fiber product, including an item that exists but is not commercially available from an agricultural commodity.

(11) The term ''nonprofit organization'' means an organization that is—

(A) described in section 501(c) of title 26; and

(B) exempt from taxation under section 501(a) of title 26.

(12) The term ''Secretary'' means the Secretary of Agriculture.

(13) The term ''traditional forest or fiber product'' means a forest or fiber product that is derived from forest or agricultural materials and does not have substantial new properties.

(Pub. L. 101–624, title XVI, § 1657, Nov. 28, 1990, 104 Stat. 3756; Pub. L. 104–127, title VII, § 721, Apr. 4, 1996, 110 Stat. 1112.)

AMENDMENTS

1996—Subsec. (c)(3). Pub. L. 104–127, § 721(1), (2), redesignated par. (5) as (3) and struck out former par. (3) which read as follows: ''The term 'Board' means the Alternative Agricultural Research and Commercialization Board.''

Subsec. (c)(4). Pub. L. 104–127, § 721(1), (4), added par. (4) and struck out former par. (4) which read as follows: ''The term 'Center' means the Alternative Agricultural Research and Commercialization Center.''

Subsec. (c)(5). Pub. L. 104–127, § 721(2), (4), added par. (5) and redesignated former par. (5) as (3).

Subsec. (c)(6) to (13). Pub. L. 104–127, § 721(3), (4), added par. (6) and redesignated former pars. (6) to (12) as (7) to (13), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5909 of this title.

§ 5902. Alternative Agricultural Research and Commercialization Corporation

(a) Establishment

To carry out this subchapter, there is created a body corporate to be known as the Alternative Agricultural Research and Commercialization Corporation, which shall be an agency of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary, except as specifically provided for in this subchapter.

(b) Purpose

The purpose of the Corporation is to—

(1) expedite the development and market penetration of industrial, nonfood, nonfeed products from agricultural and forestry materials; and

(2) assist the private sector in bridging the gap between the results of research into nonfood, nonfeed products and the commercialization of the research.

(c) Place of incorporation

The Corporation shall be incorporated in the District of Columbia.

(d) Central office

The Secretary shall provide facilities for the principal office of the Corporation within the Washington, D.C., metropolitan area.

(e) Wholly-owned Government corporation

The Corporation shall be considered a wholly-owned government[1] corporation in accordance with chapter 91 of title 31.

(f) General powers

In addition to any other powers granted to the Corporation under this subchapter, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

(3) may enter into any agreement or contract with a person or private or governmental agency, except that the Corporation shall not provide any financial assistance unless specifically authorized by this subchapter;

(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation, except that this paragraph shall not provide authority for carrying out a program of real estate investment;

(5) may sue and be sued in the corporate name of the Corporation, except that—

(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

[1] So in original. Probably should be capitalized.

(B) exclusive original jurisdiction shall reside in the district courts of the United States, but the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

(6) may independently retain legal representation;

(7) may provide for and designate such committees, and the functions of the committees, as the Corporate Board considers necessary or desirable;

(8) may indemnify the Executive Director and other officers of the Corporation, as the Corporate Board considers necessary and desirable, except that the Executive Director and officers shall not be indemnified for an act outside the scope of employment;

(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this subchapter, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5;

(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this subchapter and the powers, purposes, functions, duties, and authorized activities of the Corporation.

(g) Specific powers

To carry out this subchapter, the Corporation may—

(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 5904 of this title;

(2) make loans and interest subsidy payments and invest venture capital in accordance with section 5905 of this title;

(3) collect and disseminate information concerning State, regional, and local commercialization projects;

(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce the products;

(5) administer, maintain, and dispense funds from the Fund to facilitate the conduct of activities under this subchapter; and

(6) engage in other activities incident to carrying out the functions of the Corporation.

(Pub. L. 101–624, title XVI, §1658, Nov. 28, 1990, 104 Stat. 3757; Pub. L. 102–237, title IV, §405(a), Dec. 13, 1991, 105 Stat. 1864; Pub. L. 104–127, title VII, §722(a), Apr. 4, 1996, 110 Stat. 1113.)

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions relating to establishment of Alternative Agricultural Research and Commercialization Center, including provisions relating to functions, appointment, compensation and responsibilities of Director, staff, and experts and consultants.

1991—Subsec. (d)(2), (3). Pub. L. 102–237 substituted ''; and'' for period at end of par. (2) and a period for ''; and'' at end of par. (3).

BUSINESS PLAN AND FEASIBILITY STUDY AND REPORT

Section 730 of Pub. L. 104–127 provided that:

''(a) BUSINESS PLAN.—Not later than 180 days after the date of enactment of this Act [Apr. 4, 1996], the Alternative Agricultural Research and Commercialization Corporation established by section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 [7 U.S.C. 5902] shall—

''(1) develop a 5-year business plan pursuant to section 1659(c)(1)(E) of the Act [7 U.S.C. 5903(c)(1)(E)]; and

''(2) submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(b) FEASIBILITY STUDY AND REPORT.—

''(1) STUDY.—The Secretary of Agriculture shall conduct a study of, and prepare a report on, the continued feasibility of the Alternative Agricultural Research and Commercialization Corporation. In conducting the study, the Secretary shall examine options for privatizing the Corporation and converting the Corporation to a Government-sponsored enterprise.

''(2) REPORT.—Not later than December 31, 2001, the Secretary shall transmit the report required by paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5901, 5903, 7624 of this title.

§ 5903. Board of directors, employees, and facilities

(a) In general

The powers of the Corporation shall be vested in a Corporate Board.

(b) Members of Corporate Board

The Corporate Board shall consist of 11 members as follows:

(1) The Under Secretary of Agriculture for Rural Development.

(2) The Under Secretary of Agriculture for Research, Education, and Economics.

(3) 5 members appointed by the Secretary, of whom—

(A) at least 1 member shall be a representative of the leading scientific disciplines relevant to the activities of the Corporation;

(B) at least 1 member shall be a producer or processor of agricultural commodities;

(C) at least 1 member shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities; and

(D) at least 1 member shall have expertise in financial management.

A different member shall be appointed pursuant to each subparagraph of this paragraph.

(4) 2 members appointed by the Secretary who—

(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

(B) shall be appointed from a group of at least 4 individuals nominated by the Director of the National Science Foundation if the nominations are made not later than 60 days after the date a vacancy occurs.

(5) 2 members appointed by the Secretary who—

(A) have expertise in financial and managerial matters; and

(B) shall be appointed from a group of at least 4 individuals nominated by the Secretary of Commerce if the nominations are made not later than 60 days after the date a vacancy occurs.

(c) Responsibilities of Corporate Board

(1) In general

The Corporate Board shall—

(A) be responsible for the general supervision of the Corporation and Regional Centers established under section 5907 of this title;

(B) determine (in consultation with Regional Centers) high priority commercialization areas to receive assistance under section 5907 of this title;

(C) review any grant, contract, or cooperative agreement to be made or entered into by the Corporation under section 5904 of this title and any financial assistance to be provided under section 5905 of this title;

(D) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

(E) develop and establish a budget plan and a long-term operating plan to carry out this subchapter.

(2) Authority of the Secretary

(A) In general

The Secretary shall vacate and remand to the Corporate Board for reconsideration any decision made pursuant to paragraph (1)(D) if the Secretary determines that there has been a violation of subsection (j) of this section, or any conflict of interest provisions of the bylaws of the Corporate Board, with respect to the decision.

(B) Reasons

In the case of any violation and referral of a funding decision to the Corporate Board, the Secretary shall inform the Corporate Board of the reasons for any remand pursuant to subparagraph (A).

(d) Chairperson

The members of the Corporate Board shall select a Chairperson from among the members of the Corporate Board. The term of office of the Chairperson shall be 2 years. The members referred to in paragraphs (1) and (2) of subsection (b) of this section may not serve as Chairperson.

(e) Executive Director

(1) Appointment

The Corporate Board shall appoint an Executive Director, subject to the approval of the Secretary.

(2) Duties

The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Corporate Board.

(3) Compensation

The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(f) Officers

The Corporate Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this subchapter.

(g) Meetings

The Corporate Board shall meet at least 3 times each fiscal year at the call of the Chairperson or at the request of the Executive Director. The location of the meetings shall be subject to approval of the Executive Director. A quorum of the Corporate Board shall consist of a majority of the members. The decisions of the Corporate Board shall be made by majority vote.

(h) Term; vacancies

(1) In general

The term of office of a member of the Corporate Board shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of the term. A vacancy on the Corporate Board shall be filled in the same manner as the original appointment. The Secretary may remove a member of the Corporate Board only for cause.

(2) Transition measure

The Secretary may appoint to the Corporate Board an individual who, on the day before April 4, 1996, was serving on the former Alternative Agricultural Research and Commercialization Board, for a term that does not exceed the term for which the individual was appointed to the former Board.

(i) Compensation

A member of the Corporate Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Corporate Board. Any other member shall receive, for each day (including travel time) the member is engaged in the performance of the functions of the Corporate Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Level IV of the Executive Schedule. A member of the Corporate Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

(j) Conflict of interest; financial disclosure

(1) Conflict of interest

Except as provided in paragraph (3), no member of the Corporate Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Violations

Violation of paragraph (1) by a member of the Corporate Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

(3) Exceptions

The prohibitions contained in paragraph (1) shall not apply if a member of the Corporate Board advises the Corporate Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation, and the Corporate Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter. The member involved shall not vote on the determination.

(4) Financial disclosure

A Board member shall be subject to the financial disclosure requirements set forth in subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18).

(k) Delegation of authority

(1) In general

The Corporate Board may, by resolution, delegate to the Chairperson, the Executive Director, or any other officer or employee any function, power, or duty assigned to the Corporation under this subchapter, other than a function, power, or duty expressly vested in the Corporate Board by subsections (c) through (n) of this section.

(2) Prohibition on delegation

Notwithstanding any other law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Corporate Board, the Chairperson, the Executive Director, or the Corporation of any power, function, or authority not expressly authorized by this subchapter, unless the delegation is made pursuant to an authority in law that expressly makes reference to this section.

(3) Reorganization act

Notwithstanding any other law, the President (through authorities provided under chapter 9 of title 5) may not authorize the transfer to the Corporation of any power, function, or authority in addition to powers, functions, and authorities provided by law.

***(l)* Bylaws**

Notwithstanding section 5902(f)(2) of this title, the Corporate Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation. The Corporate Board shall not adopt any bylaw that has not been reviewed and approved by the Secretary.

(m) Organization

The Corporate Board shall provide a system of organization to fix responsibility and promote efficiency.

(n) Personnel and facilities of Corporation

(1) Appointment and compensation of personnel

The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

(2) Use of facilities and services of the Department of Agriculture

Notwithstanding any other provision of law, to perform the responsibilities of the Corporation under this subchapter, the Corporation may partially or jointly utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Corporation.

(3) Government employment laws

An officer or employee of the Corporation shall be subject to all laws of the United States relating to governmental employment.

(Pub. L. 101–624, title XVI, §1659, Nov. 28, 1990, 104 Stat. 3759; Pub. L. 104–127, title VII, §723(a), Apr. 4, 1996, 110 Stat. 1115.)

REFERENCES IN TEXT

The laws of the United States relating to governmental employment, referred to in subsec. (n)(3), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions relating to Alternative Agricultural Research and Commercializa-

tion Board, including provisions relating to establishment, members, responsibilities, meetings, terms and vacancies, chairperson, committees, compensation, restrictions, and authority of Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5901, 5906 of this title.

§ 5904. Research and development grants, contracts, and agreements

(a) Eligibility

All public and private educational institutions, other public and private research institutions and organizations, Federal agencies, and individuals shall be eligible to receive a grant from, or enter into a contract or cooperative agreement with, the Corporation for a research, development, or demonstration project, as provided in this section.

(b) Competitive basis for awards

Grants made, and contracts and cooperative agreements entered into, under this section shall be selected on a competitive basis on the recommendation of a peer review system to be established by the Corporation. Such system shall contain peer review expertise in commercial production, product development, processing, and marketing of agricultural commodities as well as in scientific research.

(c) Selection criteria

The Corporate Board may select a research, development, or demonstration project to receive a grant, contract, or cooperative agreement under this section based on the likelihood that the project will result in creating or improving economically viable commercial nonfood, nonfeed products, applications, processes, or technologies that involve the use of raw or processed agricultural commodities. The criteria to be considered may include the following:

(1) the prospect of developing technologies that could make it possible to use or modify existing agricultural commodities to provide an economically viable quantity of new nonfood, nonfeed products;

(2) the potential market size of the new nonfood, nonfeed product, the likely time period needed to bring the product into the stream of commerce for general use, and the likely availability of the agricultural commodity used to produce the product;

(3) the potential for job creation in an economically distressed rural area;

(4) the anticipated State or local participation;

(5) the anticipated financial participation of private entities;

(6) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(7) the unavailability of adequate funding from other sources;

(8) the likely positive impact on resource conservation and the environment; and

(9) the likely positive effect of helping family-sized farmers and rural communities near the affected agricultural and forested areas.

(d) Set-aside of funds for certain projects

(1) In general

Not less than two-thirds of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for research, development, and demonstration projects for which the applicant—

(A) has committed substantial funding and support from its own resources; and

(B) has entered into a cooperative agreement or other contractual arrangement with a commercial company domiciled in the United States that commits such company to—

(i) provide funds for at least 20 percent of the total cost of such project; and

(ii) engage in commercial production and sale of the marketable products, processes, uses, applications, or technologies developed through the project, under appropriate licensing, royalty, or other agreements.

(2) Animal sources

Not more than 25 percent of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for projects concerning new nonfood, nonfeed products derived from animal sources.

(e) Limitation on funds provided

Funds committed by the Corporation for any project under a grant, contract, or cooperative agreement under this section shall in no case exceed two-thirds of the total cost of the project.

(f) Preference

In selecting projects to receive funds, the Corporation may give preference to those projects for which the ratio of Corporation funds to non-Corporation funds would be lowest.

(Pub. L. 101–624, title XVI, § 1660, Nov. 28, 1990, 104 Stat. 3761; Pub. L. 104–127, title VII, § 724, Apr. 4, 1996, 110 Stat. 1119.)

AMENDMENTS

1996—Subsecs. (a), (b). Pub. L. 104–127, § 724(1), substituted ''Corporation'' for ''Center''.

Subsec. (c). Pub. L. 104–127, § 724(2), substituted ''Corporate Board'' for ''Board'' in introductory provisions.

Subsec. (e). Pub. L. 104–127, § 724(1), substituted ''Corporation'' for ''Center''.

Subsec. (f). Pub. L. 104–127, § 724(1), (3), substituted ''Corporation'' for ''Center'' in two places and substituted ''non-Corporation'' for ''non-Center''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5902, 5903, 5905, 5906, 5908, 5909 of this title.

§ 5905. Commercialization assistance

(a) Assistance authorized

The Corporation, at the discretion of the Corporate Board, may provide to entities described in subsection (b) of this section for projects commercializing new nonfood, nonfeed products using agricultural commodities, financial assistance in the form of—

(1) loans made or insured by the Corporation;

(2) interest subsidy payments made by the Corporation (pursuant to an agreement between the Corporation, the lender, and the borrower) to the lender in amounts determined pursuant to the agreement;

(3) venture capital invested by the Corporation in the form of a convertible debenture; and

(4) repayable grants that are matched by private or local public funds and that are repaid as agreed in a contract between the Corporation and the entity.

(b) Eligible entities

To obtain financial assistance for commercialization of nonfood, nonfeed products from the Corporation, an entity shall be a university or other institution of higher education, a nonprofit organization, a cooperative, or a business concern.

(c) Application requirements

(1) Filed with Executive Director

To obtain financial assistance from the Corporation under this section, an eligible entity shall file an application with the Executive Director.

(2) Contents

An application submitted to the Executive Director under paragraph (1) shall—

(A) describe the proposal of the entity for the commercialization of a new product consistent with this section, including documentation that such proposal is—

(i) scientifically sound;

(ii) technologically feasible; and

(iii) marketable;

(B) provide documentation that adequate private sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(C) provide documentation that the applicant has invested in the project a significant amount of the applicant's own resources, including time and money;

(D) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(E) provide documentation that the proposal has broad participation by representatives of the public sector, the financial community, the private business community, State and local governments, educational institutions, the farm community, the science and engineering communities;

(F) provide documentation that an established relationship exists between the applicant and other entities to give the applicant access to private business assistance;

(G) provide assurances of legal compliance by the applicant with the terms and conditions of the receipt of assistance under this section; and

(H) provide assurances that the project will result in the creation of new jobs in rural communities.

(d) Priorities

The Corporate Board shall give priority to—

(1) applications that shall create jobs in economically distressed rural areas;

(2) applications that have State or local government financial participation; and

(3) applications that have private financial participation.

(e) Additional criteria

The Corporate Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize—

(1) the quantity and quality of jobs that are likely to be created in rural communities;

(2) the amount of the financial participation by State or local governments or private entities;

(3) the qualifications of the management to be used in the project;

(4) the potential market demand for the potential product to be marketed proportional to the financial assistance requested; and

(5) the likely level of returns to the Fund and the items described in paragraphs (2), (6), (8), and (9) of section 5904(c) of this title.

(Pub. L. 101–624, title XVI, §1661, Nov. 28, 1990, 104 Stat. 3762; Pub. L. 104–127, title VII, §725, Apr. 4, 1996, 110 Stat. 1119.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, §725(1), (2), substituted ''Corporation'' for ''Center'' wherever appearing and substituted ''Corporate Board'' for ''Board'' in introductory provisions.

Subsec. (b). Pub. L. 104–127, §725(1), substituted ''Corporation'' for ''Center''.

Subsec. (c). Pub. L. 104–127, §725(3), (4), redesignated subsec. (d) as (c) and struck out former subsec. (c) which provided for appointment of Advisory Council to advise Board and Regional Centers concerning applications for assistance submitted under this section.

Pub. L. 104–127, §725(1), (5), substituted ''Corporation'' for ''Center'' in par. (1) and ''Executive Director'' for ''Director'' in par. (1) heading and text and introductory provisions of par. (2).

Subsecs. (d) to (f). Pub. L. 104–127, §725(2), (4), redesignated subsecs. (e) and (f) as (d) and (e), respectively, and substituted ''Corporate Board'' for ''Board''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5902, 5903, 5906, 5907, 5908, 5909 of this title.

§5906. General rules regarding provision of assistance

(a) Notice of receipt of applications

Not later than 30 days before the start of each period established by the Corporate Board for receipt of applications for financial assistance under section 5904 or 5905 of this title, the Corporate Board shall publish in the Federal Register a notice that it will receive such applications.

(b) Monitoring

The Corporate Board shall monitor the progress of projects that receive financial assistance under this subchapter. Such monitoring may include on-site reviews by representatives of the Corporate Board or a Regional Center, the requirement of written reports by recipients of assistance, and supportive business and technical counseling as needed by the recipient.

(c) Auditing and accountability

(1) Required

The Corporate Board shall establish a thorough and effective system of auditing and accountability to ensure that funds paid under section 5904 or 5905 of this title are used by recipients only for the purposes for which those funds are provided by the Corporation.

(2) Demonstrated compliance

The Corporate Board may require that recipients of financial assistance demonstrate that the use of financial assistance is in compliance with the agreement by which that assistance is provided.

(d) Information exempt from disclosure

With respect to research, development, demonstration, or commercialization projects carried out with the participation of private research institutions or commercial companies, information received by the Corporation incident thereto shall be exempt from disclosure under section 552 of title 5 and shall not be made available publicly except—

(1) with the approval of the person providing the information; or

(2) in a judicial or administrative proceeding in which such information is subject to protective order.

(e) Overhead and administrative costs

The Corporate Board shall require that applications or responses to requests for proposals issued by the Corporation for grants, contracts, or cooperative agreements include detailed estimates of project overhead and administrative costs. In selecting such applications or proposals for awards, the Corporation shall give preference to those with the lowest effective costs.

(f) Prohibition on certain uses of assistance

No grant may be awarded, or contract or cooperative agreement entered into under this subchapter, for the acquisition or construction of a building or a facility.

(g) Reports

(1) Preparation

As soon as practicable after the end of each fiscal year, the Corporate Board shall prepare and submit to the Secretary a report on the activities, progress, and accomplishments of the Corporation during such fiscal year. The report shall include—

(A) a description of the progress, activities, and accomplishments of the Corporation during that fiscal year and the expenditures by the Corporation for its information and other service activities; and

(B) a copy of the operating plan prepared by the Corporate Board under section 5903(c)(6)[1] of this title.

(2) Transmittal

The Secretary shall transmit each report received under paragraph (1) to the President and Congress not later than 30 days after the date on which the Secretary receives the report.

[1] See References in Text note below.

(Pub. L. 101–624, title XVI, § 1662, Nov. 28, 1990, 104 Stat. 3764; Pub. L. 104–127, title VII, § 726, Apr. 4, 1996, 110 Stat. 1119.)

REFERENCES IN TEXT

Section 5903 of this title, referred to in subsec. (g)(1)(B), was amended generally by Pub. L. 104–127, title VII, § 723(a), Apr. 4, 1996, 110 Stat. 1115, and, as so amended, subsec. (c) of section 5903 no longer contains a par. (6). See section 5903(c)(1)(E) of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 726(2), substituted ''Corporate Board'' for ''Board'' in two places.

Subsec. (b). Pub. L. 104–127, § 726(2), (3), in first sentence, substituted ''The Corporate Board'' for ''The Board'', in second sentence, substituted ''Corporate Board or a Regional Center'' for ''Board, a Regional Center, or the Advisory Council'' and struck out at end ''The Board may use the Advisory Council appointed under section 5905 of this title to assist in such monitoring.''

Subsecs. (c) to (e), (g). Pub. L. 104–127, § 726(1), (2), substituted ''Corporation'' for ''Center'' and ''Corporate Board'' for ''Board'' wherever appearing.

§ 5907. Regional Centers

(a) Establishment

(1) Required

Except as provided in paragraph (2), the Corporate Board shall establish not less than two nor more than six Regional Centers to carry out the activities specified in this section and such other activities as the Corporate Board shall from time to time specify.

(2) Exception

No Regional Centers may be established in a fiscal year unless at least $5,000,000 has been appropriated for that fiscal year to carry out this subchapter.

(b) Method of establishment

(1) Regional basis

Each Regional Center established under this section shall be located at a host institution. The Regional Centers shall be established in different States to reflect the different regional climatic conditions and rural economic stresses in the United States.

(2) Competition

An organization that desires to be selected as a host institution for a Regional Center shall submit an application to the Corporate Board. The Corporate Board shall determine the location of the Regional Centers based on a competitive review of the contents of such applications and shall consider the ability of the applicant to carry out the activities specified in this section.

(c) Matching of funds

(1) Assurances of applicants

Each institution submitting an application for a Regional Center under this section shall provide assurances—

(A) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal Government under this subchapter;

(B) that the institution is qualified to carry out the activities required of a Regional Center; and

(C) concerning such other matters as the Corporate Board determines to be appropriate.

(2) Consortium

The matching funds required under paragraph (1) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(d) Director

Each Regional Center shall be headed by a full-time Regional Director who shall—

(1) be selected by the Corporate Board; and

(2) have a scientific or engineering background or have experience in the development of new products or processes in the public or private sector.

(e) Activities

Each Regional Center shall—

(1) encourage interaction among the private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, other Federal resources, State and local regional economic development programs, universities, colleges, the private sector, and the financial community, for the purpose of evaluating and commercializing new nonfood, nonfeed uses of agricultural commodities;

(2) identify broad areas where commercialization of new nonfood, nonfeed products and processes can contribute to economic growth in rural areas of the United States, through the development of new nonfood, nonfeed uses for agricultural commodities by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small domestic businesses to commercialize new nonfood, nonfeed uses of agricultural commodities;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance;

(5) make use of existing programs in scientific, engineering, technical, and management education that will support the accelerated commercialization of new nonfood, nonfeed products and processes using agricultural commodities;

(6) advise the Corporate Board on the viability of specific applications submitted for financial assistance and on the type of assistance, if any, to be provided;

(7) coordinate their activities with the Small Business Development Centers; and

(8) coordinate their activities with the Corporation.

(f) Review of proposals for assistance

(1) Submission to Regional Center

If a Regional Center is established that includes the area in which a person applying for assistance under this subchapter is located, that person shall submit the application to the Regional Center for review.

(2) Review

The Directors of the Regional Centers shall work to obtain peer review and evaluation of applications submitted to the Regional Centers.

(3) Recommendation

The Regional Director, based on the comments of the reviewers, shall make and submit a recommendation to the Board, which shall not be binding on the Board.

(Pub. L. 101–624, title XVI, § 1663, Nov. 28, 1990, 104 Stat. 3765; Pub. L. 102–237, title IV, § 405(b), Dec. 13, 1991, 105 Stat. 1864; Pub. L. 104–127, title VII, § 727, Apr. 4, 1996, 110 Stat. 1119.)

AMENDMENTS

1996—Subsecs. (a)(1), (b)(2), (c)(1)(C), (d)(1), (e)(6). Pub. L. 104–127, § 727(1), substituted ''Corporate Board'' for ''Board'' wherever appearing.

Subsec. (e)(8). Pub. L. 104–127, § 727(2), substituted ''Corporation'' for ''Center''.

Subsec. (f)(2) to (4). Pub. L. 104–127, § 727(3), in par. (2), struck out ''in consultation with the Advisory Council appointed under section 5905(c) of this title'' before ''to obtain peer review'', added par. (3), and struck out former pars. (3) and (4) which read as follows:

''(3) ROLE OF ADVISORY COUNCIL.—The Advisory Council shall review applications submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on each proposal to the appropriate Regional Director.

''(4) RECOMMENDATION.—The Regional Director, after consideration of the Advisory Council's recommendation and based on the comments of the reviewers, shall make and submit a recommendation to the Board along with the recommendation of the Advisory Council. A recommendation submitted by a Regional Director or the Advisory Council shall not be binding on the Board.''

1991—Subsec. (a)(2). Pub. L. 102–237 substituted ''No Regional Centers may be established'' for ''A Regional Center may not be established or operated''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5903 of this title.

§ 5908. Alternative Agricultural Research and Commercialization Revolving Fund

(a) Establishment

There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Corporation, without fiscal year limitation, to carry out this subchapter.

(b) Contents of Fund

There shall be deposited in the Fund—

(1) such amounts as may be appropriated or transferred to support programs and activities of the Corporation;

(2) payments received from any source for products, services, or property furnished in connection with the activities of the Corporation;

(3) fees and royalties collected by the Corporation from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Corporation;

(4) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Corporation;

(5) donations or contributions accepted by the Corporation to support authorized programs and activities; and

(6) any other funds acquired by the Corporation.

(c) Funding allocations

Funding of projects and activities under this subchapter shall be subject to the following restrictions:

(1) Of the total amount of funds made available for a fiscal year under this subchapter—

(A) not more than the lesser of 15 percent or $3,000,000 may be set aside to be used for authorized administrative expenses of the Corporation;

(B) not more than 1 percent may be set aside to be used for generic studies and specific reviews of individual proposals for financial assistance; and

(C) except as provided in subsection (e) of this section, not less than 84 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Corporation under sections 5904 and 5905 of this title.

(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Corporation for the next fiscal year.

(d) Authorized administrative expenses

For the purposes of this section, authorized administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses. Funds authorized for administrative expenses shall not be available for the acquisition of real property.

(e) Project monitoring

The Corporate Board may establish, in the bylaws of the Corporate Board, that a percentage (which shall not exceed 1 percent) of the funds provided under subsection (c) of this section for any commercialization project shall be expended to ensure that project funds are being utilized in accordance with the project agreement.

(f) Termination of Fund

On expiration of the authority provided by this subchapter, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

(g) Authorization of appropriations; capitalization

(1) Authorization of appropriation

There are authorized to be appropriated to the Fund $75,000,000 for each of fiscal years 1996 through 2002.

(2) Capitalization

The Executive Director may pay in as capital of the Corporation, out of dollar receipts made available through annual appropriations, $75,000,000 for each of fiscal years 1996 through 2002. On the payment of an amount of capital by the Executive Director, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

(3) Transfer

All obligations, assets, and related rights and responsibilities of the former Alternative Agricultural Research and Commercialization Center established under former section 5902 of this title (as in effect on the day before April 4, 1996) are transferred to the Corporation.

(Pub. L. 101–624, title XVI, § 1664, Nov. 28, 1990, 104 Stat. 3766; Pub. L. 104–127, title VII, § 728, Apr. 4, 1996, 110 Stat. 1120.)

REFERENCES IN TEXT

Former section 5902 of this title, referred to in subsec. (g)(3), means section 5902 of this title as in effect before the general amendment of that section by Pub. L. 104–127, title VII, § 722(a), Apr. 4, 1996, 110 Stat. 1113.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions providing for establishment of Alternative Agricultural Research and Commercialization Revolving Fund, including provisions relating to contents of Fund, funding allocations, termination of Fund, and authorization of appropriations.

§ 5909. Procurement of alternative agricultural research and commercialization products

(a) "Executive agency" defined

In this section, the term ''executive agency'' has the meaning provided the term in section 403(1) of title 41.

(b) Procurement

To further the achievement of the purposes specified in section 5901(b) of this title, an executive agency may, for any procurement involving the acquisition of property, establish set-asides and preferences for property that has been commercialized with assistance provided under this subchapter.

(c) Set-asides

Procurements solely for property may be set aside exclusively for products developed with commercialization assistance provided under section 5905 of this title.

(d) Preferences

Preferences for property developed with assistance provided under this subchapter in procurements involving the acquisition of property may be—

(1) a price preference, if the procurement is solely for property, of not greater than a percentage to be determined within the sole discretion of the head of the procuring agency; or

(2) a technical evaluation preference included as an award factor or subfactor as determined within the sole discretion of the head of the procuring agency.

(e) Notice

Each competitive solicitation or invitation for bids selected by an executive agency for a set-

aside or preference under this section shall contain a provision notifying offerors where a list of products eligible for the set-aside or preference may be obtained.

(f) Eligibility

Offerors shall receive the set-aside or preference required under this section if, in the case of products developed with financial assistance under—

(1) section 5904 of this title, less than 10 years have elapsed since the expiration of the grant, cooperative agreement, or contract;

(2) paragraph (1) or (2) of section 5905(a) of this title, less than 5 years have elapsed since the date the loan was made or insured;

(3) section 5905(a)(3) of this title, less than 5 years have elapsed since the date of sale of any remaining government equity interest in the company; or

(4) section 5905(a)(4) of this title, less than 5 years have elapsed since the date of the final payment on the repayable grant.

(Pub. L. 101–624, title XVI, §1665, as added Pub. L. 104–127, title VII, §729, Apr. 4, 1996, 110 Stat. 1121.)

SUBCHAPTER VII—MISCELLANEOUS RESEARCH PROVISIONS

§ 5921. Biotechnology risk assessment research

(a) Purpose

It is the purpose of this section to—

(1) authorize and support environmental assessment research to the extent necessary to help address general concerns about environmental effects of biotechnology; and

(2) authorize research to help regulators develop policies, as soon as practicable, concerning the introduction into the environment of such technology.

(b) Grant program

The Secretary of Agriculture shall establish a grant program within the Cooperative State Research Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered organisms into the environment.

(c) Types of research

Types of research for which grants may be made under this section shall include the following:

(1) Research designed to develop methods to physically and biologically contain genetically engineered animals, plants, and microorganisms once they are introduced into the environment.

(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals, plants, and microorganisms.

(3) Research designed to further existing knowledge with respect to the rates and methods of gene transfer that may occur between genetically engineered organisms and related wild and agricultural organisms.

(4) Other areas of research designed to further the purposes of this section.

(d) Eligibility requirements

Grants under this section shall be—

(1) made on the basis of the quality of the proposed research project; and

(2) available to any public or private research or educational institution or organization.

(e) Consultation

In considering specific areas of research for funding under this section, the Secretary of Agriculture shall consult with the Administrator of the Animal and Plant Health Inspection Service, the Office of Agricultural Biotechnology, and the Agricultural Biotechnology Research Advisory Committee.

(f) Program coordination

The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

(g) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as necessary to carry out this section.

(2) Withholdings from biotechnology outlays

The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

(Pub. L. 101–624, title XVI, §1668, Nov. 28, 1990, 104 Stat. 3767; Pub. L. 102–237, title IV, §407(9), Dec. 13, 1991, 105 Stat. 1865.)

AMENDMENTS

1991—Subsec. (g)(2). Pub. L. 102–237 substituted ''Withholdings'' for ''Witholdings'' in heading.

§ 5922. Graduate School of Department of Agriculture

(a) Training services

Notwithstanding any other provision of law, the head of a Federal agency or major organizational unit within any agency, including agencies and offices within the Department of Agriculture, may place an order (or enter into an agreement) with the Graduate School of the Department of Agriculture under the provisions of section 1535 of title 31 for training and other services incidental to the provision of such training.

(b) Goods or services

The Graduate School may obtain any goods or services necessary to the fulfillment of an order under subsection (a) of this section or its obligations under such agreement without regard to the requirements of—

(1) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or

(2) any other law that prescribes procedures for the procurement of property or services by an executive agency.

(c) Audits of records

The financial records of the Graduate School relating to orders or agreements under sub-

section (a) of this section shall be made available to the Comptroller General for purposes of conducting an audit.

(d) Definitions

For purposes of this section:

(1) The term ''Graduate School'' means the Graduate School of the Department of Agriculture.

(2) The term ''training'' has the meaning given that term in section 4101(4) of title 5.

(Pub. L. 101–624, title XVI, § 1669, Nov. 28, 1990, 104 Stat. 3768.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), referred to in subsec. (b)(1), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that Act relating to procurement are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works, and subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

CROSS REFERENCES

Graduate School of Department of Agriculture, operation as nonappropriated fund instrumentality, see section 2279b of this title.

§ 5923. Repealed. Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563

Section, Pub. L. 101–624, title XVI, § 1670, Nov. 28, 1990, 104 Stat. 3769; Pub. L. 102–237, title IV, § 407(10), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VIII, § 834, Apr. 4, 1996, 110 Stat. 1169, authorized establishment of livestock product safety and inspection program.

§ 5924. Agricultural Genome Initiative

(a) Goals

The goals of this section are—

(1) to expand the knowledge of public and private sector entities and persons concerning genomes for species of importance to the food and agriculture sectors in order to maximize the return on the investment in genomics of agriculturally important species;

(2) to focus on the species that will yield scientifically important results that will enhance the usefulness of many agriculturally important species;

(3) to build on genomic research, such as the Human Genome Initiative and the Arabidopsis Genome Project, to understand gene structure and function that is expected to have considerable payoffs in agriculturally important species;

(4) to develop improved bioinformatics to enhance both sequence or structure determination and analysis of the biological function of genes and gene products;

(5) to encourage Federal Government participants to maximize the utility of public and private partnerships for agricultural genome research;

(6) to allow resources developed under this section, including data, software, germplasm, and other biological materials, to be openly accessible to all persons, subject to any confidentiality requirements imposed by law; and

(7) to encourage international partnerships with each partner country responsible for financing its own strategy for agricultural genome research.

(b) Duties of Secretary

The Secretary of Agriculture (referred to in this section as the ''Secretary'') shall conduct a research initiative (to be known as the ''Agricultural Genome Initiative'') for the purpose of—

(1) studying and mapping agriculturally significant genes to achieve sustainable and secure agricultural production;

(2) ensuring that current gaps in existing agricultural genetics knowledge are filled;

(3) identifying and developing a functional understanding of genes responsible for economically important traits in agriculturally important species, including emerging plant and animal diseases causing economic hardship;

(4) ensuring future genetic improvement of agriculturally important species;

(5) supporting preservation of diverse germplasm;

(6) ensuring preservation of biodiversity to maintain access to genes that may be of importance in the future; and

(7) otherwise carrying out this section.

(c) Grants and cooperative agreements

(1) Authority

The Secretary may make grants or enter into cooperative agreements with individuals and organizations in accordance with section 3318 of this title.

(2) Competitive basis

A grant or cooperative agreement under this subsection shall be made or entered into on a competitive basis.

(d) Administration

Paragraphs (1), (6), (7), and (11) of subsection (b) of section 450i of this title shall apply with respect to the making of a grant or cooperative agreement under this section.

(e) Matching of funds

(1) General requirement

If a grant or cooperative agreement under this section provides a particular benefit to a specific agricultural commodity, the Secretary shall require the recipient to provide funds or in-kind support to match the amount of funds provided by the Secretary under the grant or cooperative agreement.

(2) Waiver

The Secretary may waive the matching funds requirement of paragraph (1) with respect to a research project if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the recipient is unable to satisfy the matching funds requirement.

(f) Consultation with National Academy of Sciences

The Secretary may use funds made available under this section to consult with the National

Academy of Sciences regarding the administration of the Agricultural Genome Initiative.

(Pub. L. 101–624, title XVI, § 1671, Nov. 28, 1990, 104 Stat. 3769; Pub. L. 104–66, title I, § 1011(s), Dec. 21, 1995, 109 Stat. 710; Pub. L. 104–127, title VIII, § 835, Apr. 4, 1996, 110 Stat. 1169; Pub. L. 105–185, title II, § 241, June 23, 1998, 112 Stat. 547.)

AMENDMENTS

1998—Pub. L. 105–185 amended section catchline and text generally, substituting present provisions for provisions which in subsec. (a) required plant genome mapping program, in subsec. (b) authorized competitive grants for research projects, in subsec. (c) described research areas for projects, in subsec. (d) set forth deadline for submission of plan for awarding grants, in subsec. (e) directed coordination of section activities with certain related activities, in subsec. (f) required protection of proprietary interests when considered to be appropriate, and in subsec. (g) authorized appropriations for fiscal years 1996 and 1997 to carry out this section.

1996—Subsec. (g). Pub. L. 104–127 inserted ''for fiscal years 1996 and 1997'' after ''appropriated''.

1995—Subsecs. (g), (h). Pub. L. 104–66 redesignated subsec. (h) as (g) and struck out former subsec. (g) which required Secretary to submit annual reports to Congress describing operations of grant program for plant genome mapping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450i of this title.

§ 5925. High-priority research and extension initiatives

(a) Competitive specialized research and extension grants authorized

The Secretary of Agriculture (referred to in this section as the ''Secretary'') may make competitive grants to support research and extension activities specified in subsections (e), (f), and (g) of this section. The Secretary shall make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

(b) Administration

(1) In general

Except as otherwise provided in this section, paragraphs (1), (6), (7), and (11) of subsection (b) of section 450i of this title shall apply with respect to the making of grants under this section.

(2) Use of task forces

To facilitate the making of research and extension grants under this section in the research and extension areas specified in subsection (e) of this section, the Secretary may appoint a task force for each such area to make recommendations to the Secretary. The Secretary may not incur costs in excess of $1,000 for any fiscal year in connection with each task force established under this paragraph.

(c) Matching funds required

(1) In general

The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

(2) Waiver authority

The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

(d) Partnerships encouraged

Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

(e) High-priority research and extension areas

(1) Brown citrus aphid and citrus tristeza virus research and extension

Research and extension grants may be made under this section for the purpose of—

(A) developing methods to control or eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

(2) Ethanol research and extension

Research and extension grants may be made under this section for the purpose of carrying out or enhancing research on ethanol derived from agricultural crops as an alternative fuel source.

(3) Aflatoxin research and extension

Research and extension grants may be made under this section for the purpose of identifying and controlling aflatoxin in the food and feed chains.

(4) Mesquite research and extension

Research and extension grants may be made under this section for the purpose of developing enhanced production methods and commercial uses of mesquite.

(5) Prickly pear research and extension

Research and extension grants may be made under this section for the purpose of investigating enhanced genetic selection and processing techniques of prickly pears.

(6) Deer tick ecology research and extension

Research and extension grants may be made under this section for the purpose of studying the population ecology of deer ticks and other insects and pests that transmit Lyme disease.

(7) Red meat safety research and extension

Research and extension grants may be made under this section for the purpose of developing—

(A) intervention strategies that reduce microbial contamination on carcass surfaces;

(B) microbiological mapping of carcass surfaces; and

(C) model hazard analysis and critical control point plans.

(8) Grain sorghum ergot research and extension

Research and extension grants may be made under this section for the purpose of developing techniques for the eradication of sorghum ergot.

(9) Peanut market enhancement research and extension

Research and extension grants may be made under this section for the purpose of evaluating the economics of applying innovative technologies for peanut processing in a commercial environment.

(10) Dairy financial risk management research and extension

Research and extension grants may be made under this section for the purpose of providing research, development, or education materials, information, and outreach programs regarding risk management strategies for dairy producers and for dairy cooperatives and other processors and marketers of milk.

(11) Cotton research and extension

Research and extension grants may be made under this section for the purpose of improving pest management, fiber quality enhancement, economic assessment, textile production, and optimized production systems for short staple cotton.

(12) Methyl bromide research and extension

Research and extension grants may be made under this section for the purpose of—

(A) developing and evaluating chemical and nonchemical alternatives, and use and emission reduction strategies, for pre-planting and post-harvest uses of methyl bromide; and

(B) transferring the results of the research for use by agricultural producers.

(13) Potato research and extension

Research and extension grants may be made under this section for the purpose of developing and evaluating new strains of potatoes that are resistant to blight and other diseases, as well as insects. Emphasis may be placed on developing potato varieties that lend themselves to innovative marketing approaches.

(14) Wood use research and extension

Research and extension grants may be made under this section for the purpose of developing new uses for wood from underused tree species as well as investigating methods of modifying wood and wood fibers to produce better building materials.

(15) Low-bush blueberry research and extension

Research and extension grants may be made under this section for the purpose of evaluating methods of propagating and developing low-bush blueberry as a marketable crop.

(16) Wetlands use research and extension

Research and extension grants may be made under this section for the purpose of better use of wetlands in diverse ways to provide various economic, agricultural, and environmental benefits.

(17) Wild pampas grass control, management, and eradication research and extension

Research and extension grants may be made under this section for the purpose of control, management, and eradication of wild pampas grass.

(18) Food safety, including pathogen detection and limitation, research and extension

Research and extension grants may be made under this section for the purpose of increasing food safety, including the identification of advanced detection and processing methods to limit the presence of pathogens (including hepatitis A and E. coli 0157:H7) in domestic and imported foods.

(19) Financial risk management research and extension

Research and extension grants may be made under this section for the purpose of providing research, development, or education materials, information, and outreach programs regarding financial risk management strategies for agricultural producers and for cooperatives and other processors and marketers of any agricultural commodity.

(20) Ornamental tropical fish research and extension

Research and extension grants may be made under this section for the purpose of meeting the needs of commercial producers of ornamental tropical fish and aquatic plants for improvements in the areas of fish reproduction, health, nutrition, predator control, water use, water quality control, and farming technology.

(21) Sheep scrapie research and extension

Research and extension grants may be made under this section for the purpose of investigating the genetic aspects of scrapie in sheep.

(22) Gypsy moth research and extension

Research and extension grants may be made under this section for the purpose of developing biological control, management, and eradication methods against nonnative insects, including Lymantria dispar (commonly known as the ''gypsy moth''), that contribute to significant agricultural, economic, or environmental harm.

(23) Forestry research and extension

Research and extension grants may be made under this section to develop and distribute new, high-quality, science-based information for the purpose of improving the long-term productivity of forest resources and contributing to forest-based economic development by addressing such issues as—

(A) forest land use policies;

(B) multiple-use forest management, including wildlife habitat development, improved forest regeneration systems, and timber supply; and

(C) improved development, manufacturing, and marketing of forest products.

(24) Tomato spotted wilt virus research and extension

Research and extension grants may be made under this section for the purpose of control, management, and eradication of tomato spotted wilt virus.

(f) Imported fire ant control, management, and eradication

(1) Task force

The Secretary shall establish a task force pursuant to subsection (b)(2) of this section regarding the control, management, and eradication of imported fire ants. The Secretary shall solicit and evaluate grant proposals under this subsection in consultation with the task force.

(2) Initial grants

(A) Request for proposals

The Secretary shall publish a request for proposals for grants for research or demonstration projects related to the control, management, and possible eradication of imported fire ants.

(B) Selection

Not later than 1 year after the date of publication of the request for proposals, the Secretary shall evaluate the grant proposals submitted in response to the request and may select meritorious research or demonstration projects related to the control, management, and possible eradication of imported fire ants to receive an initial grant under this subsection.

(3) Subsequent grants

(A) Evaluation of initial grants

If the Secretary awards grants under paragraph (2)(B), the Secretary shall evaluate all of the research or demonstration projects conducted under the grants for their use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land.

(B) Selection

On the basis of the evaluation under subparagraph (A), the Secretary may select the projects that the Secretary considers most promising for additional research or demonstration related to preparation of a national plan for the control, management, and possible eradication of imported fire ants. The Secretary shall notify the task force of the projects selected under this subparagraph.

(4) Selection and submission of national plan

(A) Evaluation of subsequent grants

If the Secretary awards grants under paragraph (3)(B), the Secretary shall evaluate all of the research or demonstration projects conducted under the grants for use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land.

(B) Selection

On the basis of the evaluation under subparagraph (A), the Secretary shall select 1 project funded under paragraph (3)(B), or a combination of those projects, for award of a grant for final preparation of the national plan.

(C) Submission

The Secretary shall submit to Congress the final national plan prepared under subparagraph (B) for the control, management, and possible eradication of imported fire ants.

(g) Formosan termite research and eradication

(1) Research program

The Secretary may make competitive research grants under this subsection to regional and multijurisdictional entities, local government planning organizations, and local governments for the purpose of conducting research for the control, management, and possible eradication of Formosan termites in the United States.

(2) Eradication program

The Secretary may enter into cooperative agreements with regional and multijurisdictional entities, local government planning organizations, and local governments for the purposes of—

(A) conducting projects for the control, management, and possible eradication of Formosan termites in the United States; and

(B) collecting data on the effectiveness of the projects.

(3) Funding priority

In allocating funds made available to carry out paragraph (2), the Secretary shall provide a higher priority for regions or locations with the highest historical rates of infestation of Formosan termites.

(4) Management coordination

The program management of research grants, cooperative agreements, and projects under this subsection shall be conducted under existing authority in coordination with the national formosan[1] termite management and research demonstration program conducted by the Agricultural Research Service.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 101–624, title XVI, §1672, Nov. 28, 1990, 104 Stat. 3770; Pub. L. 102–237, title IV, §§406, 407(11), Dec. 13, 1991, 105 Stat. 1864, 1865; Pub. L. 104–127, title VIII, §§836, 863, 888, Apr. 4, 1996, 110 Stat. 1169, 1174, 1180; Pub. L. 105–185, title II, §242, June 23, 1998, 112 Stat. 549.)

AMENDMENTS

1998—Pub. L. 105–185 amended section catchline and text generally, substituting present provisions for provisions which in subsecs. (a) to (f) which authorized specialized research programs relating to, respectively,

[1] So in original. Probably should be capitalized.

brown citrus aphid and citrus tristeza virus, ethanol, aflatoxin, mesquite, prickly pear, and deer tick ecology and related research, and for provisions in subsec. (g) subjecting research to peer review, setting limitation on use of funds, and providing for general eligibility to participate in programs.

1996—Subsec. (a). Pub. L. 104–127, §§ 863(1), 888, added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary of Agriculture is encouraged to fund research for the development of technology which will ascertain the lean content of animal carcasses to be used for human consumption.''

Subsecs. (d)(4), (e)(4). Pub. L. 104–127, § 836, substituted ''1997'' for ''1995''.

Subsec. (f). Pub. L. 104–127, § 863, redesignated subsec. (i) as (f) and struck out heading and text of former subsec. (f). Text read as follows:

''(1) RESEARCH REQUIRED.—The Secretary of Agriculture shall establish and carry out a program to make grants to colleges and universities for research relating to immunoassay used—

''(A) to detect agricultural pesticide residues on agricultural commodities for human consumption; and

''(B) to diagnose animal and plant diseases.

''(2) PREFERENCE.—In making grants under this subsection, the Secretary may give preference to those colleges and universities that, as of November 28, 1990, are conducting research described in this subsection.''

Subsec. (g). Pub. L. 104–127, § 863, redesignated subsec. (k) as (g) and struck out heading and text of former subsec. (g). Text read as follows: ''The Secretary shall make research and extension grants available for the development of agricultural production and marketing systems that will service niche markets located in nearby metropolitan areas. In awarding such grants, the Secretary shall pay particular attention to areas—

''(1) with a high concentration of small farm operations; and

''(2) that experience difficulty in delivering products to market due to geographic isolation.''

Subsec. (h). Pub. L. 104–127, § 863(1), struck out subsec. (h) which provided that Secretary of Agriculture may establish and carry out a program to conduct research on disease of scrapie in sheep and goats.

Subsec. (i). Pub. L. 104–127, §§ 836, 863(2), redesignated subsec. (i) as (f) and substituted ''1997'' for ''1995''.

Subsec. (j). Pub. L. 104–127, § 863(1), struck out heading and text of subsec. (j). Text read as follows: ''The Secretary of Agriculture may—

''(1) conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and

''(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.''

Subsec. (k). Pub. L. 104–127, § 863(2), redesignated subsec. (k) as (g).

1991—Subsec. (c). Pub. L. 102–237, § 407(11), redesignated pars. (A) to (I) as (1) to (9), respectively.

Subsec. (i). Pub. L. 102–237, § 406(1), substituted ''Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants'' for ''Agricultural Research Service''.

Subsec. (k)(1). Pub. L. 102–237, § 406(2), substituted ''Research'' for ''Except for research funded under subsection (i), research''.

§ 5925a. Nutrient management research and extension initiative

(a) Competitive research and extension grants authorized

The Secretary of Agriculture (referred to in this section as the ''Secretary'') may make competitive grants to support research and extension activities specified in subsection (e) of this section. The Secretary shall make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

(b) Administration

(1) In general

Paragraphs (1), (6), (7), and (11) of subsection (b) of section 450i of this title shall apply with respect to the making of grants under this section.

(2) Use of task forces

To facilitate the making of research and extension grants under this section in the research and extension areas specified in subsection (e) of this section, the Secretary may appoint a task force for each such area to make recommendations to the Secretary. The Secretary may not incur costs in excess of $1,000 for any fiscal year in connection with each task force established under this paragraph.

(c) Matching funds required

(1) In general

The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

(2) Waiver authority

The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

(d) Partnerships encouraged

Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

(e) Nutrient management research and extension areas

(1) Animal waste and odor management

Research and extension grants may be made under this section for the purpose of—

(A) identifying, evaluating, and demonstrating innovative technologies for animal waste management and related air quality management and odor control;

(B) investigating the unique microbiology of specific animal wastes, such as swine waste, to develop improved methods to effectively manage air and water quality; and

(C) conducting information workshops to disseminate the results of the research.

(2) Water quality and aquatic ecosystems

Research and extension grants may be made under this section for the purpose of inves-

tigating the impact on aquatic food webs, especially commercially important aquatic species and their habitats, of microorganisms of the genus Pfiesteria and other microorganisms that are a threat to human or animal health.

(3) Rural and urban interface

Research and extension grants may be made under this section for the purpose of identifying, evaluating, and demonstrating innovative technologies to be used for animal waste management (including odor control) in rural areas adjacent to urban or suburban areas in connection with waste management activities undertaken in urban or suburban areas.

(4) Animal feed

Research and extension grants may be made under this section for the purpose of maximizing nutrition management for livestock, while limiting risks, such as mineral bypass, associated with livestock feeding practices.

(5) Alternative uses of animal waste

Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies for economic use or disposal of animal waste.

(g)[1] Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 101–624, title XVI, §1672A, as added Pub. L. 105–185, title II, §243, June 23, 1998, 112 Stat. 554.)

§ 5925b. Organic agriculture research and extension initiative

(a) Competitive specialized research and extension grants authorized

In consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board, the Secretary of Agriculture (referred to in this section as the ''Secretary'') may make competitive grants to support research and extension activities regarding organically grown and processed agricultural commodities for the purposes of—

(1) facilitating the development of organic agriculture production and processing methods;

(2) evaluating the potential economic benefits to producers and processors who use organic methods; and

(3) exploring international trade opportunities for organically grown and processed agricultural commodities.

(b) Grant types and process, prohibition on construction

Paragraphs (1), (6), (7), and (11) of subsection (b) of section 450i of this title shall apply with respect to the making of grants under this section.

(c) Matching funds required

(1) In general

The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

(2) Waiver authority

The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specified agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

(d) Partnerships encouraged

Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 101–624, title XVI, §1672B, as added Pub. L. 105–185, title II, §244, June 23, 1998, 112 Stat. 555.)

§ 5926. Agricultural telecommunications program

(a) Purpose

The program (hereafter referred to in this section as the ''program'') established under this section is intended to encourage the development and utilization of an agricultural communications network to facilitate and to strengthen agricultural extension, resident education and research, and domestic and international marketing of United States agricultural commodities and products through a partnership between eligible institutions and the Department of Agriculture. The network will employ satellite and other telecommunications technology to disseminate and to share academic instruction, cooperative extension programming, agricultural research, and marketing information.

(b) Objectives

The objectives of the program established under this section are—

(1) to make optimal use of available resources for agricultural extension, resident education, and research by sharing resources between participating institutions;

(2) to improve the competitive position of United States agriculture in international markets by disseminating information to producers, processors, and researchers;

(3) to train students for careers in agriculture and food industries;

(4) to facilitate interaction among leading agricultural scientists;

(5) to enhance the ability of United States agriculture to respond to environmental and food safety concerns; and

[1] So in original. No subsec. (f) has been enacted.

(6) to identify new uses for farm commodities and to increase the demand for United States agricultural products in both domestic and foreign markets.

(c) Definitions

For purposes of this section—

(1) A*DEC.—The term ''A*DEC'' means the distance education consortium known as A*DEC.

(2) The term ''eligible institution'' means an accredited institution of higher education determined by the Secretary to be able to meet the objectives identified in subsection (b) of this section.

(3) The term ''communications network'' refers to television or cable television origination or distribution equipment, signal conversion equipment (including both modulators and demodulators), computer hardware and software, programs or terminals, or related devices, used to process and exchange data through a telecommunications system in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment or via telecommunications transmission.

(4) The term ''delivery'' means the transmission and reception of programs by facilities that transmit, receive, or carry data between telecommunications terminal equipment at each end of a telecommunications circuit or path.

(5) The term ''facilities'' includes microwave antennae, fiberoptic cables and repeaters, coaxial cables, communications satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmission, and similar items as defined by the Secretary.

(6) The term ''satellite ground station complex'' includes transmitters, receivers, and communications antennae at the Earth station site together with the interconnecting terrestrial transmission facilities (including cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(7) SECRETARY.—Except as provided in subsection (d)(1) of this section, the term ''Secretary'' means the Secretary of Agriculture, acting through A*DEC.

(d) Authorization of assistance to eligible institutions

(1) The Secretary of Agriculture shall establish a program, to be administered through a grant provided to A*DEC under terms and conditions established by the Secretary of Agriculture, under which financial and technical assistance may be provided to eligible institutions that participate in a network that distributes programs consistent with the objectives described in subsection (b) of this section.

(2) The Secretary may approve all or part of any application submitted by an eligible institution if the proposed activity will contribute, directly or indirectly, to the purpose and objectives of the program established under this section.

(3) As provided in subsection (f) of this section, applications for financial assistance may include requests to fund program production or program delivery, or both.

(e) Priority

The Secretary, in considering applications for assistance under this program, shall establish procedures to ensure a broad dissemination of programming, giving a preference to applications that—

(1) are submitted by institutions affiliated with an established agricultural telecommunications network that distributes programs to a wide geographical area; or

(2) demonstrate the need for such assistance, taking into consideration the relative needs of all applicants and the financial ability of the applicants to otherwise secure or create the telecommunications system.

(f) Applications for program production and delivery

(1) The Secretary shall consider applications for financial assistance for the production and delivery of programs of cooperative extension, academic instruction in agriculture, agricultural research, and other topics consistent with the objectives described in subsection (b) of this section.

(2) Eligible institutions shall request assistance by submitting applications to A*DEC. Applications shall include—

(A) a detailed description of the telecommunications network and programming proposed to be produced and delivered, including to whom the programming will be distributed, how the programming will contribute to achieving the objectives described in subsection (b) of this section, and the total cost of producing and delivering such programming;

(B) the amount of assistance requested for the proposed program authorized under this section and other sources of funding that will be used for the proposed program; and

(C) an analysis of the costs and benefits of purchasing (or leasing) different types of facilities, equipment, components, hardware and software, or other items.

(g) Limitations on assistance

(1) The Secretary may provide funds totaling not more than 50 percent of the cost of a proposal for which an application is submitted under subsection (f) of this section. Notwithstanding the preceding sentence, the Secretary may provide funds totaling up to 100 percent of the cost of such a proposal if the Secretary determines that an eligible institution would otherwise be unable to carry out the proposal.

(2) The Secretary may allocate not more than 10 percent of the funds appropriated under this section for the acquisition and installation of telecommunications transmission facilities.

(h) Authorization of appropriations

For the purposes of implementing the program established under this section, there are hereby authorized to be appropriated not more than $12,000,000 for each of the fiscal years 1991 through 2002.

(Pub. L. 101–624, title XVI, § 1673, Nov. 28, 1990, 104 Stat. 3773; Pub. L. 102–237, title IV, § 407(12), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VIII, § 837, Apr. 4, 1996, 110 Stat. 1169; Pub. L. 105–185, title II, § 245, title III, § 301(b)(2), June 23, 1998, 112 Stat. 556, 563.)

AMENDMENTS

1998—Subsec. (c)(1) to (7). Pub. L. 105–185, § 245(1), added pars. (1) and (7) and redesignated former pars. (1) to (5) as (2) to (6), respectively.

Subsec. (d)(1). Pub. L. 105–185, § 245(2), substituted ''The Secretary of Agriculture shall establish a program, to be administered through a grant provided to A*DEC under terms and conditions established by the Secretary of Agriculture,'' for ''The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education,''.

Subsec. (f)(2). Pub. L. 105–185, § 245(3), substituted ''A*DEC'' for ''the Assistant Secretary for Science and Education'' in first sentence.

Subsec. (h). Pub. L. 105–185, § 301(b)(2), substituted ''2002'' for ''1997''.

1996—Subsec. (h). Pub. L. 104–127 substituted ''1997'' for ''1995''.

1991—Subsec. (f)(1). Pub. L. 102–237 substituted ''programs of'' for ''programs or''.

§ 5927. Repealed. Pub. L. 104–127, title VIII, § 864, Apr. 4, 1996, 110 Stat. 1174

Section, Pub. L. 101–624, title XVI, § 1674, Nov. 28, 1990, 104 Stat. 3775; Pub. L. 102–237, title IV, § 407(13), Dec. 13, 1991, 105 Stat. 1865, provided for establishment of Agriculture Research Facilities Planning and Closure Study Commission.

§ 5928. Repealed. Pub. L. 105–185, title III, § 302(c), June 23, 1998, 112 Stat. 563

Section, Pub. L. 101–624, title XVI, § 1675, Nov. 28, 1990, 104 Stat. 3777; Pub. L. 102–237, title IV, § 407(14), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VIII, § 838, Apr. 4, 1996, 110 Stat. 1169, related to national centers for agricultural product quality research.

§ 5929. Red meat safety research center

(a) Establishment of center

The Secretary of Agriculture shall award a grant, on a competitive basis, to a research facility described in subsection (b) of this section to establish a red meat safety research center.

(b) Eligible research facility described

A research facility eligible for a grant under subsection (a) of this section is a research facility that—

(1) is part of a land-grant college or university, or other federally supported agricultural research facility, located in close proximity to a livestock slaughter and processing facility; and

(2) is staffed by professionals with a wide diversity of scientific expertise covering all aspects of meat science.

(c) Research conducted

The red meat safety research center established under subsection (a) of this section shall carry out research related to general food safety, including—

(1) the development of intervention strategies that reduce microbiological contamination of carcass surfaces;

(2) research regarding microbiological mapping of carcass surfaces; and

(3) the development of model hazard analysis and critical control point plans.

(d) Administration of funds

The Secretary of Agriculture shall administer funds appropriated to carry out this section.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for fiscal year 1997 to carry out this section.

(Pub. L. 101–624, title XVI, § 1676, Nov. 28, 1990, 104 Stat. 3779; Pub. L. 104–127, title VIII, § 839, Apr. 4, 1996, 110 Stat. 1169.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''Red meat safety research center'' for ''Turkey Research Center'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated $500,000 for fiscal year 1992 to be used by the Agricultural Research Service for planning purposes in the establishment of a facility to be known as the Agricultural Turkey Research Center to be located in Pelican Rapids, Minnesota, and operated in cooperation with the North Dakota State University.''

§ 5930. Reservation extension agents

(a) Establishment

The Secretary of Agriculture, acting through the Extension Service, shall establish appropriate extension education programs on Indian reservations and tribal jurisdictions. In establishing these extension programs, the Secretary shall consult with the Bureau of Indian Affairs, the Intertribal Agriculture Council, and the Southwest Indian Agriculture Association, and shall make such interagency cooperative agreements or memoranda of understanding as may be necessary. The programs to be developed and delivered on reservations and within tribal jurisdictions shall be determined with the advice and counsel of reservation or tribal program advisory committees.

(b) Administration and management

Extension agents shall be employees of, and administratively responsible to, the Cooperative Extension Service of the State within which the reservation or tribal jurisdiction is located, and employment and personnel management responsibilities shall be vested with the State Cooperative Extension Service. In cases where a reservation or tribal jurisdiction is located in two or more States, the Secretary of Agriculture shall make the determination of administrative responsibility, including possible divisions along State boundaries.

(c) Advisory committees

At the request of a State Extension Director, and with the assistance of the tribal authorities, the Secretary of Agriculture may form an advisory committee to give overall policy and program advice to that State Extension Director with regard to programs conducted on reservations or within tribal jurisdictions. Program advisory committees may be formed to assist extension staff in development and conduct of program activities.

(d) Staffing

Insofar as possible, agent and specialist staff shall include individuals representative of the

tribal grouping being served. Programs shall emphasize training and employment of local people in positions such as program aides, master gardeners, and volunteers. Staffing at a particular location shall be dependent on the needs and priorities of that location, as identified by the advisory committees and the State Extension Director, and the Director may make use of existing personnel and facilities as appropriate.

(e) Placing of agents

The number of offices and their placement shall be jointly determined by the State Extension Directors and tribal authorities of the respective States by taking into consideration the agricultural acreage within the boundaries of an Indian reservation or tribal jurisdiction, the soil classifications of such acreage, and the population of such reservation or tribal jurisdiction.

(f) Reduced regulatory burden

On a determination by the Secretary of Agriculture that a program carried out under this section has been satisfactorily administered for not less than 2 years, the Secretary shall implement a reduced reapplication process for the continued operation of the program in order to reduce regulatory burdens on participating university and tribal entities.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101–624, title XVI, § 1677, Nov. 28, 1990, 104 Stat. 3779; Pub. L. 102–237, title IV, § 407(15), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VIII, § 840, Apr. 4, 1996, 110 Stat. 1170.)

AMENDMENTS

1996—Subsecs. (f), (g). Pub. L. 104–127 added subsec. (f) and redesignated former subsec. (f) as (g).

1991—Subsec. (a). Pub. L. 102–237, § 407(15)(A), (B), substituted ''reservation'' for ''Reservation'' and ''reservations'' for ''Reservations'' wherever appearing.

Subsec. (b). Pub. L. 102–237, § 407(15)(A), substituted ''reservation'' for ''Reservation'' in two places.

Subsec. (c). Pub. L. 102–237, § 407(15)(C), substituted ''tribal'' for ''Tribal'' after ''assistance of the''.

Subsec. (e). Pub. L. 102–237, § 407(15)(A), substituted ''reservation'' for ''Reservation'' in two places.

INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM

Pub. L. 102–237, title IX, subtitle C, §§ 931–939, Dec. 13, 1991, 105 Stat. 1889, established Indian subsistence farming demonstration grant program to provide grants to any Indian tribe, or intertribal consortium, for establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients, and provided for definitions, applications for assistance, training and technical assistance by Extension Service, tribal consultation, use, amount, and terms of grants, additional requirements, and authorization of appropriations through fiscal year 1995, prior to repeal by Pub. L. 104–127, title VIII, § 874, Apr. 4, 1996, 110 Stat. 1175.

§§ 5931, 5932. Repealed. Pub. L. 104–127, title VIII, §§ 865, 866, Apr. 4, 1996, 110 Stat. 1174

Section 5931, Pub. L. 101–624, title XVI, § 1678, Nov. 28, 1990, 104 Stat. 3780; Pub. L. 102–237, title IV, § 407(16), Dec. 13, 1991, 105 Stat. 1865, related to special grants to study constraints on agricultural trade.

Section 5932, Pub. L. 101–624, title XVI, § 1679, Nov. 28, 1990, 104 Stat. 3780, provided for establishment of five-year pilot project to coordinate food and nutrition education programs.

§ 5933. Assistive technology program for farmers with disabilities

(a) Special demonstration grants

(1) In general

The Secretary of Agriculture, in consultation with other appropriate Federal agencies, shall make demonstration grants to support cooperative programs between State Cooperative Extension Service agencies and private nonprofit disability organizations to provide on-the-farm agricultural education and assistance directed at accommodating disability in farm operations for individuals with disabilities who are engaged in farming and farm-related occupations and their families.

(2) Eligible services

Grants awarded under paragraph (1) may be used to support programs serving individuals with disabilities, and their families, who are engaged in farming and farm-related occupations.

(3) Eligible programs

Grants awarded under paragraph (1) may be used to initiate, expand, or sustain programs that—

(A) provide direct education and assistance to accommodate disability in farming to individuals with disabilities who engage in farming and farm-related occupations;

(B) provide on-the-farm technical advice concerning the design, fabrication, and use of agricultural and related equipment, machinery, and tools, and assist in the modification of farm worksites, operations, and living arrangements to accommodate individuals with disabilities who engage in farming, farm living and farm-related tasks;

(C) involve community and health care professionals, including Extension Service agents and others, in the early identification of farm and rural families that are in need of services related to the disability of an individual;

(D) provide specialized education programs to enhance the professional competencies of rural agricultural professionals, rehabilitation and health care providers, vocational counselors, and other providers of service to individuals with disabilities, and their families, who engage in farming or farm-related occupations; and

(E) mobilize rural volunteer resources, including peer counseling among farmers with disabilities and rural ingenuity networks promoting cost effective methods or accommodating disabilities in farming and farm-related activities.

(4) Extension Service agencies

Grants shall be awarded under this subsection directly to State Extension Service agencies to enable them to enter into contracts, on a multiyear basis, with private nonprofit community-based direct service organi-

zations to initiate, expand, or sustain cooperative programs described under paragraphs (2) and (3).

(5) Minimum amount

A grant awarded under this subsection may not be less than $150,000.

(b) National grant for technical assistance, training, and dissemination

The Secretary of Agriculture shall award a competitive grant to a national private nonprofit disability organization to enable such organization to provide technical assistance, training, information dissemination and other activities to support community-based direct service programs of on-site rural rehabilitation and assistive technology for individuals with disabilities, and their families, who are engaged in farming or farm-related occupations.

(c) Authorization of appropriations

(1) In general

Subject to paragraph (2), there is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 1999 through 2002.

(2) National grant

Not more than 15 percent of the amounts made available under paragraph (1) for a fiscal year shall be used to carry out subsection (b) of this section.

(Pub. L. 101–624, title XVI, §1680, Nov. 28, 1990, 104 Stat. 3781; Pub. L. 104–127, title VIII, §841, Apr. 4, 1996, 110 Stat. 1170; Pub. L. 105–185, title II, §246, June 23, 1998, 112 Stat. 556.)

AMENDMENTS

1998—Subsec. (a)(6). Pub. L. 105–185, §246(1), struck out heading and text of par. (6). Text read as follows: ''There are authorized to be appropriated to carry out this subsection—

''(A) not less than $3,000,000 for each of the fiscal years 1991 and 1992; and

''(B) not less than $5,000,000 for each of the fiscal years 1993 through 1997.''

Subsec. (b). Pub. L. 105–185, §246(2), struck out par. (1) designation and heading and struck out heading and text of par. (2). Text read as follows: ''There are authorized to be appropriated $1,000,000 to carry out this subsection for each of the fiscal years 1991 through 1997.''

Subsec. (c). Pub. L. 105–185, §246(3), added subsec. (c).

1996—Subsecs. (a)(6)(B), (b)(2). Pub. L. 104–127 substituted ''1997'' for ''1996''.

§ 5934. Research on honeybee diseases

(a) Sense of Congress

It is the sense of Congress that—

(1) diseases affecting the entire honeybee population impact on the ability of honeybees to carry out crop pollination and honey production, and therefore impact negatively on beekeepers, producers and consumers; and

(2) certain diseases (such as those caused by tracheal mite, varroa mite, and the Africanized honeybee) pose a threat to the continued well-being of the general honeybee population, and thus merit further study.

(b) Research

Notwithstanding any other provision of law, the Secretary of Agriculture shall give priority attention to the funding of research regarding the diseases referred to in subsection (a) of this section that are affecting the honeybee population.

(Pub. L. 101–624, title XVI, §1681, Nov. 28, 1990, 104 Stat. 3782; Pub. L. 102–237, title IV, §407(17), Dec. 13, 1991, 105 Stat. 1865.)

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–237 substituted ''tracheal mite'' for ''teacheal mite''.

§ 5935. Use of remote sensing data and other data to anticipate potential food, feed, and fiber shortages or excesses and to provide timely information to assist farmers with planting decisions

(a) Findings

Congress finds that—

(1) remote sensing data can be useful to predict impending famine problems and forest infestations in time to allow remedial action;

(2) remote sensing data can inform the agricultural community as to the condition of crops and the land that sustains those crops; and

(3) remote sensing data and other data can be valuable, when received on a timely basis, in determining the need for additional plantings of a particular crop or a substitute crop.

(b) Information development

The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(c) Coordination

The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to provide farmers and other prospective users with supply and demand information for food and fibers.

(d) Sunset

The authorities provided by this section shall expire 5 years after April 4, 1996.

(Pub. L. 104–127, title VIII, §892, Apr. 4, 1996, 110 Stat. 1183.)

CODIFICATION

Section was enacted as part of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 which comprises this subchapter.

CHAPTER 89—PECAN PROMOTION AND RESEARCH

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§ 6001. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, industry information, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce directly burden or affect interstate commerce in pecans.

(b) Policy

It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, industry information, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) Construction

Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of any person to produce pecans.

(Pub. L. 101–624, title XIX, § 1906, Nov. 28, 1990, 104 Stat. 3838.)

SHORT TITLE

Section 1901 of title XIX of Pub. L. 101–624, as amended by Pub. L. 102–237, title VIII, § 801, Dec. 13, 1991, 105 Stat. 1882, provided that: ''This title [enacting this chapter and chapters 90 to 93 of this title and sections 2109, 2278, and 4610a of this title, amending sections 1787, 2101, 2106 to 2108, 2110, 2116, 2611 to 2614, 2617 to 2619, 2622 to 2624, 4602, 4606, 4608, and 4612 of this title, and enacting provisions set out as notes under sections 2101, 2611, 2625, 4601, and 4603 of this title] may be cited as the 'Agricultural Promotion Programs Act of 1990'.''

Section 1905 of Pub. L. 101–624 provided that: ''This subtitle [subtitle A (§§ 1905–1918) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Pecan Promotion and Research Act of 1990'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6003, 6005 of this title.

§ 6002. Definitions

As used in this chapter—

(1) Board

The term ''Board'' means the Pecan Marketing Board established in section 6005(b) of this title.

(2) Commerce

The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) Conflict of interest

The term ''conflict of interest'' means a situation in which a member has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(4) Consumer information

The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of pecans.

(5) Department

The term ''Department'' means the Department of Agriculture.

(6) District

The term ''district'' means a geographical area of the United States, as determined by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

(7) First handler

The term ''first handler'' means the first person who buys or takes possession of pecans from a grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to pecans grown by such grower.

(8) Grower

The term ''grower'' means any person engaged in the production and sale of pecans in the United States who owns, or who shares the ownership and risk of loss of, such pecans.

(9) Grower-sheller

The term ''grower-sheller'' means a person who—

(A) shells pecans, or has pecans shelled for such person, in the United States; and

(B) during the immediately previous year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

(10) Handle

The term ''handle'' means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(11) Importer

The term ''importer'' means any person who imports pecans from outside of the United States for sale in the United States.

(12) Industry information

The term ''industry information'' means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the pecan industry.

(13) In-shell pecan

The term ''in-shell pecan'' means a pecan that has a shell that has not been removed.

(14) To market

The term ''to market'' means to sell or offer to dispose of pecans in any channel of commerce.

(15) Member

The term ''member'' means a member of the Board.

(16) Pecan

The term ''pecan'' means the nut of the pecan tree carya illinoensis.

(17) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(18) Plan

The term ''plan'' means a plan issued under section 6003 of this title.

(19) Promotion

The term ''promotion'' means any action taken by the Board, pursuant to this chapter, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(20) Research

The term ''research'' means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(21) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(22) Shell

The term ''shell'' means to remove the shell from an in-shell pecan.

(23) Shelled pecan

The term ''shelled pecan'' means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(24) Sheller

The term ''sheller'' means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) during the immediately previous year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

(25) State

The term ''State'' means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(26) United States

The term ''United States'' means collectively the several States, the District of Co-

lumbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101–624, title XIX, § 1907, Nov. 28, 1990, 104 Stat. 3839; Pub. L. 102–237, title VIII, § 802(1), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Par. (22). Pub. L. 102–237 substituted ''in-shell'' for ''inshell''.

§ 6003. Issuance of plans

(a) In general

To effectuate the declared policy of section 6001(b) of this title, the Secretary shall, subject to this chapter, issue and from time to time amend, plans applicable to growers, grower-shellers, shellers, first handlers, and importers of pecans. Any such plan shall be national in scope. Not more than one plan shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal for issuance of plan

The Secretary may propose the issuance of a plan under this chapter, or an association of pecan growers or grower-shellers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such a plan.

(2) Proposed plan

Not later than 60 days after the receipt of a request and proposal by an interested person for a plan, or when the Secretary determines to propose a plan, the Secretary shall publish a proposed plan and give due notice and opportunity for public comment on the proposed plan.

(3) Issuance of plan

After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue a plan, taking into consideration the comments received and including in the plan provisions necessary to ensure that the plan is in conformity with the requirements of this chapter.

(4) Effective date of plan

Such plan shall be issued and become effective not later than 150 days following publication of the proposed plan.

(c) Amendments

The Secretary, from time to time, may amend any plan issued under this section. The provisions of this chapter applicable to a plan shall be applicable to amendments to a plan.

(Pub. L. 101–624, title XIX, § 1908, Nov. 28, 1990, 104 Stat. 3841.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6002, 6007, 6011 of this title.

§ 6004. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 101–624, title XIX, § 1909, Nov. 28, 1990, 104 Stat. 3841.)

§ 6005. Required terms in plans

(a) In general

Each plan issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) Pecan Marketing Board

(1) Establishment

The plan shall establish a Pecan Marketing Board to carry out the program referred to in section 6001(b) of this title.

(2) Service to entire industry

The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) Board membership

The Board shall consist of 15 members, including—

(A) 8 members who are growers;

(B) 4 members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's gross income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, nominated by the Board; and

(F) at the option of the Board, a consultant or advisor representing the views of pecan producers in a country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) Representation of members

(A) Grower representatives

Of the growers referred to in paragraph (3)(A), 2 members shall be from each district.

(B) Sheller representatives

Of the shellers referred to in paragraph (3)(B)—

(i) 2 members shall be selected from among shellers whose place of residence is east of the Mississippi River; and

(ii) 2 members shall be selected from among shellers whose place of residence is west of the Mississippi River.

(C) First handler representative

The first handler representative on the Board referred to in paragraph (3)(C) shall be selected from among first handlers whose place of residence is in a district.

(D) Importer representative

The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans into the United States.

(E) Public representative

The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, grower-sheller, sheller, first handler, or importer.

(5) Alternate for each member

Each member of the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) Limitation on State residence

There shall be no more than one member from each State in each district, except that the State of Georgia may have 2 growers from such State representing the district that it is in.

(7) Modifying Board membership

In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production.

(8) Selection process for members

(A) Publicity

The Board shall give reasonable publicity to the industry for nomination of persons interested in being nominated for Board membership.

(B) Eligibility

Each grower and sheller shall be eligible to vote for the nomination of members who represent that class of members on the Board. Growers shall be eligible to vote for the nomination of the first handler members on the Board.

(C) Selection of nominees

Each person referred to in subparagraph (B) shall have one vote. The 2 eligible candidates receiving the largest number of votes cast for each Board position for each class of members shall be the nominees for such position.

(D) Certification

Except for the establishment of the initial Board, the nominations made under subparagraph (C) and subsections (b)(3)(D) and (b)(3)(E) of this section shall be certified by the Board and submitted to the Secretary no later than May 1 or such other date recommended by the Board and approved by the Secretary preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) Appointment

To each vacant Board position, the Secretary shall appoint 1 individual from among the nominees certified and submitted under subparagraph (D).

(F) Rejection of nominees

The Secretary may reject any nominee submitted under subparagraph (D). If there are insufficient nominees from which to appoint members to the Board as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary in the same manner.

(G) Initial Board

The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in subparagraphs (A), (B), and (C) of paragraph (3), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate. Nominations for those members of the initial Board described in subparagraphs (D) and (E) of paragraph (3) shall be made in accordance with paragraph (3).

(H) Failure to nominate

If growers and shellers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the plan. If the Board fails to nominate an importer or a public representative, such member may be appointed without a nomination.

(9) Terms of office

(A) In general

The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board established under paragraph (8)(G) shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) Termination of terms

Notwithstanding subparagraph (C), each member shall continue to serve until a successor is appointed by the Secretary.

(C) Limitation on terms

No individual may serve more than 2 consecutive 3-year terms as a member.

(D) Vacancies

(i) Submitting nominations

To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that at least 2 eligible nominations for a successor for each such vacancy be submitted by the Board in the manner provided in paragraph (8).

(ii) Lack of nominations

If at least 2 eligible nominations are not submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) Compensation

A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) Powers and duties of Board

The plan shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the plan in accordance with its terms and conditions;

(2) to make regulations to effectuate the terms and conditions of the plan;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary and to determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 6007 of this title, and a fiscal period budget of the anticipated expenses in the administration of the plan, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d) of this section;

(8) to enter into contracts or agreements, subject to subsection (e) of this section, to develop and carry out programs or projects of promotion, research, industry information and consumer information;

(9) to carry out research, promotion, industry information, and consumer information, and to pay the costs of such projects with assessments collected pursuant to section 6007 of this title;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, shellers, importers, and the public to assist in the development of research, promotion, industry information, and consumer information programs for pecans;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under this chapter, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(13) to receive, investigate, and report to the Secretary complaints of violations of the plan;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the plan; and

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the plan.

(d) Programs and budgets

(1) Submission to Secretary

The plan shall provide that the Board shall submit to the Secretary for approval any program or project of promotion, research, consumer information, or industry information. No program or project shall be implemented prior to its approval by the Secretary.

(2) Budgets

The plan shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses (including reimbursements under subsection (b)(10) of this section) and disbursements in the implementation of the plan, including projected costs of promotion, research, consumer information, and industry information programs and projects.

(3) Incurring expenses

The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) Paying expenses

The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 6007 of this title or funds borrowed pursuant to paragraph (5).

(5) Authority to borrow

In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) Limitation on spending

Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under section 6007 of this title for administration of the Board.

(e) Contracts and agreements

(1) In general

To ensure efficient use of funds, the plan shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of programs or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the plan.

(2) Requirements

Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget or budgets that shall show estimated costs to be incurred for such program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities

conducted, and make such other reports as the Board or the Secretary may require.

(3) Grower and grower-sheller organizations

The plan shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those required by paragraph (2).

(f) Books and records of Board

(1) In general

The plan shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) Prohibition

The Board shall not engage in any action to, nor shall any funds received by the Board under this chapter be used to—

(1) influence legislation or governmental action, other than recommending to the Secretary amendments to the plan;

(2) engage in any action that would be a conflict of interest; or

(3) engage in any advertising that may be false or misleading.

(h) Books and records

(1) In general

The plan shall require that each first handler, grower-sheller, or importer shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this chapter; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this chapter, including such records as are necessary to verify any required reports.

(2) Time requirement

The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) Disclosure

Information referred to in subparagraph (A) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this chapter.

(C) Misconduct

Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this chapter.

(D) General statements

Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the plan or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the plan, together with a statement of the particular provisions of the plan violated by such person.

(4) Availability of information

(A) Exception

Except as provided in this chapter, information obtained under this chapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) Penalty

Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(5) Withholding information

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(i) Use of assessments

The plan shall provide that the assessments collected under section 6007 of this title shall be used for payment of the expenses in implementing and administering this chapter, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this chapter, except for the salaries of Government employees incurred in conducting referenda.

(j) Other terms and conditions

The plan also shall contain such terms and conditions, not inconsistent with this chapter,

as determined necessary by the Secretary to effectuate this chapter.

(Pub. L. 101–624, title XIX, § 1910, Nov. 28, 1990, 104 Stat. 3841; Pub. L. 102–237, title VIII, § 802(2), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (b)(8)(G). Pub. L. 102–237 substituted ''subparagraphs (A), (B), and (C) of paragraph (3),'' for ''paragraph 3(A), (B), and (C),'' and ''subparagraphs (D) and (E) of paragraph (3)'' for ''paragraph (3)(D) and (E)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6002 of this title.

§ 6006. Permissive terms in plans

(a) In general

A plan issued pursuant to this chapter may contain one or more of the terms and conditions contained in this section.

(b) Exemptions

The plan may provide authority to exempt from the plan pecans used for nonfood uses and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) Different payment and reporting schedules

The plan may provide authority to designate different payment and reporting schedules for growers, grower-shellers, first handlers and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) Promotion

The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this chapter.

(e) Research and information

The plan may provide for establishing and carrying on research, consumer information, and industry information projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) Reserve funds

The plan may provide authority to accumulate reserve funds from assessments collected pursuant to this chapter, to permit an effective and continuous coordinated program of research, consumer information, industry information and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the plan for 2 years.

(g) Foreign markets

The plan may provide authority to use funds collected under this chapter, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(Pub. L. 101–624, title XIX, § 1911, Nov. 28, 1990, 104 Stat. 3847.)

§ 6007. Assessments

(a) In general

During the effective period of a plan issued pursuant to this chapter, assessments shall be—

(1) levied on all pecans produced in, and all pecans imported into, the United States and marketed; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) Limitation on assessments

No more than one assessment may be assessed under subsection (a) of this section on a grower (as remitted by a first handler), grower-sheller, or importer, for any lot of pecans handled or imported.

(c) Remitting assessments

(1) In general

Assessments required under subsection (a) of this section shall be remitted to the Board by—

(A) a first handler; and

(B) an importer.

(2) Times to remit assessment

(A) First handlers

Each first handler who is not a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed by such first handler.

(B) Grower-shellers

Each first handler who is a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on January 31, March 31, and May 10, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested.

(C) Importers

Importers of pecans into the United States shall pay the assessment at the time the pecans enter the United States and shall remit such assessment to the Board.

(d) Assessment rate

(1) In general

Except as provided in paragraph (2), assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of a plan and ending on the date the referendum is conducted under section 6011(a) of this title, one-half cent per pound for in-shell pecans

as determined by the Board and approved by the Secretary; and

(B) after such period, 2 cents per pound for in-shell pecans.

(2) Adjusting rate for shelled pecans

The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans pursuant to paragraph (1).

(3) Special State assessment

(A) In general

Notwithstanding any other provision of this chapter, with the approval of the Secretary and if authorized by State law and requested by such State, a special assessment of one-quarter cent per pound for in-shell pecans, and an appropriate per-pound assessment for shelled pecans as adjusted under paragraph (2), shall be remitted to the Board for the purpose of utilizing such funds by a State pecan marketing board for research projects to promote pecans pursuant to State law.

(B) Collection and remittance

The Board shall collect such assessments and upon receipt of such assessments shall remit such assessments to the State, within a time period mutually agreed upon between the State and the Board, and approved by the Secretary. In the collection of such State assessments, neither the Board nor the Secretary shall in any manner enforce the collection or remittance of any such payment by producers of such State assessments or investigate nonpayment of such State assessments, except to provide to a State the names of growers from whom such assessments were collected and the respective amounts of assessments collected.

(C) Regulations

The Secretary is authorized to make such regulations as may be necessary to carry out the provisions of this section.

(e) Late-payment charge

(1) In general

There shall be a late-payment charge imposed on any person who fails to remit, on or before the due date established by the Board under subsection (c)(2) of this section, to the Board the total amount for which such person is liable.

(2) Amount of charge

The amount of the late-payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) Refund of assessments from escrow account

(1) Establishment of escrow account

During the period beginning on the effective date of a plan first issued under section 6003 of this title and ending on the date the referendum is conducted under section 6011(a) of this title, the Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2).

(2) Placement of funds in account

The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) Right to receive refund

Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is required to pay such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this chapter;

(C) such grower, grower-sheller, or importer demands such refund prior to the conduct of the referendum under section 6011(a) of this title; and

(D) the plan is not approved pursuant to the referendum conducted under section 6011(a) of this title.

(4) Form of demand

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) Making of refund

Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) Proration

If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the plan is not approved pursuant to the referendum conducted under section 6011(a) of this title;

the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) Program approved

If the plan is approved pursuant to the referendum conducted under section 6011(a) of this title, all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this chapter.

(Pub. L. 101–624, title XIX, §1912, Nov. 28, 1990, 104 Stat. 3848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6005 of this title.

§ 6008. Petition and review

(a) Petition

(1) In general

A person subject to a plan issued under this chapter may file with the Secretary a petition—

(A) stating that the plan, any provision of the plan, or any obligation imposed in connection with the plan is not in accordance with law; and

(B) requesting a modification of the plan or an exemption from the plan.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

(3) Ruling

After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 6009 of this title.

(Pub. L. 101–624, title XIX, § 1913, Nov. 28, 1990, 104 Stat. 3850.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6010 of this title.

§ 6009. Enforcement

(a) Jurisdiction

The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, this chapter or any plan or regulation issued under this chapter.

(b) Referral to Attorney General

A civil action to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter or any plan or regulation issued under this chapter if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or by providing a suitable written notice or warning to any person committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

A person who willfully violates any provision of this chapter or any plan or regulation issued under this chapter, or who fails to pay, collect, or remit any assessment or fee required of the person under this chapter or any plan or regulation issued under this chapter, may be assessed by the Secretary a civil penalty of not less than $1,000 nor more than $10,000 for each such violation.

(B) Separate offense

Each violation described in subparagraph (A) shall be a separate offense.

(2) Cease and desist orders

In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and hearing

No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from the Secretary's order in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

A person against whom a civil penalty is assessed or a cease and desist order is issued under subsection (c) of this section may obtain review of such penalty or order in the district court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia, by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in such court; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing on the record and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $1,000 for each offense. Each day during which the failure continues shall be considered a separate violation of such order.

(f) Failure to pay penalty

If a person fails to pay a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate district court has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of such order imposing such civil penalty shall not be subject to review.

(Pub. L. 101–624, title XIX, §1914, Nov. 28, 1990, 104 Stat. 3851.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6008, 6010 of this title.

§ 6010. Investigations and power to subpoena

(a) In general

The Secretary may make such investigations as the Secretary determines necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this chapter, or of any plan, rule, or regulation issued under this chapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6008 or 6009 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6008 or 6009 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101–624, title XIX, §1915, Nov. 28, 1990, 104 Stat. 3852; Pub. L. 102–237, title VIII, §802(3), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out ''section'' after ''6008 or''.

§ 6011. Requirement of referendum

(a) In general

Not later than 24 months after the effective date of the plan first issued under section 6003 of this title, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the plan.

(b) Other referenda

(1) In general

After the referendum required under subsection (a) of this section, the Secretary shall hold a referendum on request of the Board or 10 percent or more of the total number of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the plan.

(2) Suspension or termination

The Secretary shall terminate or suspend such plan, in accordance with section 6012(b) of this title, whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(c) Costs of referendum

The Secretary shall be reimbursed from any assessments collected by the Board for any ex-

penses incurred by the Department in connection with the conduct of any referendum under this chapter, except for the salaries of Government employees.

(d) Manner

(1) In general

Referenda conducted pursuant to this chapter shall be conducted in such a manner as is determined by the Secretary.

(2) Advance registration

A grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this chapter shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary, for such grower, grower-sheller, or by mailing such a request to the Secretary on behalf of an importer.

(3) Voting

A grower, grower-sheller, or importer who votes in any referendum conducted under this chapter shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary or by mail to the Secretary.

(4) Notice

Each Agricultural Stabilization and Conservation Service office shall notify all growers, grower-shellers, and importers in the area of such office, as determined by the Secretary, at least 30 days prior to a referendum conducted under this chapter. Such notice shall explain the registration and voting procedures established under this subsection.

(Pub. L. 101–624, title XIX, § 1916, Nov. 28, 1990, 104 Stat. 3853.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6007 of this title.

§ 6012. Suspension or termination of plan

(a) Mandatory suspension or termination

The Secretary shall, whenever the Secretary finds that the plan or any provision of the plan obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such plan or provision.

(b) Suspension or termination

If, as a result of any referendum conducted under this chapter, the Secretary determines that suspension or termination of a plan is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as the case may be, collection of assessments under the plan; and

(2) suspend or terminate, as the case may be, activities under the plan in an orderly manner as soon as practicable.

(c) Limitation

The termination or suspension of any plan, or any provision thereof, shall not be considered a plan within the meaning of this chapter.

(Pub. L. 101–624, title XIX, § 1917, Nov. 28, 1990, 104 Stat. 3854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6011 of this title.

§ 6013. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated to carry out this chapter shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any plan issued under this chapter.

(Pub. L. 101–624, title XIX, § 1918, Nov. 28, 1990, 104 Stat. 3854.)

CHAPTER 90—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 6101. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) Policy

It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out, an effective, continuous, and coordinated program of promotion, research, and consumer and industry information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) Construction

Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

(Pub. L. 101–624, title XIX, § 1922, Nov. 28, 1990, 104 Stat. 3855.)

SHORT TITLE

Section 1921 of Pub. L. 101–624 provided that: ''This subtitle [subtitle B (§§ 1921–1933) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Mushroom Promotion, Research, and Consumer Information Act of 1990'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6102. Definitions

As used in this chapter—

(1) Commerce

The term ''commerce'' means interstate, foreign, or intrastate commerce.

(2) Consumer information

The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) Council

The term ''Council'' means the Mushroom Council established under section 6104(b) of this title.

(4) Department

The term ''Department'' means the Department of Agriculture.

(5) First handler

The term ''first handler'' means any person, as described in an order issued under this chapter, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

(6) Importer

The term ''importer'' means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(7) Industry information

The term ''industry information'' means information and programs that are designed to lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) Marketing

The term ''marketing'' means the sale or other disposition of mushrooms in any channel of commerce.

(9) Mushrooms

The term ''mushrooms'' means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are marketed, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) Producer

The term ''producer'' means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) Promotion

The term ''promotion'' means any action determined by the Secretary to enhance the

image or desirability of mushrooms, including paid advertising.

(13) Research

The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) State and United States

The terms ''State'' and ''United States'' include the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101–624, title XIX, § 1923, Nov. 28, 1990, 104 Stat. 3855.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6104 of this title.

§ 6103. Issuance of orders

(a) In general

To effectuate the declared policy of section 6101(b) of this title, the Secretary, subject to the procedures provided in subsection (b) of this section, shall issue orders under this chapter applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

(b) Procedures

(1) Issuance of an order

The Secretary may propose the issuance of an order under this chapter, or an association of mushroom producers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such an order.

(2) Publication of order

Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 6105(a) of this title, shall become effective not later than 180 days following publication of the proposed order.

(c) Amendments

(1) In general

The Secretary, from time to time, may amend any order issued under this section.

(2) Application of chapter

The provisions of this chapter applicable to an order shall be applicable to amendments to the order.

(Pub. L. 101–624, title XIX, § 1924, Nov. 28, 1990, 104 Stat. 3856.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6105 of this title.

§ 6104. Required terms in orders

(a) In general

Each order issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) Mushroom Council

(1) Establishment and membership of Council

(A) Establishment

The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least 4 members and not more than 9 members.

(B) Membership

Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) Appointments

(A) In general

In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) Units

In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into 4 regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) Importers

Importers shall be represented as one region, which shall be separate from the regions established for mushrooms produced in the United States.

(D) Members per region

The Secretary shall appoint one member from each region if such region produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) Additional members

Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint

an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(F) Average annual production

For purposes of this paragraph, in determining average annual mushroom production in each of the 4 regions of the United States established under this paragraph, the Secretary shall only consider mushrooms produced by producers covered by this chapter, as defined in section 6102(11) of this title.

(G) Failure to nominate

If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order.

(3) Terms; compensation

(A) Terms

The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) Compensation

Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) Powers and duties of Council

The order shall define the powers and duties of the Council, which shall include the following powers and duties—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules and regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, approve and submit to the Secretary for approval under subsection (d) of this section budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement such plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this chapter only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may only be used for any purpose for which the invested funds may be used.

(d) Plans and budgets

(1) Submission to Secretary

The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) Budgets

The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) Approval by Secretary

No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) Contracts and agreements

(1) In general

To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) Requirements

Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) Producer organizations

The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) Books and records of Council

(1) In general

The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) Audits

The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) Assessments

(1) Collection and payment

(A) In general

The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) Importers

The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) Direct marketing

Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) Rate of assessment

The rate of assessment shall be determined and announced by the Council and may be changed by the Council at any time. The order shall provide that the rate of assessment—

(A) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(B) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(C) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(D) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) Use of assessments

The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this chapter, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this chapter, except for the salaries of Government employees incurred in conducting referenda.

(4) Limitation on collection

No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) Prohibition

The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this chapter and for the submission to the Secretary of recommended voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) Books and records

(1) In general

The order shall require that each first handler and importer of mushrooms maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Availability to Secretary

Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this chapter, the order, or any regulation issued under this chapter.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, all information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and the Council, and agents of the Council, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) Limitations

Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(4) Availability of information

(A) In general

Except as otherwise provided in this chapter, information obtained under this chapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) Penalty

Any person knowingly violating this subsection, on conviction, shall be subject to a

fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(5) Withholding information

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(j) Other terms and conditions

The order also shall contain such terms and conditions, not inconsistent with this chapter, as are necessary to effectuate this chapter, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g) of this section.

(Pub. L. 101–624, title XIX, §1925, Nov. 28, 1990, 104 Stat. 3857; Pub. L. 102–237, title VIII, §803(1), Dec. 13, 1991, 105 Stat. 1882.)

REFERENCES IN TEXT

The Agricultural Marketing Act of 1946, referred to in subsec. (h), is title II of act Aug. 14, 1946, ch. 966, 60 Stat. 1087, as amended, which is classified generally to chapter 38 (§1621 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

AMENDMENTS

1991—Subsec. (h). Pub. L. 102–237 substituted ''governmental'' for ''government''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6102 of this title.

§ 6105. Referenda

(a) Initial referendum

(1) In general

Within the 60-day period immediately preceding the effective date of an order issued under section 6103(b) of this title, the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) Approval of order

The order shall become effective, as provided in section 6103(b) of this title, if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) Succeeding referenda

(1) Determination concerning order

(A) In general

Effective 5 years after the date on which an order becomes effective under section 6103(b) of this title, the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) Request for referendum

Effective beginning 3 years after the date on which an order becomes effective under section 6103(b) of this title, the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to ascertain whether producers and importers favor termination or suspension of the order.

(2) Suspension or termination

If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) Manner

Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

(Pub. L. 101–624, title XIX, §1926, Nov. 28, 1990, 104 Stat. 3861.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6106. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling of the Secretary under subsection (a) of this section.

(2) Process

Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 6107 of this title.

(Pub. L. 101–624, title XIX, § 1927, Nov. 28, 1990, 104 Stat. 3862.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6108 of this title.

§ 6107. Enforcement

(a) Jurisdiction

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person who committed or is committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

A person who willfully violates a provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and hearing

No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality

The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) of this section may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

A person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

(Pub. L. 101–624, title XIX, §1928, Nov. 28, 1990, 104 Stat. 3863; Pub. L. 102–237, title VIII, §803(2), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (d)(1)(A). Pub. L. 102–237 substituted ''United States District Court'' for ''United States district court''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6106, 6108 of this title.

§ 6108. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this chapter or to determine whether any person subject to this chapter has engaged or is engaging in any act that constitutes a violation of this chapter or of any order, rule, or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) In general

For the purpose of an investigation made under subsection (a) of this section, the Secretary may administer oaths and affirmations and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6106 or 6107 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6106 or 6107 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101–624, title XIX, §1929, Nov. 28, 1990, 104 Stat. 3864; Pub. L. 102–237, title VIII, §803(3), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out ''section'' after ''6106 or''.

§ 6109. Savings provision

Nothing in this chapter may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

(Pub. L. 101–624, title XIX, §1930, Nov. 28, 1990, 104 Stat. 3865.)

§ 6110. Suspension or termination of orders

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order under the meaning of this chapter.

(Pub. L. 101–624, title XIX, §1931, Nov. 28, 1990, 104 Stat. 3865.)

§ 6111. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provision of an order issued under this chapter.

(Pub. L. 101–624, title XIX, §1932, Nov. 28, 1990, 104 Stat. 3865.)

§ 6112. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 101–624, title XIX, §1933, Nov. 28, 1990, 104 Stat. 3865.)

CHAPTER 91—LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

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§ 6201. Findings, purposes, and limitations

(a) Findings

Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in interstate and foreign commerce, and limes that do not move in such channels of commerce directly burden or affect interstate commerce in limes;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) Purposes

The purposes of this chapter are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets, and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestically produced and imported limes equitably.

(c) Limitations

Nothing in this chapter shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

(Pub. L. 101–624, title XIX, § 1952, Nov. 28, 1990, 104 Stat. 3870.)

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–194, § 1, Dec. 14, 1993, 107 Stat. 2294, provided that: ''This Act [amending sections 6202, 6204, and 6209 of this title and enacting provisions set out as a note below] may be cited as the 'Lime Research, Promotion, and Consumer Information Improvement Act'.''

SHORT TITLE

Section 1951 of Pub. L. 101–624 provided that: ''This subtitle [subtitle D (§§ 1951–1963) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Lime Research, Promotion, and Consumer Information Act of 1990'.''

LEGISLATIVE FINDINGS AND PURPOSE OF PUB. L. 103–194

Pub. L. 103–194, § 2, Dec. 14, 1993, 107 Stat. 2294, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) The Lime Research, Promotion, and Consumer Information Act of 1990 [7 U.S.C. 6201 et seq.] was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

''(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

''(3) Although the intent of such Act was to cover seedless limes, the definition of the term 'lime' in section 1953(6) of such Act [7 U.S.C. 6202(6)] applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

''(4) Since the enactment of the Lime Research, Promotion, and Consumer Information Act of 1990, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the United States production of limes is in Florida.

''(b) PURPOSES.—The purpose of this Act [see Short Title of 1993 Amendment note above] is—

''(1) to revise the definition of the term 'lime' in order to cover seedless and not seeded limes;

''(2) to increase the exemption level;

''(3) to delay the initial referendum date; and

''(4) to alter the composition of the Lime Board.''

§ 6202. Definitions

As used in this chapter:

(1) Board

The term ''Board'' means the Lime Board provided for under section 6204(b) of this title.

(2) Consumer information

The term ''consumer information'' means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) Handle

The term ''handle'' means to sell, purchase, or package limes.

(4) Handler

The term ''handler'' means any person in the business of handling limes.

(5) Importer

The term ''importer'' means any person who imports limes into the United States.

(6) Lime

The term ''lime'' means the fruit of a citrus latifolia tree for the fresh market.

(7) Marketing

The term ''marketing'' means the sale or other disposition of limes in commerce.

(8) Order

The term ''order'' means a lime research, promotion, and consumer information order issued by the Secretary under section 6203(a) of this title.

(9) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) Producer

The term ''producer'' means any person who produces limes in the United States for sale in commerce.

(11) Producer-handler

The term ''producer-handler'' means any person who is both a producer and handler of limes.

(12) Promotion

The term ''promotion'' means any action taken under this chapter (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) Research

The term ''research'' means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) State and United States

The term—

(A) ''State'' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) ''United States'' means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101–624, title XIX, §1953, Nov. 28, 1990, 104 Stat. 3871; Pub. L. 103–194, §3, Dec. 14, 1993, 107 Stat. 2295.)

AMENDMENTS

1993—Par. (6). Pub. L. 103–194 substituted ''citrus latifolia'' for ''citrus aurantifolia''.

§ 6203. Issuance of orders

(a) In general

Subject to this chapter, and to effectuate the declared purposes of this chapter, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal for issuance of order

Any person that will be affected by this chapter may request the issuance of, and submit a proposal for, an order under this chapter.

(2) Proposed order

Not later than 60 days after the receipt of a request and proposal by an interested person for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter.

(4) Effective date of order

Such order shall be issued and become effective not later than 150 days following publication of the proposed order.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this section. The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 101–624, title XIX, §1954, Nov. 28, 1990, 104 Stat. 3872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6202, 6204, 6205, 6210 of this title.

§ 6204. Required terms in orders

(a) In general

An order issued by the Secretary under section 6203(a) of this title shall contain the terms and

conditions described in this section and, except as provided in section 6205 of this title, no other terms or conditions.

(b) Lime Board

Such order shall provide for the establishment of a Lime Board as follows:

(1) Membership

The Board shall be composed of—

(A) 3 members who are producers and who are not exempt from an assessment under subsection (d)(5)(A) of this section;

(B) 3 members who are importers and who are not exempt from an assessment under subsection (d)(5)(A) of this section; and

(C) one member appointed from the general public.

(2) Appointment and nomination

(A) Appointment

The Secretary shall appoint the members of the Board.

(B) Producers

The 3 members who are producers shall be appointed from individuals nominated by lime producers.

(C) Importers

The 3 members who are importers shall be appointed from individuals nominated by lime importers.

(D) Public

The public representative shall be appointed from nominations of the Board.

(E) Failure to nominate

If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed by the Secretary without a nomination.

(F) Initial Board

The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph (1), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate. The Secretary shall terminate the initial Board established under this subsection as soon as practicable after December 14, 1993.

(G) Board allocation

The producer and importer representation on the Board shall be allocated on the basis of 2 producer members and 1 importer member from the district east of the Mississippi River and 1 producer member and 2 importer members from the district west of the Mississippi River.

(3) Alternates

The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) Terms

The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—

(A) 2 members shall be appointed for a term of 1 year;

(B) 2 members shall be appointed for a term of 2 years; and

(C) 3 members shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(5) Replacement

If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) Compensation

Members and alternates of the Board shall serve without pay.

(7) Travel expenses

While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5.

(8) Powers and duties

The Board shall—

(A) administer orders issued by the Secretary under section 6203(a) of this title, and amendments to such orders, in accordance with their terms and provisions and consistent with this chapter;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) Budgets and plans

Such order shall provide for periodic budgets and plans as follows:

(1) Budgets

The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) Plans

Each budget shall include a plan for research, promotion, and consumer information

regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this chapter.

(d) Assessments

Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) Rate

The assessment rate shall not exceed $.01 per pound of limes.

(2) Collection by first handlers

Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer whose limes are so handled, including the limes owned by the handler.

(3) Producer-handlers

For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) Importers

The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) De minimis exception

The following persons are exempt from an assessment under this subsection—

(A) a producer who produces less than 200,000 pounds of limes per year;

(B) a producer-handler who produces and handles less than 200,000 pounds of limes per year; and

(C) an importer who imports less than 200,000 pounds of limes per year.

(6) Claiming an exemption

To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) Use of assessments

(1) In general

Such order shall provide that funds paid to the Board as assessments under subsection (d) of this section—

(A) may be used by the Board to—

(i) pay for research, promotion, and consumer information described in the budget of the Board under subsection (c) of this section and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 6205(4) of this title; and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of Government employees in implementing and administering the order, except as provided in paragraph (2).

(2) Referenda

Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d) of this section, for any expenses incurred by the Secretary in conducting referenda under this chapter, except for the salaries of Government employees.

(f) False claims

Such order shall provide that any promotion funded with assessments collected under subsection (d) of this section may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) Prohibition on use of funds

Such order shall provide that funds collected by the Board under this chapter through assessments authorized by this chapter may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this chapter.

(h) Books, records, and reports

(1) By the Board

Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) By others

So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this chapter (or any order or regulation issued under this chapter), such order shall require handlers, producer-handlers, and importers who are responsible for the collection, payment, or remittance of assessments under subsection (d) of this section—

(A) to maintain and make available for inspection by the employees of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the

order, reports regarding the collection, payment, or remittance of such assessments.

(i) Confidentiality

(1) In general

Such order shall require that all information obtained pursuant to subsection (h)(2) of this section shall be kept confidential by all officers and employees of the Department and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) Limitations

Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 6203(a) of this title, together with a statement of the particular provisions of the order violated by such person.

(j) Withholding information

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(Pub. L. 101–624, title XIX, § 1955, Nov. 28, 1990, 104 Stat. 3872; Pub. L. 102–237, title VIII, § 805(1), Dec. 13, 1991, 105 Stat. 1882; Pub. L. 103–194, § 4, Dec. 14, 1993, 107 Stat. 2295.)

AMENDMENTS

1993—Subsec. (b)(1)(A), (2)(B). Pub. L. 103–194, § 4(a)(1), (2), substituted ''3'' for ''7''.

Subsec. (b)(2)(F). Pub. L. 103–194, § 4(a)(3), inserted at end ''The Secretary shall terminate the initial Board established under this subsection as soon as practicable after December 14, 1993.''

Subsec. (b)(2)(G). Pub. L. 103–194, § 4(a)(4), added subpar. (G).

Subsec. (b)(4). Pub. L. 103–194, § 4(b)(1), substituted ''The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—'' for ''Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—''.

Subsec. (b)(4)(A). Pub. L. 103–194, § 4(b)(2), substituted ''2'' for ''3''.

Subsec. (b)(4)(B). Pub. L. 103–194, § 4(b)(3), substituted ''2'' for ''4'' before ''members''.

Subsec. (b)(4)(C). Pub. L. 103–194, § 4(b)(4), substituted ''3'' for ''4'' before ''members''.

Subsec. (d)(5). Pub. L. 103–194, § 4(c), substituted ''200,000'' for ''35,000'', wherever appearing.

1991—Subsec. (e)(1)(B). Pub. L. 102–237 substituted ''Government employees'' for ''government employees''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6202, 6205, 6209 of this title.

§ 6205. Permissive terms in orders

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 6203(a) of this title may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(3) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(4) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 6204(d) of this title to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this chapter for 1 year;

(5) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 6204(d) of this title for the development and expansion of lime sales in foreign markets; and

(6) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this chapter; and

(B) necessary to effectuate the other provisions of such order.

(Pub. L. 101–624, title XIX, § 1956, Nov. 28, 1990, 104 Stat. 3876.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6204 of this title.

§ 6206. Petition and review

(a) Petition

(1) In general

A person subject to an order may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which such person who is a petitioner under subsection (a) of this section re-

sides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 6207 of this title.

(Pub. L. 101–624, title XIX, §1957, Nov. 28, 1990, 104 Stat. 3876.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6208 of this title.

§ 6207. Enforcement

(a) Jurisdiction

Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to any person committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) Cease and desist orders

In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and hearing

No order assessing a penalty or cease and desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, in accordance with subsection (d) of this section.

(d) Review by United States district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) of this section may obtain review of the penalty or order in the district court of the United States for the district in which such person resides or does business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(B) simultaneously sending a copy of such notice by certified mail to the Secretary.

(2) Record

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease and desist order issued by the Secretary after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $500 for each offense. Each day during which such failure continues shall be considered a separate violation of such order.

(f) Failure to pay penalties

If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter

to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing such civil penalty shall not be subject to review.

(Pub. L. 101–624, title XIX, § 1958, Nov. 28, 1990, 104 Stat. 3877; Pub. L. 102–237, title VIII, § 805(2), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102–237 substituted ''United States District Court'' for ''United States district court''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6206, 6208 of this title.

§ 6208. Investigations and power to subpoena

(a) In general

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this chapter; or

(2) to determine whether a person subject to the provisions of this chapter has engaged or is engaging in any act that constitutes a violation of any provision of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary may administer oaths and affirmations and may issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6206 or 6207 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district of which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6206 or 6207 of this title shall be within the judicial district where such person is an inhabitant or has a principal place of business.

(Pub. L. 101–624, title XIX, § 1959, Nov. 28, 1990, 104 Stat. 3878; Pub. L. 102–237, title VIII, § 805(3), Dec. 13, 1991, 105 Stat. 1882.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out ''section'' after ''6206 or''.

§ 6209. Initial referendum

(a) Requirement

Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title, the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 6204(d)(5) of this title; and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) Purpose of referendum

The referendum referred to in subsection (a) of this section is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) Confidentiality

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 6210 of this title, shall be held strictly confidential and shall not be disclosed.

(d) Refund of assessments from escrow account

(1) In general

A portion of the assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) Approval of order

If the order is approved by a majority of the producers, producer-handlers, and importers voting in the initial referendum under subsection (a) of this section, the funds in the escrow account shall be released to be used for the purposes of this chapter.

(3) Disapproval of order

(A) Proration

If—

(i) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by producers, producer-handlers, or importers; and

(ii) the plan is not approved pursuant to the referendum conducted under subsection (a) of this section;

the Board shall prorate the amount of such refunds among all eligible producers, producer-handlers, or importers who demand such refund.

(B) Right to refund

A producer, producer-handler, or importer shall be eligible to receive a refund—

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) Surplus funds

Any funds not refunded under this paragraph shall be released to be used to carry out this chapter.

(Pub. L. 101–624, title XIX, §1960, Nov. 28, 1990, 104 Stat. 3879; Pub. L. 103–194, §5, Dec. 14, 1993, 107 Stat. 2295.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–194 substituted ''Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title,'' for ''Not later than 2 years after the date on which the Secretary first issues an order under section 6203(a),''.

§ 6210. Suspension and termination

(a) Finding of Secretary

If the Secretary finds that an order issued under section 6203(a) of this title, or a provision of such order, obstructs or does not tend to effectuate the purposes of this chapter, the Secretary shall terminate or suspend the operation of such order or provision.

(b) Periodic referenda

The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 6203(a) of this title and in effect at the time of such referendum.

(c) Required referenda

The Secretary shall hold a referendum under subsection (b) of this section—

(1) at the request of the Board; or

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this chapter submit a petition requesting such a referendum.

(d) Limitation

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(e) Vote

The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b) of this section; and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

(Pub. L. 101–624, title XIX, §1961, Nov. 28, 1990, 104 Stat. 3880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6209 of this title.

§ 6211. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) Administrative expenses

The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this chapter.

(Pub. L. 101–624, title XIX, §1962, Nov. 28, 1990, 104 Stat. 3880.)

§ 6212. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 101–624, title XIX, §1963, Nov. 28, 1990, 104 Stat. 3881.)

CHAPTER 92—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 6301. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) Policy

Congress declares that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing through assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer information, and industry information designed to strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

(c) Construction

Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

(Pub. L. 101–624, title XIX, § 1966, Nov. 28, 1990, 104 Stat. 3881.)

SHORT TITLE

Section 1965 of Pub. L. 101–624 provided that: ''This subtitle [subtitle E (§§ 1965–1976) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Soybean Promotion, Research, and Consumer Information Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6303 of this title.

§ 6302. Definitions

As used in this chapter:

(1) Board

The term ''Board'' means the United Soybean Board established under section 6304(b) of this title.

(2) Commerce

The term ''commerce'' includes interstate, foreign, and intrastate commerce.

(3) Committee

The term ''Committee'' means the Soybean Program Coordinating Committee established under section 6304(g) of this title.

(4) Consumer information

The term ''consumer information'' means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of soybeans or soybean products.

(5) Department

The term ''Department'' means the Department of Agriculture.

(6) First purchaser

The term ''first purchaser'' means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring from a producer soybeans produced by such producer; or

(B) the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation.

(7) Industry information

The term ''industry information'' means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the soybean industry, and activities to enhance the image of the soybean industry.

(8) Marketing

The term ''marketing'' means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) Net market price

The term ''net market price'' means—

(A) except as provided in subparagraph (B), the sales price or other value received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, as determined by the Secretary; or

(B) for soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan.

(10) Order

The term ''order'' means an order issued under section 6303 of this title.

(11) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(12) Producer

The term ''producer'' means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) Promotion

The term ''promotion'' means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) Qualified State soybean board

The term ''qualified State soybean board'' means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term ''qualified State soybean board'' means a soybean producer-governed entity—

(A) that is organized and operating within a State;

(B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs; and

(C) that meets criteria established by the Board as approved by the Secretary relating to the qualifications of such entity to perform duties under the order and is recognized by the Board as the soybean promotion and research entity within the State.

(15) Research

The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products.

(16) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(17) Soybean products

The term ''soybean products'' means products produced in whole or in part from soybeans or soybean by-products.

(18) Soybeans

The term ''soybeans'' means all varieties of Glycine max or Glycine soya.

(19) State

The terms ''State'' and ''United States'' consist of the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101–624, title XIX, §1967, Nov. 28, 1990, 104 Stat. 3882.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6304 of this title.

§ 6303. Issuance and amendment of orders

(a) In general

To effectuate the declared policy of section 6301(b) of this title, the Secretary, subject to the procedures provided in subsection (b) of this section, shall issue orders under this chapter applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order under this chapter, or an association of soybean producers or any other person that would be affected by an order issued pursuant to this chapter may request the issuance of, and submit a proposal for, such an order.

(2) Notice and comment concerning proposed order

Not later than 30 days after the receipt of a request and proposal for an order pursuant to

paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this chapter. Such order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this section. The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 101–624, title XIX, § 1968, Nov. 28, 1990, 104 Stat. 3883.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6305, 6309 of this title.

§ 6304. Required terms in orders

(a) In general

Any order issued under this chapter shall contain the terms and conditions specified in this section.

(b) Establishment and membership of United Soybean Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units, as provided in this subsection. The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) Seats

The Secretary shall establish State units and combined units and seats on the Board for such units, as follows:

(A) State units

Except as provided in subparagraph (B), each State shall be considered as a unit.

(B) Combined units

A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall consist of geographically contiguous States. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) Number of seats per unit

Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to 2 seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to 3 seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to 4 seats on the Board.

(D) Determination of average annual soybean production

For purposes of subparagraphs (A), (B), (C), and (F), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) Reapportionment of seats

At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the Board to conform with subparagraph (C) and any modifications made under subparagraph (F). If payment of refunds following the initial referendum conducted under section 6305(a) of this title is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) Adjustment of levels of production

At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit may not, as a result of any modification under this subparagraph, lose Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraphs (A), (B), and (C).

(3) Nominations

(A) In general

The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) Method for obtaining nominations

(i) Initially-established Board

(I) State units

The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of subparagraph (A) or (B) of section 6302(14) of this title. If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) Combined units

The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria described in subparagraph (A) or (B) of section 6302(14) of this title.

(ii) Subsequent appointment

(I) State units

Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) Combined units

The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) Rejection

The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) Terms

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three consecutive 3-year terms.

(5) Compensation

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) Temporary appointments

(A) Appointment

Notwithstanding paragraphs (1) through (5), the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) Representation of certain States

The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to November 28, 1990, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) Meetings

The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) if the Board exercises its authority to establish the Committee described in subsection (g) of this section—

(A) to elect members of the Board to serve on the Committee; and

(B) if the Board assigns to the Committee the power to develop and submit budgets as provided for in subsection (h)(1) of this section, to approve, modify, or reject budgets submitted by the Committee;

(4) to submit budgets to the Secretary for the approval or disapproval of the Secretary;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to recommend to the Secretary amendments to the order;

(9) to provide the Secretary with prior notice of meetings of the Board and meetings of committees of the Board to permit the Secretary, or a designated representative, to attend such meetings; and

(10) to provide not less than annually a report to producers accounting for funds and describing programs implemented, and such reports shall be made available to the public on request.

(d) Board voting procedures

(1) In general

The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection. On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(2) Number of votes per member

Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) In general

Each member shall be entitled to cast one vote unless a roll call vote is conducted. On a roll call vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) Additional votes

The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) Assessment level

Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (*l*)(2) of this section), on the average, during each of the 3 previous fiscal years of the Board.

(ii) First three fiscal years

(I) First fiscal year

During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) Second and third fiscal years

The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) Division of votes within units

A unit's total votes under clause (i) or (ii) shall be divided equally among all the members present and voting representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3) Motions

(A) In general

Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Roll call votes

Any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) Committee votes

In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) Proxies

A member may not cast votes by proxy.

(e) Budgets

(1) In general

The order shall provide that the Board shall develop budgets on a fiscal year basis of anticipated expenses and disbursements under the order, including probable costs of administration and promotion, research, consumer information, and industry information projects. The Board shall submit such budgets or any substantial modification thereof to the Secretary for the Secretary's approval.

(2) Limitation

No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or modification approved by the Secretary.

(f) Plans and projects

The order shall provide that the Board shall review or, on its own initiative, develop plans or projects of promotion, research, consumer information, and industry information, to be paid for with funds received by the Board. Such plans or projects shall not become effective until approved by the Secretary.

(g) Soybean Program Coordinating Committee

(1) Establishment

The order may authorize the Board to establish a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) Membership

(A) Composition

The Committee shall be composed of members such that—

(i) not less than two-thirds of the Committee shall be members of the Board, including—

(I) the Chairperson and Treasurer of the Board; and

(II) additional members of the Board elected by the Board; and

(ii) not more than one-third of the Committee shall be producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on November 28, 1990, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) Certification

To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) Terms

Terms of appointment to the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) Compensation

Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) Chairperson

The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) Quorum

A quorum of the Committee shall consist of the number of members of the Committee equal to three-fourths of the total membership of the Committee.

(h) Powers and duties of Committee

The order shall define the powers and duties that the Board may assign to the Committee, which may include the following:

(1) Budgets

The Board may assign to the Committee the power to develop and submit to the Board, for approval, budgets on a fiscal year basis, as provided for in subsection (e) of this section. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval under subsection (e) of this section.

(2) Plans and projects

The Board may assign to the Committee the power to review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board as provided for in subsection (f) of this section. Each such plan or project shall be presented to the Board for approval.

(3) Voting

A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least two-thirds of the members present at a meeting of the Committee.

(i) Administration

(1) Expenses

The order shall provide that the Board shall be responsible for all expenses of the Board.

(2) Staff

(A) In general

The order shall provide that the Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans.

(B) Limitation on salaries

If the Board establishes an administrative staff of its own, the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (*l*)(2) of this section, for that fiscal year.

(C) Reimbursement of organization

If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

(3) Limitation on administrative costs

The order shall provide that costs incurred by the Board in administering the order (including the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (*l*)(2) of this section, for that fiscal year.

(j) Contracts and agreements

(1) Authority

To ensure coordination and efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of the activities authorized by this chapter with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order.

(2) Coordination

To enhance coordination, the Board, when entering into contracts or agreements for the

implementation and carrying out of activities authorized by this chapter, shall ensure that all plans or projects implemented for consumer information, industry information, promotion, or research are each implemented by a single entity. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States.

(3) Terms

Any contract or agreement entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall not become effective until it has been approved by the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(4) Communications to producers

The order may provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) Apportionment of funds to qualified State soybean boards

(A) In general

In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) Exception

The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(k) Books and records of Board

The order shall require the Board to—

(1) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year and a report of such audit to be submitted to the Secretary. The Secretary shall make such report available to the public upon request.

***(l)* Assessments**

(1) In general

(A) First purchasers

(i) Collection

The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) Rate

The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) One assessment

No more than one assessment shall be made on any soybeans.

(B) Direct processing

The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) Refunds

(A) Refunds prior to initial referendum

(i) In general

The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 6305(a) of this title, as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(I) such producer is responsible for paying the assessment; and

(II) such producer does not support the programs, projects, or activities implemented under the order.

(ii) By Board

During the period referred to in clause (i), refunds shall be provided equally from the Board and, where applicable, the qualified State soybean board, as determined by the Secretary.

(B) Administration

Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) Submission of refund demands

(i) In general

In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) No qualified State soybean board

In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) Time limit for making refund

Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) Order not favored

If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 6305(a) of this title, refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 6305(a) of this title.

(F) Refunds after initial referendum

(i) In general

The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 6305(a) of this title as required in this subparagraph.

(ii) Availability

Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 6305(a) of this title and ending on a date (not later than 18 months thereafter) established by the Secretary, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall make refunds available to soybean producers at the end of the fiscal year from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) Poll

Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 6305(b)(3) of this title, to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) Referendum

If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 20 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 6305 of this title, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) Continued refunds

If the Secretary conducts a referendum under clause (iv), the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) Continuation or cessation of refunds

If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) Escrow accounts

(I) Establishment

The qualified State soybean board and, for producers in States where no qualified State soybean board exists, the Board shall establish escrow accounts to be used to pay refunds under clause (ii) and, if necessary, clauses (v) and (vi).

(II) Separate accounts

The qualified State soybean board and, where no qualified State soybean board exists, the Board shall establish separate escrow accounts for each State from which producer assessments are collected for the purpose of making refunds under clauses (ii), (v), and (vi), respectively.

(III) Deposits

The qualified State soybean board and, where no qualified State soybean board exists, the Board shall deposit into its escrow account for refunds under clause (ii), (v), or (vi), as appropriate, 10 percent of the total assessment collected by the qualified State soybean board and, where no qualified State soybean board exists, the Board (including the assessment provided under paragraph (2) and contributions by producers to qualified State soybean boards under paragraph (4)), during the time period involved.

(IV) Refunds made from escrow account

Refunds requested by producers from a State under clause (ii) (or if refunds are available under clause (v) or (vi)) during the time period involved shall be made from the escrow account that is applicable to that clause for such State.

(V) Proration

If the funds deposited in a State account established under subclause (I) for purposes described under clauses (ii), (v), and (vi) are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall prorate the amount of such refunds from the State's account among all producers from that State that request refunds.

(VI) Surplus funds

Any funds not refunded to producers in a State under this clause shall be divided equally between the Board and the qualified State soybean board of such State. Such funds shall be used to carry out programs under this chapter.

(VII) Refund period

In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) Use

The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than one-half of the cost incurred for the referendum conducted under paragraph (2)(F).

(4) Credit for contributions to qualified State soybean boards

A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this chapter, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(5) Single process of assessment

The procedures in the order for the collection of assessments shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(m) Credit for certain costs to States

The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to November 28, 1990, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments

collected and remitted to the Board under subsection (*l*) of this section.

(n) Minimum level of assessments to States

(1) Pre-referendum period

The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 6305(a) of this title, each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) Post-referendum period

The order shall provide, effective after the conduct of the referendum provided for in section 6305(a) of this title, subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (*l*) of this section.

(3) Limitation

The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (*l*) of this section (net of any refunds made under paragraph (2) of subsection (*l*) of this section) in that year.

(*o*) Investment of funds

(1) In general

The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) Income

Income from any such investment may be used for any purpose for which the invested funds may be used.

(p) Prohibition on use of funds to influence governmental action

(1) In general

Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

(q) Books and records of first purchasers and certain producers

(1) Recordkeeping

(A) In general

The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(B) "Small producer" defined

The order shall define the term ''small producer'' as such term is used in subparagraph (A).

(2) Use of information

(A) In general

Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

(B) Other information

The Secretary shall authorize the use under this chapter of information regarding first purchasers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department, members of the Board, and agents of the Board.

(B) Permitted uses

Information obtained under the authority of this chapter shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this chapter;

(ii) any investigatory or enforcement action necessary for the implementation of this chapter; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) Other exceptions

Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) Penalty

Any person who willfully violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if a member or an agent of the Board or an officer or employee of the Department, shall be removed from office.

(r) Incidental terms and conditions

The order shall provide terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (*l*) of this section.

(Pub. L. 101–624, title XIX, § 1969, Nov. 28, 1990, 104 Stat. 3884; Pub. L. 102–237, title VIII, § 806(1), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (g)(2)(A)(ii). Pub. L. 102–237, § 806(1)(A), substituted ''Agricultural'' for ''Argicultural''.

Subsec. (*l*)(2)(F)(vii)(V). Pub. L. 102–237, § 806(1)(B), substituted ''that request'' for ''that requests''.

Subsec. (q)(4). Pub. L. 102–237, § 806(1)(C), inserted a comma after ''and'' and struck out semicolon after ''Board''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6309 of this title.

§ 6305. Referenda

(a) Initial referendum

(1) Requirement

Not earlier than 18 months or later than 36 months following issuance of an order under section 6303 of this title, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) Advance notice

The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

(3) Approval of order

Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) Disapproval of order

If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) Additional referenda

(1) In general

(A) Requirement

After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) Representative group of producers

An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) Eligible producers

Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) Disapproval of order

If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) Opportunity to request additional referenda

(A) In general

To facilitate the periodic determination as to whether producers favor the conduct of an

additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this chapter and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) Method of making request

(i) In-person requests

To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices or county Agricultural Stabilization and Conservation Service offices during a period established by the Secretary, or as provided in clause (ii).

(ii) Mail-in requests

In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) Notifications

The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referenda under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) Action by Secretary

As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) Time limit

Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) Procedures

(1) Reimbursement of Secretary

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees associated with the conduct of a referendum under subsections (a) and (b) of this section.

(2) Date

Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) Place

Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(Pub. L. 101–624, title XIX, §1970, Nov. 28, 1990, 104 Stat. 3898; Pub. L. 102–237, title VIII, §806(2), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(3)(A). Pub. L. 102–237 made technical amendment to reference to this chapter to correct reference to corresponding provision of original act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6304, 6309 of this title.

§ 6306. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) Ruling

After a hearing under paragraph (2), the Secretary shall make a ruling on the petition that is the subject of the hearing, which shall be final if such ruling is in accordance with applicable law.

(b) Review

(1) Commencement of action

The district court of the United States in any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review a ruling on the petition of such

person under such subsection, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under such subsection (a) of this section.

(2) Process

Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) of this section is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 6307 of this title.

(Pub. L. 101–624, title XIX, § 1971, Nov. 28, 1990, 104 Stat. 3900.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6307, 6308 of this title.

§ 6307. Enforcement

(a) Jurisdiction

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under section 6306 of this title.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order or regulation, an additional penalty equal to the amount of such assessment.

Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

(3) Notice and hearing

No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

Any person who has been determined to be in violation of this chapter, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c) of this section, may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or conducts business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease-and-desist order issued under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $5,000 for each offense. Each day during which such failure con-

tinues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 101–624, title XIX, §1972, Nov. 28, 1990, 104 Stat. 3901.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6306, 6308 of this title.

§ 6308. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; and

(2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) In general

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6306 or 6307 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey an order of the court under this section may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6306 or 6307 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101–624, title XIX, §1973, Nov. 28, 1990, 104 Stat. 3902.)

§ 6309. Administrative provisions

(a) Construction

Except as provided in subsection (b) of this section, nothing in this chapter may be construed to—

(1) preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State; or

(2) authorize the withholding of any information from Congress.

(b) State laws

(1) Referenda on qualified State soybean boards

To ensure the proper administration of this chapter, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board or State soybean assessment—

(A) during the period beginning on the date an order is issued under section 6303 of this title and ending 18 months after the referendum on such order is conducted under section 6305(a) of this title; or

(B) if such order is approved under the referendum conducted under section 6305(a) of this title by a majority of producers voting in such State, such State law shall be suspended for an additional 36 months.

(2) Exception

Paragraph (1) shall not be construed to apply to—

(A) a State referendum concerning the approval of modifications to a State soybean promotion program that does not involve termination of the qualified State soybean board or State soybean assessment; and

(B) any State referendum regarding a State soybean promotion program that is originated by soybean producers.

(3) Assessments collected by qualified State soybean boards

To ensure adequate funding of the operations of qualified State soybean boards under this chapter, whenever an order is in effect under this chapter, no State law or regulation

that limits the rate of assessment that the qualified State soybean board in that State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 6304(*l*)(4) of this title.

(c) Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 101–624, title XIX, § 1974, Nov. 28, 1990, 104 Stat. 3903; Pub. L. 102–237, title VIII, § 806(3), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237, § 806(3)(B), redesignated second subsec. (b), relating to amendments to orders, as (c).

Subsec. (b)(3). Pub. L. 102–237, § 806(3)(A), substituted ''section 6304(*l*)(4)'' for ''section 6304(k)(4)''.

Subsec. (c). Pub. L. 102–237, § 806(3)(B), redesignated second subsec. (b), relating to amendments of orders, as (c).

§ 6310. Suspension or termination of orders

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 101–624, title XIX, § 1975, Nov. 28, 1990, 104 Stat. 3904.)

§ 6311. Authorization of appropriations; regulations

(a) In general

There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this chapter.

(c) Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter, including regulations relating to the assessment of late payment charges.

(Pub. L. 101–624, title XIX, § 1976, Nov. 28, 1990, 104 Stat. 3904.)

CHAPTER 93—PROCESSOR-FUNDED MILK PROMOTION PROGRAM

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 6401. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) fluid milk products are basic foods and are a primary source of required nutrients such as calcium, and otherwise are a valuable part of the human diet;

(2) fluid milk products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(3) the dairy industry plays a significant role in the economy of the United States, in that milk is produced by thousands of milk producers and dairy products (including fluid milk products) are consumed every day by millions of people in the United States;

(4) the processing of milk into fluid milk products and the marketing of such products are important to the dairy industry because the fluid milk segment of the dairy market contributes substantially to ensuring that the prices paid to milk producers for raw milk are stable and adequate to maintain the overall strength of the dairy industry;

(5) the maintenance and expansion of markets for fluid milk products are vital to the Nation's fluid milk processors and milk producers, as well as to the general economy of the United States;

(6) the congressional purpose underlying this chapter is to maintain and expand markets for fluid milk products, not to maintain or expand any processor's share of those markets and that the chapter does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this chapter are not extended to replace individual advertising and promotion efforts;

(7) the cooperative development, financing, and implementation of a coordinated program of advertising and promotion of fluid milk products is necessary to maintain and expand markets for fluid milk products;

(8) it is appropriate to finance the cooperative program described in paragraph (6)[1] with self-help assessments paid by the fluid milk processors; and

(9) fluid milk products move in interstate and foreign commerce, and fluid milk products that do not move in such channels of commerce directly burden or affect interstate commerce in fluid milk products.

(b) Policy

It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this chapter, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this chapter being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.

(Pub. L. 101–624, title XIX, § 1999B, Nov. 28, 1990, 104 Stat. 3914; Pub. L. 104–127, title I, § 146(a), (b), Apr. 4, 1996, 110 Stat. 918.)

AMENDMENTS

1996—Subsec. (a)(6) to (9). Pub. L. 104–127, § 146(a), added par. (6) and redesignated former pars. (6) to (8) as (7) to (9), respectively.

Subsec. (b). Pub. L. 104–127, § 146(b), amended heading and text of subsec. (b) generally. Text read as follows: ''It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on fluid milk products produced in the United States) and carrying out an effective and coordinated program of advertising designed to strengthen the position of the dairy industry in the marketplace and to maintain and expand markets and uses for fluid milk products produced in the United States. Nothing in this chapter shall be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–72, § 1, Aug. 11, 1993, 107 Stat. 717, provided that: ''This Act [amending sections 6402 and 6409 of this title] may be cited as the 'Fluid Milk Promotion Amendments Act of 1993'.''

SHORT TITLE

Section 1999A of Pub. L. 101–624 provided that: ''This subtitle [subtitle H (§§ 1999A—1999R) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Fluid Milk Promotion Act of 1990'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6403 of this title.

§ 6402. Definitions

As used in this chapter:

(1) Advertising

The term ''advertising'' means any advertising or promotion program involving only fluid milk products and directed toward increasing the general demand for fluid milk products.

(2) Board

The term ''Board'' means the National Processor Advertising and Promotion Board established under section 6407(b) of this title.

(3) Fluid milk product

The term ''fluid milk product''—

(A) means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

[1] So in original. Probably should be paragraph ''(7)''.

(B) does not include evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas specially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey.

(4) Fluid milk processor

The term ''fluid milk processor'' means any person who processes and markets commercially more than 500,000 pounds of fluid milk products in consumer-type packages per month.

(5) Department

The term ''Department'' means the Department of Agriculture.

(6) Research

The term ''research'' means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.

(7) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(8) United States

The term ''United States'', except as used in sections 6410 through 6412 of this title, means the 48 contiguous States in the continental United States and the District of Columbia.

(Pub. L. 101–624, title XIX, § 1999C, Nov. 28, 1990, 104 Stat. 3915; Pub. L. 103–72, § 2(a), Aug. 11, 1993, 107 Stat. 717; Pub. L. 104–127, title I, § 146(c), Apr. 4, 1996, 110 Stat. 918.)

AMENDMENTS

1996—Par. (6). Pub. L. 104–127 amended heading and text of par. (6) generally. Text read as follows: ''The term 'research'—

''(A) means market research limited to the support of advertising and promotion efforts, including educational activities; and

''(B) does not include research directed to product characteristics such as nutrients; product development including new products; or improved technology in production, manufacturing or processing; or any other efforts not directly applicable to measuring or increasing the effectiveness of advertising activities in expanding sales of fluid milk products.''

1993—Par. (4). Pub. L. 103–72 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The term 'fluid milk processor' means any person who processes and markets commercially fluid milk products in consumer-type packages.''

§ 6403. Authority to issue orders

(a) In general

To effectuate the declared policy under section 6401(b) of this title, the Secretary shall issue and from time to time may amend, orders applicable to all fluid milk processors, authorizing—

(1) the collection of assessments on fluid milk products subject to this chapter; and

(2) the use of the assessments to provide research and advertising in a manner prescribed by this chapter.

(b) Scope

Any order issued under this chapter shall be national in scope.

(c) One order

Not more than one order shall be in effect under this chapter at any one time.

(Pub. L. 101–624, title XIX, § 1999D, Nov. 28, 1990, 104 Stat. 3916.)

§ 6404. Notice and comment

Not later than 60 days after the Secretary receives a request for the issuance of an order under this chapter, and a specific proposal for an order from individual fluid milk processors that marketed during a representative period, as determined by the Secretary, not less than 30 percent of the volume of fluid milk products marketed by all processors, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(Pub. L. 101–624, title XIX, § 1999E, Nov. 28, 1990, 104 Stat. 3916.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6405 of this title.

§ 6405. Findings and issuance of orders

(a) In general

After notice and opportunity for public comment are given, as provided in section 6404 of this title, the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements and the declared policy of this chapter.

(b) Effective date

Such order shall be issued and, if approved by fluid milk processors as provided in section 6413 of this title, shall become effective not later than 180 days following publication of the proposed order.

(Pub. L. 101–624, title XIX, § 1999F, Nov. 28, 1990, 104 Stat. 3916.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6413 of this title.

§ 6406. Regulations

The Secretary may issue such regulations as may be necessary to carry out this chapter and the powers vested in the Secretary by this chapter.

(Pub. L. 101–624, title XIX, § 1999G, Nov. 28, 1990, 104 Stat. 3916.)

§ 6407. Required terms in orders

(a) In general

Each order issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) National Processor Advertising and Promotion Board

(1) Establishment

The order shall establish a National Processor Advertising and Promotion Board to administer the order.

(2) Service to entire industry

In administering the order, the Board shall carry out programs and projects that will provide maximum benefit to the fluid milk industry and promote only fluid milk products. The Board shall, to the extent practicable, ensure that advertising coverage in each region is proportionate to the funds collected from each region.

(3) Regions

The Secretary shall establish not less than 12 nor more than 15 regions in order to ensure appropriate geographic representation on the Board.

(4) Board membership

The Board shall consist of one member appointed by the Secretary, from among fluid milk processors, to represent each of the regions established under paragraph (3), with the membership representing, to the extent practicable, differing sizes of operations. The Secretary shall appoint five additional at-large members to the Board, of which at least three shall be fluid milk processors and at least one shall be from the general public.

(5) Terms of office

The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary. No member shall serve for more than 2 consecutive terms, except that the members that are selected to serve for the initial term of 1 or 2 years shall be eligible to be reappointed for a 3-year term.

(6) Compensation

Each member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties of the Board.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to make rules to effectuate the terms and conditions of the order;

(3) to receive, investigate, and report to the Secretary complaints of violations of the order;

(4) to develop and recommend such rules, regulations, and amendments to the order to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out the order;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal year, a fiscal year budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d) of this section;

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and advertising;

(9) to carry out advertising or research, and pay the costs of the projects with funds collected pursuant to section 6409 of this title;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to furnish the Secretary with such other information as the Secretary may require; and

(12) to invest funds collected by the Board pursuant to subsection (g) of this section.

(d) Plans and budgets

(1) Budgets

The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of the fiscal year, to develop budgets of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of research and advertising. The budget shall be submitted to the Secretary and be effective on the approval of the Secretary.

(2) Incurring expenses

The Board may incur such expenses for research or advertising of fluid milk products, and other expenses for the administration, maintenance, and functioning of the Board, as may be authorized by the Secretary. The expenses shall include any implementation, administrative, and referendum costs incurred by the Department.

(3) Paying expenses

The funds to cover the expenses referred to in paragraph (2) shall be paid from assessments collected under section 6409 of this title.

(4) Limitation on spending

Effective 1 year after the date of the establishment of the Board, the Board shall not spend in excess of 5 percent of the assessments collected for the administration of the Board.

(e) Prohibition on branded advertising

A program or project conducted under this chapter shall not make any reference to private brand names or use false or unwarranted claims on behalf of fluid milk products, or false or unwarranted statements with respect to the attributes or use of any competing products, except that this subsection shall not preclude the Board from offering its programs and projects for use by commercial parties, under such terms and conditions as the Board may prescribe as approved by the Secretary.

(f) Contracts and agreements

(1) In general

To ensure efficient use of funds collected under this chapter, the order shall provide

that the Board may enter into contracts or agreements for the implementation and carrying out of programs or projects for fluid milk products research and advertising and for the payment of the costs of the programs or projects with funds received by the Board under the order.

(2) Requirements

Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project, together with a budget or budgets that shall disclose estimated costs to be incurred for such program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of the transactions of the contracting party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(g) Investment of funds

(1) In general

The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending disbursement of the funds, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) Income

Income from any such investment may be used for any purpose for which the invested funds may be used.

(h) Books and records of Board

(1) In general

The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits

The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year. A report of each such audit shall be submitted to the Secretary.

(i) Books and records of processors

(1) In general

The order shall require that each fluid milk processor subject to this chapter maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Use of information

Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the effectuation, administration, or enforcement of this chapter, or any order or regulation issued under this chapter.

(3) Confidentiality

(A) In general

Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) Availability of information

Except as otherwise provided in this chapter, information obtained under this chapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(C) Other exceptions

Nothing in subparagraph (A) may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by the person.

(4) Penalty

Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if such person is an agent of the Board or an officer or employee of the Department, shall be removed from office.

(5) Withholding information

Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(6) Time requirement

The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal year of the applicability of the records.

(j) Prohibition on use of funds to influence governmental action

(1) In general

Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) Exception

Paragraph (1) shall not apply to the development or recommendation of amendments to the order.

(k) Coordination

The order shall require the Board to take reasonable steps to coordinate the collection of assessments, and advertising and research activities of the Board with the National Dairy Promotion and Research Board established under section 4504(b) of this title.

(*l*) Exemptions

The order shall exempt fluid milk products exported from the United States from assessments under the order.

(m) Report

The Secretary shall provide annually for an independent evaluation of the effectiveness of the fluid milk promotion program carried out under this chapter during the previous fiscal year, in conjunction with the evaluation of the National Dairy Promotion and Research Board established under section 4504(b) of this title.

(n) Other terms and conditions

The order also shall contain such terms and conditions, not inconsistent with this chapter, as are necessary to effectuate this chapter, including regulations relating to the assessment of late payment charges.

(Pub. L. 101–624, title XIX, § 1999H, Nov. 28, 1990, 104 Stat. 3916.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6402 of this title.

§ 6408. Permissive terms

(a) In general

Each order issued under this chapter may contain one or more of the terms and conditions described in this section.

(b) Advertising

The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising of fluid milk products and the use of funds collected under this chapter for such programs or projects.

(c) Research and development

The order may provide for establishing and carrying out research projects and studies to support the advertising efforts for fluid milk products, and the use of funds collected under the order for such projects and studies.

(d) Reserve funds

The order may provide authority to accumulate reserve funds from assessments collected pursuant to the order, to permit an effective and continuous coordinated program of research and advertising in years when the assessment income may be reduced, except that the total reserve fund may not exceed 25 percent of the amount budgeted for the operation in the current fiscal year of the order.

(e) Other terms

The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter as are necessary to effectuate the other provisions of the order.

(Pub. L. 101–624, title XIX, § 1999I, Nov. 28, 1990, 104 Stat. 3920.)

§ 6409. Assessments

(a) In general

The order shall provide that each fluid milk processor shall pay an assessment on each unit of fluid milk product that such person processes and markets commercially in consumer-type packages in the United States.

(b) No effect on producer prices

Such assessments shall not—

(1) reduce the prices paid under the Federal milk marketing orders issued under section 608c of this title;

(2) otherwise be deducted from the amounts that handlers must pay to producers for fluid milk products sold to a processor; or

(3) otherwise be deducted from the price of milk paid to a producer by a handler, as determined by the Secretary.

(c) Remitting assessments

(1) In general

Assessments required under subsection (a) of this section shall be remitted by the fluid milk processor directly to the Board in accordance with the order and regulations issued by the Secretary.

(2) Time to remit assessment

Each processor who is responsible for the remittance of an assessment under paragraph (1) shall remit the assessment to the Board not later than the last day of the month following the month that the milk being assessed was marketed.

(3) Verification

Remittances shall be verified by market administrators and State regulatory officials, and local and State Agricultural Stabilization and Conservation Service offices, as provided by the Secretary.

(d) Limitation on assessments

Not more than one assessment may be assessed under this section for the purposes of this chapter on a processor for any unit of fluid milk product.

(e) Producer-handlers

Producer-handlers that are required to pay the assessment imposed under section 4504(g) of this title, and that are fluid milk processors, shall also be responsible for the additional assessment imposed by this section.

(f) Processor assessment rate

Except as provided in section 6415(b) of this title, the rate of assessment prescribed by the order shall be 20 cents per hundredweight of fluid milk products marketed.

(Pub. L. 101–624, title XIX, § 1999J, Nov. 28, 1990, 104 Stat. 3921; Pub. L. 103–72, § 2(b), Aug. 11, 1993, 107 Stat. 717.)

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–72 inserted ", and that are fluid milk processors," after "section 4504(g) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6407 of this title.

§ 6410. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(Pub. L. 101–624, title XIX, § 1999K, Nov. 28, 1990, 104 Stat. 3921.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6402, 6412 of this title.

§ 6411. Enforcement

(a) Jurisdiction

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under subsection (c) of this section.

(c) Civil penalties and orders

(1) Civil penalties

Any person who violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation; or

(B) in the case of a willful failure or refusal to pay, collect, or remit any assessment or fee duly required of the person under this chapter or a regulation issued under this chapter, a civil penalty by the Secretary of not less than $10,000 nor more than $100,000 for each such violation.

Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing such violation.

(3) Notice and hearing

No penalty shall be assessed or cease-and-desist order issued by the Secretary unless the person against whom the penalty is assessed or the order issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease-

and-desist order issued under subsection (c) of this section may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 101–624, title XIX, §1999L, Nov. 28, 1990, 104 Stat. 3922; Pub. L. 102–237, title VIII, §809, Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237 substituted ''this section'' for ''this subsection'' after ''brought under''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6402, 6412 of this title.

§ 6412. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) In general

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6410 or 6411 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6410 or 6411 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101–624, title XIX, §1999M, Nov. 28, 1990, 104 Stat. 3924.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6402 of this title.

§ 6413. Requirement of initial referendum

(a) In general

Within the 60-day period immediately preceding the effective date of an order issued under section 6405(a) of this title, the Secretary shall conduct a referendum among fluid milk processors to ascertain whether the order shall go into effect.

(b) Implementation

If, as a result of the referendum conducted under subsection (a) of this section, the Secretary determines that implementation of the order is favored—

(1) by at least 50 percent of fluid milk processors voting in the referendum; and

(2) by fluid milk processors voting in the referendum that marketed during the representative period, as determined by the Secretary, 60 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the referendum;

the order shall become effective as provided in section 6405(b) of this title.

(c) Costs of referendum

The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this chapter.

(d) Manner

(1) In general

Referenda conducted pursuant to this chapter shall be conducted in a manner determined by the Secretary.

(2) Advance registration

A fluid milk processor who chooses to vote in any referendum conducted under this chapter shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) Voting

A fluid milk processor who votes in any referendum conducted under this chapter shall vote in accordance with procedures established by the Secretary. The ballots and other information or reports that reveal or tend to reveal the vote of any processor shall be held strictly confidential.

(4) Notice

The Secretary shall notify all processors at least 30 days prior to a referendum conducted under this chapter. The notice shall explain the procedure established under this subsection.

(Pub. L. 101–624, title XIX, § 1999N, Nov. 28, 1990, 104 Stat. 3924; Pub. L. 104–127, title I, § 146(d)(1), Apr. 4, 1996, 110 Stat. 919.)

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–127 substituted ''fluid milk processors voting in the referendum;'' for ''all processors;''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6405, 6414, 6415 of this title.

§ 6414. Suspension or termination of orders

(a) Termination of order

Any order effective under this chapter shall be terminated December 31, 2002. The Secretary shall—

(1) terminate the collection of assessments under the order upon such date; and

(2) terminate activities under the order in an orderly manner as soon as practicable after such date.

(b) Suspension or termination by Secretary

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of the order or provision.

(c) Other referenda

(1) In general

The Secretary may conduct at any time a referendum of persons who, during a representative period as determined by the Secretary, have been fluid milk processors on whether to suspend or terminate the order, and shall hold such a referendum on request of the Board or any group of such processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

(2) Suspension or termination

If the Secretary determines that the suspension or termination is favored—

(A) by at least 50 percent of fluid milk processors voting in the referendum; and

(B) by fluid milk processors voting in the referendum that marketed during a representative period, as determined by the Secretary, 40 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the referendum;

the Secretary shall, within 6 months after making the determination, suspend or terminate, as appropriate, collection of assessments under the order, and suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(3) Costs; manner

Subsections (c) and (d) of section 6413 of this title shall apply to a referendum conducted under this subsection.

(Pub. L. 101–624, title XIX, § 1999O, Nov. 28, 1990, 104 Stat. 3925; (As amended Pub. L. 104–127, title I, § 146(d)(2), (e), Apr. 4, 1996, 110 Stat. 919.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127, § 146(e), substituted ''2002'' for ''1996'' in introductory provisions.

Subsec. (c)(1). Pub. L. 104–127, § 146(d)(2)(A), substituted ''fluid milk processors voting in the preceding referendum'' for ''all processors''.

Subsec. (c)(2)(B). Pub. L. 104–127, § 146(d)(2)(B), substituted ''fluid milk processors voting in the referendum;'' for ''all processors;''.

§ 6415. Amendments

(a) Amendments to order

Subject to subsection (b) of this section, the Secretary may issue such amendments to an order as may be necessary to carry out this chapter.

(b) Amendment to assessment rates

(1) In general

The Secretary may conduct at any time a referendum of persons who, during a rep-

resentative period as determined by the Secretary, have been fluid milk processors on adjusting the assessment rate under the order issued under this chapter then in effect, and shall hold such a referendum on request of the Board or any group of such processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors.

(2) Adjustment to assessment rate

The Secretary shall adjust the assessment rate under the order whenever the Secretary determines that the adjustment is favored—

(A) by at least 50 percent of fluid milk processors voting in the referendum; and

(B) by fluid milk processors that marketed during a representative period, as determined by the Secretary, 60 percent or more of the volume of fluid milk products marketed by all processors;

In no event shall the rate of assessment prescribed by the order exceed 20 cents per hundredweight.

(3) Effective date

The adjusted assessment rate shall be effective on a date, as determined by the Secretary, after the results of the referendum are known, but not later than 30 days after the referendum.

(4) Costs; manner

Subsections (c) and (d) of section 6413 of this title shall apply to a referendum conducted under this subsection.

(Pub. L. 101–624, title XIX, §1999P, Nov. 28, 1990, 104 Stat. 3926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6409 of this title.

§ 6416. Independent evaluation of programs

(a) Review and evaluation

The Comptroller General of the United States shall review and evaluate the order to—

(1) determine the effectiveness of the promotion program conducted under this chapter on fluid milk sales;

(2) determine if the assessments for the program have been passed back to milk producers by fluid milk processors; and

(3) make recommendations for future funding and assessment levels for the program.

(b) Report to Congress

The Comptroller General shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the valuations made under this section no later than January 1, 1995.

(Pub. L. 101–624, title XIX, §1999Q, Nov. 28, 1990, 104 Stat. 3926.)

§ 6417. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) Administrative expenses

The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

(Pub. L. 101–624, title XIX, §1999R, Nov. 28, 1990, 104 Stat. 3926.)

CHAPTER 94—ORGANIC CERTIFICATION

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(b) Appeal of final decision.
6521. Administration.
(a) Regulations.
(b) Assistance to State.
6522. Authorization of appropriations.

§ 6501. Purposes

It is the purpose of this chapter—

(1) to establish national standards governing the marketing of certain agricultural products as organically produced products;

(2) to assure consumers that organically produced products meet a consistent standard; and

(3) to facilitate interstate commerce in fresh and processed food that is organically produced.

(Pub. L. 101–624, title XXI, § 2102, Nov. 28, 1990, 104 Stat. 3935.)

SHORT TITLE

Section 2101 of title XXI of Pub. L. 101–624 provided that: ''This title [enacting this chapter] may be cited as the 'Organic Foods Production Act of 1990'.''

§ 6502. Definitions

As used in this chapter:

(1) Agricultural product

The term ''agricultural product'' means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption.

(2) Botanical pesticides

The term ''botanical pesticides'' means natural pesticides derived from plants.

(3) Certifying agent

The term ''certifying agent'' means the chief executive officer of a State or, in the case of a State that provides for the Statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official, and any person (including private entities) who is accredited by the Secretary as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation in accordance with this chapter.

(4) Certified organic farm

The term ''certified organic farm'' means a farm, or portion of a farm, or site where agricultural products or livestock are produced, that is certified by the certifying agent under this chapter as utilizing a system of organic farming as described by this chapter.

(5) Certified organic handling operation

The term ''certified organic handling operation'' means any operation, or portion of any handling operation, that is certified by the certifying agent under this chapter as utilizing a system of organic handling as described under this chapter.

(6) Crop year

The term ''crop year'' means the normal growing season for a crop as determined by the Secretary.

(7) Governing State official

The term ''governing State official'' means the chief executive official of a State or, in the case of a State that provides for the Statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official, who administers an organic certification program under this chapter.

(8) Handle

The term ''handle'' means to sell, process or package agricultural products.

(9) Handler

The term ''handler'' means any person engaged in the business of handling agricultural products, except such term shall not include final retailers of agricultural products that do not process agricultural products.

(10) Handling operation

The term ''handling operation'' means any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that—

(A) receives or otherwise acquires agricultural products; and

(B) processes, packages, or stores such products.

(11) Livestock

The term ''livestock'' means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

(12) National List

The term ''National List'' means a list of approved and prohibited substances as provided for in section 6517 of this title.

(13) Organic plan

The term ''organic plan'' means a plan of management of an organic farming or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in this chapter including crop rotation and other practices as required under this chapter.

(14) Organically produced

The term ''organically produced'' means an agricultural product that is produced and handled in accordance with this chapter.

(15) Person

The term ''person'' means an individual, group of individuals, corporation, association, organization, cooperative, or other entity.

(16) Pesticide

The term ''pesticide'' means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(17) Processing

The term ''processing'' means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

(18) Producer

The term ''producer'' means a person who engages in the business of growing or producing food or feed.

(19) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(20) State organic certification program

The term ''State organic certification program'' means a program that meets the requirements of section 6506 of this title, is approved by the Secretary, and that is designed to ensure that a product that is sold or labeled as ''organically produced'' under this chapter is produced and handled using organic methods.

(21) Synthetic

The term ''synthetic'' means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

(Pub. L. 101–624, title XXI, §2103, Nov. 28, 1990, 104 Stat. 3935.)

REFERENCES IN TEXT

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in par. (16), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

§ 6503. National organic production program

(a) In general

The Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this chapter.

(b) State program

In establishing the program under subsection (a) of this section, the Secretary shall permit each State to implement a State organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this chapter.

(c) Consultation

In developing the program under subsection (a) of this section, and the National List under section 6517 of this title, the Secretary shall consult with the National Organic Standards Board established under section 6518 of this title.

(d) Certification

The Secretary shall implement the program established under subsection (a) of this section through certifying agents. Such certifying agents may certify a farm or handling operation that meets the requirements of this chapter and the requirements of the organic certification program of the State (if applicable) as an organically certified farm or handling operation.

(Pub. L. 101–624, title XXI, §2104, Nov. 28, 1990, 104 Stat. 3937.)

§ 6504. National standards for organic production

To be sold or labeled as an organically produced agricultural product under this chapter, an agricultural product shall—

(1) have been produced and handled without the use of synthetic chemicals, except as otherwise provided in this chapter;

(2) except as otherwise provided in this chapter and excluding livestock, not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of the agricultural products; and

(3) be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the certifying agent.

(Pub. L. 101–624, title XXI, §2105, Nov. 28, 1990, 104 Stat. 3937; Pub. L. 102–237, title X, §1001(1), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Par. (2). Pub. L. 102–237 substituted ''; and'' for period at end.

§ 6505. Compliance requirements

(a) Domestic products

(1) In general

On or after October 1, 1993—

(A) a person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this chapter; and

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this chapter.

(2) USDA standards and seal

A label affixed, or other market information provided, in accordance with paragraph (1) may indicate that the agricultural product meets Department of Agriculture standards for organic production and may incorporate the Department of Agriculture seal.

(b) Imported products

Imported agricultural products may be sold or labeled as organically produced if the Secretary determines that such products have been produced and handled under an organic certification program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of this chapter.

(c) Exemptions for processed food

Subsection (a) of this section shall not apply to agricultural products that—

(1) contain at least 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word ''organic'' to be used on the principal display panel of such products only for the purpose of describing the organically produced ingredients; or

(2) contain less than 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word ''organic'' to appear on the ingredient listing panel to describe those ingredients that are organically produced in accordance with this chapter.

(d) Small farmer exemption

Subsection (a)(1) of this section shall not apply to persons who sell no more than $5,000 annually in value of agricultural products.

(Pub. L. 101–624, title XXI, § 2106, Nov. 28, 1990, 104 Stat. 3937.)

§ 6506. General requirements

(a) In general

A program established under this chapter shall—

(1) provide that an agricultural product to be sold or labeled as organically produced must—

(A) be produced only on certified organic farms and handled only through certified organic handling operations in accordance with this chapter; and

(B) be produced and handled in accordance with such program;

(2) require that producers and handlers desiring to participate under such program establish an organic plan under section 6513 of this title;

(3) provide for procedures that allow producers and handlers to appeal an adverse administrative determination under this chapter;

(4) require each certified organic farm or each certified organic handling operation to certify to the Secretary, the governing State official (if applicable), and the certifying agent on an annual basis, that such farm or handler has not produced or handled any agricultural product sold or labeled as organically produced except in accordance with this chapter;

(5) provide for annual on-site inspection by the certifying agent of each farm and handling operation that has been certified under this chapter;

(6) require periodic residue testing by certifying agents of agricultural products that have been produced on certified organic farms and handled through certified organic handling operations to determine whether such products contain any pesticide or other nonorganic residue or natural toxicants and to require certifying agents, to the extent that such agents are aware of a violation of applicable laws relating to food safety, to report such violation to the appropriate health agencies;

(7) provide for appropriate and adequate enforcement procedures, as determined by the Secretary to be necessary and consistent with this chapter;

(8) protect against conflict-of-interest as specified under section 6515(h) of this title;

(9) provide for public access to certification documents and laboratory analyses that pertain to certification;

(10) provide for the collection of reasonable fees from producers, certifying agents and handlers who participate in such program; and

(11) require such other terms and conditions as may be determined by the Secretary to be necessary.

(b) Discretionary requirements

An organic certification program established under this chapter may—

(1) provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if—

(A) in the case of a farm or field, the area to be certified has distinct, defined boundaries and buffer zones separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods;

(B) the operators of such farm or handling operation maintain records of all organic operations separate from records relating to other operations and make such records available at all times for inspection by the

Secretary, the certifying agent, and the governing State official; and

(C) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified area; and

(2) provide for reasonable exemptions from specific requirements of this chapter (except the provisions of section 6511 of this title) with respect to agricultural products produced on certified organic farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(c) State program

A State organic certification program approved under this chapter may contain additional guidelines governing the production or handling of products sold or labeled as organically produced in such State as required in section 6507 of this title.

(d) Availability of fees

(1) Account

Fees collected under subsection (a)(10) of this section (including late payment penalties and interest earned from investment of the fees) shall be credited to the account that incurs the cost of the services provided under this chapter.

(2) Use

The collected fees shall be available to the Secretary, without further appropriation or fiscal-year limitation, to pay the expenses of the Secretary incurred in providing accreditation services under this chapter.

(Pub. L. 101–624, title XXI, §2107, Nov. 28, 1990, 104 Stat. 3938; Pub. L. 105–185, title VI, §601(a), June 23, 1998, 112 Stat. 585.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–185 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6502, 6515 of this title.

§ 6507. State organic certification program

(a) In general

The governing State official may prepare and submit a plan for the establishment of a State organic certification program to the Secretary for approval. A State organic certification program must meet the requirements of this chapter to be approved by the Secretary.

(b) Additional requirements

(1) Authority

A State organic certification program established under subsection (a) of this section may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of agricultural products that are to be sold or labeled as organically produced under this chapter than are contained in the program established by the Secretary.

(2) Content

Any additional requirements established under paragraph (1) shall—

(A) further the purposes of this chapter;

(B) not be inconsistent with this chapter;

(C) not be discriminatory towards agricultural commodities organically produced in other States in accordance with this chapter; and

(D) not become effective until approved by the Secretary.

(c) Review and other determinations

(1) Subsequent review

The Secretary shall review State organic certification programs not less than once during each 5-year period following the date of the approval of such programs.

(2) Changes in program

The governing State official, prior to implementing any substantive change to programs approved under this subsection, shall submit such change to the Secretary for approval.

(3) Time for determination

The Secretary shall make a determination concerning any plan, proposed change to a program, or a review of a program not later than 6 months after receipt of such plan, such proposed change, or the initiation of such review.

(Pub. L. 101–624, title XXI, §2108, Nov. 28, 1990, 104 Stat. 3939.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6506 of this title.

§ 6508. Prohibited crop production practices and materials

(a) Seed, seedlings and planting practices

For a farm to be certified under this chapter, producers on such farm shall not apply materials to, or engage in practices on, seeds or seedlings that are contrary to, or inconsistent with, the applicable organic certification program.

(b) Soil amendments

For a farm to be certified under this chapter, producers on such farm shall not—

(1) use any fertilizers containing synthetic ingredients or any commercially blended fertilizers containing materials prohibited under this chapter or under the applicable State organic certification program; or

(2) use as a source of nitrogen: phosphorous, lime, potash, or any materials that are inconsistent with the applicable organic certification program.

(c) Crop management

For a farm to be certified under this chapter, producers on such farm shall not—

(1) use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, as determined by the applicable governing State official or the Secretary;

(2) use plastic mulches, unless such mulches are removed at the end of each growing or harvest season; or

(3) use transplants that are treated with any synthetic or prohibited material.

(Pub. L. 101–624, title XXI, § 2109, Nov. 28, 1990, 104 Stat. 3940.)

§ 6509. Animal production practices and materials

(a) In general

Any livestock that is to be slaughtered and sold or labeled as organically produced shall be raised in accordance with this chapter.

(b) Breeder stock

Breeder stock may be purchased from any source if such stock is not in the last third of gestation.

(c) Practices

For a farm to be certified under this chapter as an organic farm with respect to the livestock produced by such farm, producers on such farm—

(1) shall feed such livestock organically produced feed that meets the requirements of this chapter;

(2) shall not use the following feed—

(A) plastic pellets for roughage;

(B) manure refeeding; or

(C) feed formulas containing urea; and

(3) shall not use growth promoters and hormones on such livestock, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock.

(d) Health care

(1) Prohibited practices

For a farm to be certified under this chapter as an organic farm with respect to the livestock produced by such farm, producers on such farm shall not—

(A) use subtherapeutic doses of antibiotics;

(B) use synthetic internal parasiticides on a routine basis; or

(C) administer medication, other than vaccinations, in the absence of illness.

(2) Standards

The National Organic Standards Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that such livestock is organically produced.

(e) Additional guidelines

(1) Poultry

With the exception of day old poultry, all poultry from which meat or eggs will be sold or labeled as organically produced shall be raised and handled in accordance with this chapter prior to and during the period in which such meat or eggs are sold.

(2) Dairy livestock

A dairy animal from which milk or milk products will be sold or labeled as organically produced shall be raised and handled in accordance with this chapter for not less than the 12-month period immediately prior to the sale of such milk and milk products.

(f) Livestock identification

(1) In general

For a farm to be certified under this chapter as an organic farm with respect to the livestock produced by such farm, producers on such farm shall keep adequate records and maintain a detailed, verifiable audit trail so that each animal (or in the case of poultry, each flock) can be traced back to such farm.

(2) Records

In order to carry out paragraph (1), each producer shall keep accurate records on each animal (or in the case of poultry, each flock) including—

(A) amounts and sources of all medications administered; and

(B) all feeds and feed supplements bought and fed.

(g) Notice and public comment

The Secretary shall hold public hearings and shall develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products provided under this section.

(Pub. L. 101–624, title XXI, § 2110, Nov. 28, 1990, 104 Stat. 3940; Pub. L. 102–237, title X, § 1001(2), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Subsec. (d)(1)(B). Pub. L. 102–237, § 1001(2)(A), substituted ''parasiticides'' for ''paraciticides''.

Subsecs. (g), (h). Pub. L. 102–237, § 1001(2)(B), redesignated subsec. (h) as (g).

§ 6510. Handling

(a) In general

For a handling operation to be certified under this chapter, each person on such handling operation shall not, with respect to any agricultural product covered by this chapter—

(1) add any synthetic ingredient during the processing or any postharvest handling of the product;

(2) add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the applicable organic certification program;

(3) add any sulfites, nitrates, or nitrites;

(4) add any ingredients that are not organically produced in accordance with this chapter and the applicable organic certification program, unless such ingredients are included on the National List and represent not more than 5 percent of the weight of the total finished product (excluding salt and water);

(5) use any packaging materials, storage containers or bins that contain synthetic fungicides, preservatives, or fumigants;

(6) use any bag or container that had previously been in contact with any substance in such a manner as to compromise the organic quality of such product; or

(7) use, in such product water that does not meet all Safe Drinking Water Act [42 U.S.C. 300f et seq.] requirements.

(b) Meat

For a farm or handling operation to be organically certified under this chapter, producers on

such farm or persons on such handling operation shall ensure that organically produced meat does not come in contact with nonorganically produced meat.

(Pub. L. 101–624, title XXI, § 2111, Nov. 28, 1990, 104 Stat. 3941; Pub. L. 102–237, title X, § 1001(3), Dec. 13, 1991, 105 Stat. 1893.)

REFERENCES IN TEXT

The Safe Drinking Water Act, referred to in subsec. (a)(7), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–237 substituted ''post-harvest'' for ''post harvest''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6506, 6518 of this title.

§ 6511. Additional guidelines

(a) In general

The Secretary, the applicable governing State official, and the certifying agent shall utilize a system of residue testing to test products sold or labeled as organically produced under this chapter to assist in the enforcement of this chapter.

(b) Preharvest testing

The Secretary, the applicable governing State official, or the certifying agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants.

(c) Compliance review

(1) Inspection

If the Secretary, the applicable governing State official, or the certifying agent determines that an agricultural product sold or labeled as organically produced under this chapter contains any detectable pesticide or other non-organic residue or prohibited natural substance the Secretary, the applicable governing State official, or the certifying agent shall conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler of such product to prove that any prohibited substance was not applied to such product.

(2) Removal of organic label

If, as determined by the Secretary, the applicable governing State official, or the certifying agent, the investigation conducted under paragraph (1) indicates that the residue is—

(A) the result of intentional application of a prohibited substance; or

(B) present at levels that are greater than unavoidable residual environmental contamination as prescribed by the Secretary or the applicable governing State official in consultation with the appropriate environmental regulatory agencies;

such agricultural product shall not be sold or labeled as organically produced under this chapter.

(d) Recordkeeping requirements

Producers who operate a certified organic farm or handling operation under this chapter shall maintain records for 5 years concerning the production or handling of agricultural products sold or labeled as organically produced under this chapter, including—

(1) a detailed history of substances applied to fields or agricultural products; and

(2) the names and addresses of persons who applied such substances, the dates, the rate, and method of application of such substances.

(Pub. L. 101–624, title XXI, § 2112, Nov. 28, 1990, 104 Stat. 3942; Pub. L. 102–237, title X, § 1001(4), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237 substituted ''Preharvest'' for ''Pre-harvest'' in heading.

§ 6512. Other production and handling practices

If a production or handling practice is not prohibited or otherwise restricted under this chapter, such practice shall be permitted unless it is determined that such practice would be inconsistent with the applicable organic certification program.

(Pub. L. 101–624, title XXI, § 2113, Nov. 28, 1990, 104 Stat. 3943.)

§ 6513. Organic plan

(a) In general

A producer or handler seeking certification under this chapter shall submit an organic plan to the certifying agent and the State organic certification program (if applicable), and such plan shall be reviewed by the certifying agent who shall determine if such plan meets the requirements of the programs.

(b) Crop production farm plan

(1) Soil fertility

An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

(2) Manuring

(A) Inclusion in organic plan

An organic plan shall contain terms and conditions that regulate the application of manure to crops.

(B) Application of manure

Such organic plan may provide for the application of raw manure only to—

(i) any green manure crop;

(ii) any perennial crop;

(iii) any crop not for human consumption; and

(iv) any crop for human consumption, if such crop is harvested after a reasonable period of time determined by the certifying agent to ensure the safety of such crop, after the most recent application of raw manure, but in no event shall such period be less than 60 days after such application.

(C) Contamination by manure

Such organic plan shall prohibit raw manure from being applied to any crop in a way

that significantly contributes to water contamination by nitrates or bacteria.

(c) Livestock plan

An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this chapter.

(d) Mixed crop livestock production

An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) of this section if both activities are conducted by the same producer.

(e) Handling plan

An organic handling plan shall contain provisions designed to ensure that agricultural products that are sold or labeled as organically produced are produced and handled in a manner that is consistent with the purposes of this chapter.

(f) Management of wild crops

An organic plan for the harvesting of wild crops shall—

(1) designate the area from which the wild crop will be gathered or harvested;

(2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;

(3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop; and

(4) include provisions that no prohibited substances will be applied by the producer.

(g) Limitation on content of plan

An organic plan shall not include any production or handling practices that are inconsistent with this chapter.

(Pub. L. 101–624, title XXI, § 2114, Nov. 28, 1990, 104 Stat. 3943.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6506 of this title.

§ 6514. Accreditation program

(a) In general

The Secretary shall establish and implement a program to accredit a governing State official, and any private person, that meets the requirements of this section as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation.

(b) Requirements

To be accredited as a certifying agent under this section, a governing State official or private person shall—

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this section and section 6515 of this title.

(c) Duration of designation

An accreditation made under this section shall be for a period of not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

(Pub. L. 101–624, title XXI, § 2115, Nov. 28, 1990, 104 Stat. 3944.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6515, 6516 of this title.

§ 6515. Requirements of certifying agents

(a) Ability to implement requirements

To be accredited as a certifying agent under section 6514 of this title, a governing State official or a person shall be able to fully implement the applicable organic certification program established under this chapter.

(b) Inspectors

Any certifying agent shall employ a sufficient number of inspectors to implement the applicable organic certification program established under this chapter, as determined by the Secretary.

(c) Recordkeeping

(1) Maintenance of records

Any certifying agent shall maintain all records concerning its activities under this chapter for a period of not less than 10 years.

(2) Access for Secretary

Any certifying agent shall allow representatives of the Secretary and the governing State official access to any and all records concerning the certifying agent's activities under this chapter.

(3) Transference of records

If any private person that was certified under this chapter is dissolved or loses its accreditation, all records or copies of records concerning such person's activities under this chapter shall be transferred to the Secretary and made available to the applicable governing State official.

(d) Agreement

Any certifying agent shall enter into an agreement with the Secretary under which such agent shall—

(1) agree to carry out the provisions of this chapter; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(e) Private certifying agent agreement

Any certifying agent that is a private person shall, in addition to the agreement required in subsection (d) of this section—

(1) agree to hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of this chapter; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the applicable organic certification program established under this chapter.

(f) Compliance with program

Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this chapter.

(g) Confidentiality

Except as provided in section 6506(a)(9) of this title, any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this chapter.

(h) Conflict of interest

Any certifying agent shall not—

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(i) Administrator

A certifying agent that is a private person shall nominate the individual who controls the day-to-day operation of the agent.

(j) Loss of accreditation

(1) Noncompliance

If the Secretary or the governing State official (if applicable) determines that a certifying agent is not properly adhering to the provisions of this chapter, the Secretary or such governing State official may suspend such certifying agent's accreditation.

(2) Effect on certified operations

If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by such certifying agent may retain their organic certification.

(Pub. L. 101–624, title XXI, §2116, Nov. 28, 1990, 104 Stat. 3944; Pub. L. 102–237, title X, §1001(5), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Subsec. (j)(2). Pub. L. 102–237 substituted ''such certifying'' for ''certifying such''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6506, 6514, 6518 of this title.

§ 6516. Peer review of certifying agents

(a) Peer review

In determining whether to approve an application for accreditation submitted under section 6514 of this title, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b) of this section.

(b) Peer review panel

To assist the Secretary in evaluating applications under section 6514 of this title, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

(Pub. L. 101–624, title XXI, §2117, Nov. 28, 1990, 104 Stat. 3945.)

§ 6517. National List

(a) In general

The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production and handling established under this chapter in order for such products to be sold or labeled as organically produced under this chapter.

(b) Content of list

The list established under subsection (a) of this section shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) of this section or each natural substance prohibited under subsection (c)(2) of this section.

(c) Guidelines for prohibitions or exemptions

(1) Exemption for prohibited substances

The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this chapter only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the agricultural product because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming and handling;

(B) the substance—

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock parasiticides and medicines and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers;

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inerts of toxicological concern; or

(iii) is used in handling and is non-synthetic but is not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d) of this section.

(2) Prohibition on the use of specific natural substances

The National List may prohibit the use of specific natural substances in an organic farming or handling operation that are otherwise allowed under this chapter only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming or handling, and the purposes of this chapter; and

(B) the specific prohibition is developed using the procedures specified in subsection (d) of this section.

(d) Procedure for establishing National List

(1) In general

The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.

(2) No additions

The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.

(3) Prohibited substances

In no instance shall the National List include any substance, the presence of which in food has been prohibited by Federal regulatory action.

(4) Notice and comment

Before establishing the National List or before making any amendments to the National List, the Secretary shall publish the Proposed National List or any Proposed Amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such Notice any changes to such proposed list or amendments recommended by the Secretary.

(5) Publication of National List

After evaluating all comments received concerning the Proposed National List or Proposed Amendments to the National List, the Secretary shall publish the final National List in the Federal Register, along with a discussion of comments received.

(e) Sunset provision

No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed and the Secretary has renewed such exemption or prohibition.

(Pub. L. 101–624, title XXI, § 2118, Nov. 28, 1990, 104 Stat. 3946; Pub. L. 102–237, title X, § 1001(6), Dec. 13, 1991, 105 Stat. 1893.)

AMENDMENTS

1991—Subsec. (c)(1)(B)(i). Pub. L. 102–237 substituted ''parasiticides'' for ''paraciticides''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6502, 6503, 6518 of this title.

§ 6518. National Organic Standards Board

(a) In general

The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act) (hereafter referred to in this section as the ''Board'') to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this chapter.

(b) Composition of Board

The Board shall be composed of 15 members, of which—

(1) four shall be individuals who own or operate an organic farming operation;

(2) two shall be individuals who own or operate an organic handling operation;

(3) one shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) three shall be individuals with expertise in areas of environmental protection and resource conservation;

(5) three shall be individuals who represent public interest or consumer interest groups;

(6) one shall be an individual with expertise in the fields of toxicology, ecology, or biochemistry; and

(7) one shall be an individual who is a certifying agent as identified under section 6515 of this title.

(c) Appointment

Not later than 180 days after November 28, 1990, the Secretary shall appoint the members of the Board under paragraph (1) through (6) of subsection (b) of this section (and under subsection (b)(7) of this section at an appropriate date after the certification of individuals as certifying agents under section 6515 of this title) from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) Term

A member of the Board shall serve for a term of 5 years, except that the Secretary shall appoint the original members of the Board for staggered terms. A member cannot serve consecutive terms unless such member served an original term that was less than 5 years.

(e) Meetings

The Secretary shall convene a meeting of the Board not later than 60 days after the appointment of its members and shall convene subsequent meetings on a periodic basis.

(f) Compensation and expenses

A member of the Board shall serve without compensation. While away from their homes or regular places of business on the business of the Board, members of the Board may be allowed

travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5 for persons employed intermittently in the Government service.

(g) Chairperson

The Board shall select a Chairperson for the Board.

(h) Quorum

A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(i) Decisive votes

Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(j) Other terms and conditions

The Secretary shall authorize the Board to hire a staff director and shall detail staff of the Department of Agriculture or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by such Board in carrying out the provisions of this chapter, as determined appropriate by the Secretary.

(k) Responsibilities of Board

(1) In general

The Board shall provide recommendations to the Secretary regarding the implementation of this chapter.

(2) National List

The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 6517 of this title.

(3) Technical advisory panels

The Board shall convene technical advisory panels to provide scientific evaluation of the materials considered for inclusion in the National List. Such panels may include experts in agronomy, entomology, health sciences and other relevant disciplines.

(4) Special review of botanical pesticides

The Board shall, prior to the establishment of the National List, review all botanical pesticides used in agricultural production and consider whether any such botanical pesticide should be included in the list of prohibited natural substances.

(5) Product residue testing

The Board shall advise the Secretary concerning the testing of organically produced agricultural products for residues caused by unavoidable residual environmental contamination.

(6) Emergency spray programs

The Board shall advise the Secretary concerning rules for exemptions from specific requirements of this chapter (except the provisions of section 6511 of this title) with respect to agricultural products produced on certified organic farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

***(l)* Requirements**

In establishing the proposed National List or proposed amendments to the National List, the Board shall—

(1) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National List;

(2) work with manufacturers of substances considered for inclusion in the proposed National List to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National List or any proposed amendments to such list, the results of the Board's evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

(m) Evaluation

In evaluating substances considered for inclusion in the proposed National List or proposed amendment to the National List, the Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

(n) Petitions

The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating substances for inclusion on the National List.

***(o)* Confidentiality**

Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.

(Pub. L. 101–624, title XXI, §2119, Nov. 28, 1990, 104 Stat. 3947; Pub. L. 102–237, title X, §1001(7), Dec. 13, 1991, 105 Stat. 1893.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as

amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''to assist'' for ''(to assist''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6503 of this title.

§ 6519. Violations of chapter

(a) Misuse of label

Any person who knowingly sells or labels a product as organic, except in accordance with this chapter, shall be subject to a civil penalty of not more than $10,000.

(b) False statement

Any person who makes a false statement under this chapter to the Secretary, a governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18.

(c) Ineligibility

(1) In general

Except as provided in paragraph (2), any person who—

(A) makes a false statement;

(B) attempts to have a label indicating that an agricultural product is organically produced affixed to such product that such person knows, or should have reason to know, to have been produced or handled in a manner that is not in accordance with this chapter; or

(C) otherwise violates the purposes of the applicable organic certification program as determined by the Secretary;

after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years from the date of such occurrence, to receive certification under this chapter with respect to any farm or handling operation in which such person has an interest.

(2) Waiver

Notwithstanding paragraph (1), the Secretary may reduce or eliminate the period of ineligibility referred to in such paragraph if the Secretary determines that such modification or waiver is in the best interests of the applicable organic certification program established under this chapter.

(d) Reporting of violations

A certifying agent shall immediately report any violations of this chapter to the Secretary or the governing State official (if applicable).

(e) Violations by certifying agent

A certifying agent that is a private person that violates the provisions of this chapter or that falsely or negligently certifies any farming or handling operation that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the governing State official (if applicable) shall, after notice and an opportunity to be heard—

(1) lose its accreditation as a certifying agent under this chapter; and

(2) be ineligible to be accredited as a certifying agent under this chapter for a period of not less than 3 years subsequent to the date of such determination.

(f) Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) concerning meat, poultry and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug[1] and Cosmetic Act (21 U.S.C. 301 et seq.), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide[1] and Rodenticide Act (7 U.S.C. 136 et seq.).

(Pub. L. 101–624, title XXI, § 2120, Nov. 28, 1990, 104 Stat. 3949; Pub. L. 102–237, title X, § 1001(8), Dec. 13, 1991, 105 Stat. 1893.)

REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (f), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Dec. 15, 1967, Pub. L. 90–201, 81 Stat. 584, and amended, which are classified generally to subchapters I to IV (§ 601 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (f), is Pub. L. 85–172, Aug. 28, 1957, 71 Stat. 441, as amended, which is classified generally to chapter 10 (§ 451 et seq.) of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

The Egg Products Inspection Act, referred to in subsec. (f), is Pub. L. 91–597, Dec. 29, 1970, 84 Stat. 1620, as amended, which is classified generally to chapter 15 (§ 1031 et seq.) of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of Title 21 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (f), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (f), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

AMENDMENTS

1991—Subsec. (f). Pub. L. 102–237 inserted comma after ''601 et seq.)''.

§ 6520. Administrative appeal

(a) Expedited appeals procedure

The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this chapter that—

(1) adversely affects such person; or

(2) is inconsistent with the organic certification program established under this chapter.

(b) Appeal of final decision

A final decision of the Secretary under subsection (a) of this section may be appealed to

[1] So in original. Probably should be followed by a comma.

the United States district court for the district in which such person is located.

(Pub. L. 101–624, title XXI, § 2121, Nov. 28, 1990, 104 Stat. 3950; Pub. L. 102–237, title X, § 1001(9), Dec. 13, 1991, 105 Stat. 1894.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–237 substituted ''district court for the district'' for ''District Court for the District''.

§ 6521. Administration

(a) Regulations

Not later than 540 days after November 28, 1990, the Secretary shall issue proposed regulations to carry out this chapter.

(b) Assistance to State

(1) Technical and other assistance

The Secretary shall provide technical, administrative, and Extension Service assistance to assist States in the implementation of an organic certification program under this chapter.

(2) Financial assistance

The Secretary may provide financial assistance to any State that implements an organic certification program under this chapter.

(Pub. L. 101–624, title XXI, § 2122, Nov. 28, 1990, 104 Stat. 3951.)

§ 6522. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this chapter.

(Pub. L. 101–624, title XXI, § 2123, Nov. 28, 1990, 104 Stat. 3951.)

CHAPTER 95—RURAL REVITALIZATION THROUGH FORESTRY

SUBCHAPTER I—FORESTRY RURAL REVITALIZATION

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SUBCHAPTER I—FORESTRY RURAL REVITALIZATION

§ 6601. Forestry rural revitalization

(a) Establishment of economic development and global marketing program

The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.

(b) Activities

Each program established under subsection (a) of this section shall—

(1) transfer technologies to natural resource-based industries in the United States to make such industries more efficient, productive, and competitive;

(2) assist businesses to identify global marketing opportunities, conduct business on an international basis, and market themselves more effectively; and

(3) train local leaders in strategic community economic development.

(c) Types of programs

The Secretary of Agriculture shall establish specific programs under subsection (a) of this section to—

(1) deliver educational services focused on community economic analysis, economic diversification, economic impact analysis, retention and expansion of existing commodity and noncommodity industries, amenity resource and tourism development, and entrepreneurship focusing on forest lands and rural communities;

(2) use Cooperative Extension System databases and analytical tools to help communities diversify their economic bases, add value locally to raw forest product materials, and retain revenues by helping to develop local businesses and industries to supply forest products locally; and

(3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.

(Pub. L. 101–624, title XXIII, § 2371, Nov. 28, 1990, 104 Stat. 4045.)

SHORT TITLE

Section 2372 of Pub. L. 101–624 provided that: ''This chapter [chapter 2 (§§ 2372–2379) of subtitle G of title

XXIII of Pub. L. 101–624, enacting subchapter II (§ 6611 et seq.) of this chapter] may be cited as the 'National Forest-Dependent Rural Communities Economic Diversification Act of 1990'.''

SUBCHAPTER II—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

§ 6611. Findings and purposes

(a) Findings

The Congress finds that—

(1) the economic well-being of rural America is vital to our national growth and prosperity;

(2) the economic well-being of many rural communities depends upon the goods and services that are derived from National Forest System land;

(3) the economies of many of these communities suffer from a lack of industrial and business diversity;

(4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on National Forest System land by Federal and private organizations may disrupt the supply of those resources;

(5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on natural resources;

(6) the Forest Service has the technical expertise to provide leadership, in cooperation with other governmental agencies and the private sector, to assist rural communities dependent upon National Forest System land resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

(7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.

(b) Purposes

The purposes of this subchapter are—

(1) to provide assistance to rural communities that are located in or near National Forest System land and that are economically dependent upon natural resources or are likely to be economically disadvantaged by Federal or private sector land management practices;

(2) to aid in diversifying such communities' economic bases; and

(3) to improve the economic, social, and environmental well-being of rural America.

(Pub. L. 101–624, title XXIII, § 2373, Nov. 28, 1990, 104 Stat. 4046; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–203.)

AMENDMENTS

1999—Subsec. (a)(2). Pub. L. 106–113, § 1000(a)(3) [title III, § 345(a)(1)(A)], substituted ''National Forest System land;'' for ''national forests;''.

Subsec. (a)(4). Pub. L. 106–113, § 1000(a)(3) [title III, § 345(a)(1)(B)], substituted ''National Forest System land'' for ''the national forests''.

Subsec. (a)(5). Pub. L. 106–113, § 1000(a)(3) [title III, § 345(a)(1)(C)], substituted ''natural resources;'' for ''forest resources;''.

Subsec. (a)(6). Pub. L. 106–113, § 1000(a)(3) [title III, § 345(a)(1)(D)], substituted ''National Forest System land resources'' for ''national forest resources''.

Subsec. (b)(1). Pub. L. 106–113, § 1000(a)(3) [title III, § 345(a)(2)], substituted ''National Forest System land'' for ''national forests'' and ''natural resources'' for ''forest resources''.

§ 6612. Definitions

As used in this subchapter:

(1) The term ''action team'' means a rural natural resources and economic diversification action team established by the Secretary pursuant to section 6613(b) of this title.

(2) The term ''economically disadvantaged'' means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest.

(3) The term ''rural community'' means—

(A) any town, township, municipality, or other similar unit of general purpose local government, or any area represented by a not-for-profit corporation or institution organized under State or Federal law to promote broad based economic development, or unit of general purpose local government, as approved by the Secretary, that has a population of not more than 10,000 individuals, is located within a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation, forage production, and tourism and that is located within the boundary, or within 100 miles of the boundary, of a national forest; or

(B) any county that is not contained within a Metropolitan Statistical Area as defined by the United States Office of Management and Budget, in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation, forage production, and tourism and that is located within the boundary, or within 100 miles of the boundary, of a national forest.

(4) The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 101–624, title XXIII, § 2374, Nov. 28, 1990, 104 Stat. 4046; Pub. L. 103–115, Oct. 26, 1993, 107 Stat. 1117; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–203.)

AMENDMENTS

1999—Par. (1). Pub. L. 106–113 substituted ''natural resources'' for ''forestry''.

1993—Par. (3). Pub. L. 103–115 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'rural community' means—

''(A) any town, township, municipality, or other similar unit of general purpose local government having a population of not more than 10,000 individuals (according to the latest decennial census) that is located in a county where at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism; or

''(B) any county or similar unit of general purpose local government having a population of not more than 22,550 individuals (according to the latest decennial census) in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism,

that is located within the boundary, or within 100 miles of the boundary, of a national forest.''

§ 6613. Rural natural resources and economic diversification action teams

(a) Requests for assistance

Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification and revitalization.

(b) Establishment

Upon request, the Secretary may establish rural natural resources and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon National Forest System land resources. The action team may also identify opportunities to use value-added products and services derived from National Forest System land resources.

(c) Organization

The Secretary shall design and organize any action team established pursuant to subsection (b) of this section to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.

(d) Cooperation

In preparing action plans, the Secretary may cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.

(e) Eligibility

The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives a grant for technical assistance to an economically disadvantaged community under this subchapter and a grant for assistance under a designated rural development program during any continuous five-year period.

(f) Approval

After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall approve and implement in accordance with section 6614 of this title those action plans that will achieve the purposes of this subchapter.

(g) "Designated rural development program" defined

In this section, the term ''designated rural development program'' means a program carried out under section 1924(b), 1926(a), or 1932(e) of this title for which funds are available at any time during the fiscal year.

(Pub. L. 101–624, title XXIII, § 2375, Nov. 28, 1990, 104 Stat. 4047; Pub. L. 104–127, title VII, § 753(b)(1), Apr. 4, 1996, 110 Stat. 1131; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(c)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–113 substituted ''natural resources'' for ''forestry'' and substituted ''National Forest System land resources'' for ''national forest resources'' in two places.

1996—Subsec. (e). Pub. L. 104–127, § 753(b)(1)(A), struck out '', as defined in section 2008(b)(2) of this title,'' before ''during any''.

Subsec. (g). Pub. L. 104–127, § 753(b)(1)(B), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6612 of this title.

§ 6614. Action plan implementation

(a) In general

Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use natural resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on National Forest System land resources.

(b) Assistance

To implement action plans, the Secretary may make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations, and other persons.

(c) Limitation

The Federal contribution to the overall implementation of an action plan shall not exceed 80 percent of the total cost of the plan, including administrative and other costs. In calculating the Federal contribution, the Secretary shall take into account the fair market value of equipment, personnel, and services provided.

(d) Available authority

The Secretary may use the Secretary's authority under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and other Federal, State, and local governmental authorities in implementing action plans.

(e) Consistency with forest plans

The implementation of action plans shall be consistent with land and resource management plans.

(Pub. L. 101–624, title XXIII, § 2376, Nov. 28, 1990, 104 Stat. 4048; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(d)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204.)

REFERENCES IN TEXT

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (d), is Pub. L. 95–313, July 1, 1978, 92 Stat. 365, as amended, which is classified principally to chapter 41 (§ 2101 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see

Short Title note set out under section 2101 of Title 16 and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–113 substituted ''natural resources'' for ''forest resources'' and ''National Forest System land resources'' for ''national forest resources''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6613 of this title.

§ 6615. Training and education

(a) Programs

In furtherance of an action plan, the Secretary may use the Extension Service and other appropriate agencies of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—

(1) community economic analysis and strategic planning;

(2) methods for improving and retooling enterprises now dependent on National Forest System land resources;

(3) methods for expanding enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on National Forest System land resources; and

(4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.

(b) Existing educational and training programs

Insofar as practicable, the Secretary shall use existing Federal, State, and private education resources in carrying out these programs.

(Pub. L. 101–624, title XXIII, § 2377, Nov. 28, 1990, 104 Stat. 4048; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(e)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204.)

AMENDMENTS

1999—Subsec. (a)(2), (3). Pub. L. 106–113, which directed substitution of ''National Forest System land resources'' for ''national forest resources'' in pars. (3) and (4), was executed by making the substitution in pars. (2) and (3) to reflect the probable intent of Congress.

§ 6616. Loans to economically disadvantaged rural communities

(a) In general

The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—

(1) improving existing facilities in the community that may generate employment or revenue;

(2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on National Forest System land resources; and

(3) supporting the development of new industries or commercial ventures unrelated to National Forest System land resources.

(b) Interest rates

The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 percent, as determined by the Secretary, and rounded to the nearest one-eighth of 1 percent.

(Pub. L. 101–624, title XXIII, § 2378, Nov. 28, 1990, 104 Stat. 4048; Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 345(f)], Nov. 29, 1999, 113 Stat. 1535, 1501A–204.)

AMENDMENTS

1999—Subsec. (a)(2), (3). Pub. L. 106–113 substituted ''National Forest System land resources'' for ''national forest resources''.

§ 6617. Authorization of appropriations and spending authority

(a) Authorization of appropriations

Except as provided in subsection (b) of this section, there are authorized to be appropriated—

(1) an amount not to exceed 5 percent of the sum of—

(A) the sums received by the Secretary from sales of timber and other products of the forests; and

(B) user fees paid in connection with the use of forest lands; and

(2) such additional sums as may be necessary to carry out the purposes of this subchapter.

(b) Limitation on authorization

Subsection (a) of this section shall not in any way affect payments to the States pursuant to section 500 of title 16.

(c) Spending authority

Any spending authority (as defined in section 651 of title 2) provided in this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 101–624, title XXIII, § 2379, Nov. 28, 1990, 104 Stat. 4049.)

CHAPTER 96—GLOBAL CLIMATE CHANGE

Sec.

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§ 6701. Global Climate Change Program

(a) Establishment

For the purpose of having within the Department of Agriculture a focal point for coordinating all issues of climate change, the Secretary of Agriculture (hereafter in this chapter referred to as the ''Secretary'') shall establish a Global Climate Change Program (hereafter in this section referred to as the ''Program''). The Secretary shall designate a director of the Program who shall be responsible to the Secretary for carrying out the duties specified in subsections (b) and (c) of this section.

(b) General duties

The Director shall—

(1) coordinate policy analysis, long range planning, research, and response strategies relating to climate change issues;

(2) provide liaison with other Federal agencies, through the Office of Science and Technology Policy, regarding issues of climate change;

(3) inform the Department of scientific developments and policy issues relating to the effects of climate change on agriculture and forestry, including broader issues that affect the impact of climate change on the farms and forests of the United States;

(4) recommend to the Secretary alternative courses of action with which to respond to such scientific developments and policy issues; and

(5) ensure that recognition of the potential for climate change is fully integrated into the research, planning, and decision-making processes of the Department.

(c) Specific responsibilities

The Director shall—

(1) coordinate the global climate change studies required by section 6702 of this title;

(2) provide, through such other agencies as the Secretary determines appropriate, competitive grants for research in climatology relating to the potential impact of climate change on agriculture;

(3) coordinate the participation of the Department in interagency climate-related activities;

(4) consult with the National Academy of Sciences and private, academic, State, and local groups with respect to climate research and related activities;

(5) represent the Department to the Office of Science and Technology Policy and coordinate the activities of the Department in response to requirements of this chapter;

(6) represent the Department on the Intergovernmental Panel on Climate Change; and

(7) review all Department budget items relating to climate change issues, including specifically the research budget to be submitted by the Secretary to the Office of Science and Technology Policy and the Office of Management and Budget.

(Pub. L. 101–624, title XXIV, § 2402, Nov. 28, 1990, 104 Stat. 4058.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c)(5), was in the original ''this title'', meaning title XXIV of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 4058, which is classified generally to this chapter. For complete classification of title XXIV to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 2401 of title XXIV of Pub. L. 101–624 provided that: ''This title [enacting this chapter and amending sections 1601 and 1602 of Title 16, Conservation] may be cited as the 'Global Climate Change Prevention Act of 1990'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6704 of this title.

§ 6702. Study of global climate change, agriculture, and forestry

(a) Crops

(1) In general

The Secretary shall study the effects of global climate change on agriculture and forestry. The study shall, at a minimum address—

(A) the effects of simultaneous increases in temperature and carbon dioxide on crops of economic significance;

(B) the effects of more frequent or more severe weather events on such crops;

(C) the effects of potential changes in hydrologic regimes on current crop yields;

(D) the economic effects of widespread and increased drought frequency in the south, midwest, and plains States; and

(E) changes in pest problems due to higher temperatures.

(2) Further studies

If the results of the study conducted under paragraph (1) warrant, the Secretary shall conduct further studies that address the means of mitigating the effects of global climate change on crops of economic significance that shall, at a minimum—

(A) identify whether climate change tolerance can be bred into these crops, the amount of time necessary for any such breeding, and the effects on the income of farmers;

(B) evaluate existing genetic resource and breeding programs for crops for their ability to develop new varieties that can tolerate potential climate changes; and

(C) assess the potential for the development of crop varieties that are tolerant to climate changes and other environmental stresses, such as drought, pests, and salinity.

(b) Forests

The Secretary shall conduct a study on the emissions of methane, nitrous oxide, and hydrocarbons from tropical and temperate forests, the manner in which such emissions may affect

global climate change; the manner in which global climate change may affect such emissions; and the manner in which such emissions may be reduced through management practices. The study shall, at a minimum—

(1) obtain measurements of nitrous oxide, methane, and nonmethane hydrocarbons from tropical and temperate forests;

(2) determine the manner in which the nitrous oxide, methane, and nonmethane hydrocarbon emissions from temperate and tropical forest systems will respond due to climate change; and

(3) identify and address alternative management strategies for temperate and tropical forests that may mitigate any negative effects of global climate change.

(c) Reports

The Secretary shall submit reports of the studies conducted under subsections (a) and (b) of this section within 3 and 6 years, respectively, after November 28, 1990, to the Committee on Agriculture and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In addition, interim reports regarding such studies shall be provided by the Secretary to such Committees annually, with recommendations for actions which may be taken to mitigate the negative effects of global climate change and to adapt to global climate changes and related phenomena.

(Pub. L. 101–624, title XXIV, § 2403, Nov. 28, 1990, 104 Stat. 4059.)

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6701 of this title.

§ 6703. Repealed. Pub. L. 104–127, title VIII, § 868, Apr. 4, 1996, 110 Stat. 1175

Section, Pub. L. 101–624, title XXIV, § 2404, Nov. 28, 1990, 104 Stat. 4060, required Secretary of Agriculture to establish technical advisory committee to provide advice to Secretary concerning major study areas required under this chapter.

§ 6704. Office of International Forestry

(a) Establishment

The Secretary, acting through the Chief of the Forest Service, shall establish an Office of International Forestry within the Forest Service within six months after November 28, 1990.

(b) Deputy Chief designation

The Chief shall appoint a Deputy Chief for International Forestry.

(c) Duties

The Deputy Chief shall—

(1) be responsible for the international forestry activities of the Forest Service;

(2) coordinate the activities of the Forest Service in implementing the provisions of this chapter; and

(3) serve as Forest Service liaison to the director for the program established pursuant to section 6701 of this title.

(d) Authorization of appropriations

There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.

(Pub. L. 101–624, title XXIV, § 2405, Nov. 28, 1990, 104 Stat. 4060; Pub. L. 104–127, title III, § 371, Apr. 4, 1996, 110 Stat. 1015.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–127 added subsec. (d).

§ 6705. Line item

The President's proposed budget to Congress for the first fiscal year beginning after November 28, 1990, and for each subsequent fiscal year shall specifically identify funds to be spent on Forest Service international cooperation and assistance.

(Pub. L. 101–624, title XXIV, § 2406, Nov. 28, 1990, 104 Stat. 4060.)

§ 6706. Institutes of Tropical Forestry

The Secretary is authorized and directed to establish an Institute of Tropical Forestry in Puerto Rico and an Institute of Pacific Islands Forestry (hereafter in this section referred to as the ''Institutes''). The Institutes shall conduct research on forest management and natural resources that shall include—

(1) management and development of tropical forests;

(2) the relationship between climate change and tropical forests;

(3) threatened and endangered species;

(4) recreation and tourism;

(5) development of tropical forest resources on a sustained yield basis;

(6) techniques to monitor the health and productivity of tropical forests;

(7) tropical forest regeneration and restoration; and

(8) the effects of tropical deforestation on biodiversity, global climate, wildlife, soils, and water.

(Pub. L. 101–624, title XXIV, § 2407, Nov. 28, 1990, 104 Stat. 4060.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 sections 4503c, 4503d.

§ 6707. Urban forestry demonstration projects

The Secretary is authorized to undertake, through the Forest Service's Northeastern Area State and Private Forestry program, a study and pilot implementation project to demonstrate the benefits of retaining and integrating forests in urban development. The focus of such a study and implementation project should be to protect the environment and associated natural resource values, for current and future generations.

(Pub. L. 101–624, title XXIV, § 2409, Nov. 28, 1990, 104 Stat. 4061.)

§ 6708. Biomass energy demonstration projects

The Secretary, in consultation with the Secretary of Energy, may carry out projects that demonstrate the potential of short-rotation silvicultural methods to produce wood for electricity production and industrial energy needs. In carrying out such projects, the Secretary shall cooperate with private industries, Federal and State agencies, and other organizations.

(Pub. L. 101–624, title XXIV, § 2410, Nov. 28, 1990, 104 Stat. 4061.)

§ 6709. Interagency cooperation to maximize biomass growth

The Secretary may enter into an agreement with the Secretary of Defense to—

(1) conduct a study of reforestation and improved management of Department of Defense military installations and lands; and

(2) develop a program to manage such forests and lands so as to maximize their potential for biomass growth and sequestering carbon dioxide.

(Pub. L. 101–624, title XXIV, § 2411, Nov. 28, 1990, 104 Stat. 4062.)

§ 6710. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1997, to carry out this chapter.

(Pub. L. 101–624, title XXIV, § 2412, Nov. 28, 1990, 104 Stat. 4062; Pub. L. 104–127, title VIII, § 843, Apr. 4, 1996, 110 Stat. 1170.)

AMENDMENTS

1996—Pub. L. 104–127 substituted ''1997'' for ''1996''.

CHAPTER 97—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 6801. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much great-

er variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on December 14, 1993, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on December 14, 1993, and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information program authorized by this chapter in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) Policy and purpose

It is the policy of Congress that it is in the public interest, and it is the purpose of this chapter, to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

(Pub. L. 103–190, § 2, Dec. 14, 1993, 107 Stat. 2266.)

SHORT TITLE

Section 1(a) of Pub. L. 103–190 provided that: ''This Act [enacting this chapter] may be cited as the 'Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6803, 6811 of this title.

§ 6802. Definitions

As used in this chapter:

(1) Consumer information

The term ''consumer information'' means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) Cut flowers and cut greens

(A) In general

(i) Cut flowers

The term ''cut flowers'' includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) Cut greens

The term ''cut greens'' includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) Exclusions

The terms ''cut flowers'' and ''cut greens'' do not include a foliage plant, floral supply, or flowering plant.

(B) Substantial portion

In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) Gross sales price

The term ''gross sales price'' means the total amount of the transaction in a sale of cut

flowers or cut greens from a handler to a retailer or exempt handler.

(4) Handler

(A) Qualified handler

(i) In general

The term ''qualified handler'' means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) Inclusions and exclusions

(I) In general

The term ''qualified handler'' includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and

(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.

(II) Transfers

For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).

(III) Transportation or delivery

The term ''qualified handler'' does not include a person who only physically transports or delivers cut flowers or cut greens.

(iii) Construction

(I) In general

The term ''qualified handler'' includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.

(II) Sales

Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).

(III) Definitions

As used in this paragraph:

(aa) Importer

The term ''importer'' has the meaning provided in section 6804(b)(2)(B)(i)(I) of this title.

(bb) Producer

The term ''producer'' has the meaning provided in section 6804(b)(2)(B)(ii)(I) of this title.

(B) Exempt handler

The term ''exempt handler'' means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) Annual sales determined

(i) In general

Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.

(ii) Transfers

(I) Non-sale transfers and direct sales by importers

Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.

(II) Direct sales by producers

Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(III) Changes in uniform percentages

Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title.

(5) Order

The term ''order'' means an order issued under this chapter (other than sections 6808, 6809, and 6811 of this title).

(6) Person

The term ''person'' means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(7) PromoFlor Council

The term ''PromoFlor Council'' means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 6804(b) of this title.

(8) Promotion

The term ''promotion'' means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(9) Research

The term ''research'' means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(10) Retailer

(A) In general

The term ''retailer'' means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).

(B) Distribution centers

(i) In general

The term ''retailer'' includes a distribution center that is—

(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or

(II) independently owned but operated primarily to provide food products to retail stores.

(ii) Importers and producers

An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.

(11) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(12) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

(13) United States

The term ''United States'' means the States collectively.

(Pub. L. 103–190, § 3, Dec. 14, 1993, 107 Stat. 2268.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in par. (12), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6804, 6805, 6806 of this title.

§ 6803. Issuance of orders

(a) In general

(1) Issuance

To effectuate the policy of this chapter specified in section 6801(b) of this title, the Secretary, subject to the procedures provided in subsection (b) of this section, shall issue orders under this chapter applicable to qualified handlers of cut flowers and cut greens.

(2) Scope

Any order shall be national in scope.

(3) One order

Not more than 1 order shall be in effect at any 1 time.

(b) Procedures

(1) Proposal for an order

(A) Secretary

The Secretary may propose the issuance of an order.

(B) Other persons

An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this chapter, may request the issuance of, and submit a proposal for, an order.

(2) Publication of proposal

The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and

(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).

(3) Issuance of order

(A) In general

After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this chapter.

(B) Effective date

The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) Amendments

The Secretary, from time to time, may amend an order. The provisions of this chapter applicable to an order shall be applicable to any amendment to an order.

(Pub. L. 103–190, § 4, Dec. 14, 1993, 107 Stat. 2271.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6804, 6806 of this title.

§ 6804. Required terms in orders

(a) In general

An order shall contain the terms and provisions specified in this section.

(b) PromoFlor Council

(1) Establishment and membership

(A) Establishment

The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.

(B) Membership

(i) Appointment

The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).

(ii) Composition

The PromoFlor Council shall consist of—

(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;

(II) representatives of traditional retailers; and

(III) representatives of persons who produce fresh cut flowers and fresh cut greens.

(2) Distribution of appointments

(A) In general

The order shall provide that the membership of the PromoFlor Council shall consist of—

(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;

(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;

(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;

(iv) 3 members representing traditional cut flowers and cut greens retailers; and

(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—

(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and

(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.

(B) Definitions

As used in this subsection:

(i) Importer that is a qualified handler

The term ''importer that is a qualified handler'' means an entity—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that is subject to assessments as a qualified handler under the order.

(ii) Producer that is a qualified handler

The term ''producer that is a qualified handler'' means an entity that—

(I) is engaged—

(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or

(bb) as a first processor of nonculti-vated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and

(II) is subject to assessments as a qualified handler under the order.

(iii) Qualified wholesale handler

(I) In general

The term ''qualified wholesale handler'' means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.

(II) Definitions

As used in this clause:

(aa) Floral supplier

The term ''floral supplier'' means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(bb) Floral wholesale jobber

The term ''floral wholesale jobber'' means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.

(C) Distribution of qualified wholesale handler appointments

The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.

(3) Nomination process

The order shall provide that—

(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;

(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;

(C) nominations for—

(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and

(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;

(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and

(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.

(4) Alternates

The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.

(5) Terms; compensation

The order shall provide that—

(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;

(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and

(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.

(6) Executive committee

(A) Establishment

(i) In general

The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.

(ii) Initial membership

The membership of the executive committee initially shall be composed of—

(I) 4 members representing qualified wholesale handlers;

(II) 2 members representing producers that are qualified handlers;

(III) 2 members representing importers that are qualified handlers; and

(IV) 1 member representing traditional retailers.

(iii) Subsequent membership

After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.

(iv) Terms

Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.

(B) Authority

The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.

(c) General responsibilities of PromoFlor Council

The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—

(1) administer the order in accordance with the terms and provisions of the order;

(2) make rules and regulations to effectuate the terms and provisions of the order;

(3) appoint members of the PromoFlor Council to serve on an executive committee;

(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;

(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d) of this section; and

(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) of this section plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d) of this section; or

(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e) of this section, and pay the costs of the implementation, or contracts and agreements, with funds received under the order;

(7) evaluate on-going and completed plans and projects for cut flowers or cut greens pro-

motion, consumer information, or related research;

(8) receive, investigate, and report to the Secretary complaints of violations of the order;

(9) recommend to the Secretary amendments to the order;

(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this chapter only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and

(11) provide the Secretary such information as the Secretary may require.

(d) Budgets; plans and projects

(1) Submission of budgets

The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) Plans and projects

(A) Promotion and consumer information

The order shall provide—

(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;

(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and

(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.

(B) Research

The order shall provide for—

(i) the establishment, implementation, administration, and evaluation of plans and projects for—

(I) market development research;

(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and

(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;

(ii) the dissemination of the information acquired through the plans and projects; and

(iii) the disbursement of such funds as are necessary to carry out this subparagraph.

(C) Submission to Secretary

The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).

(3) Approval by Secretary

A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.

(e) Contracts and agreements

(1) Promotion, consumer information, and related research plans and projects

(A) In general

To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.

(B) Requirements

The order shall provide that any contract or agreement entered into under this paragraph shall provide that—

(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;

(ii) the plan or project shall become effective on the approval of the Secretary; and

(iii) the contracting or agreeing party shall—

(I) keep accurate records of all of the transactions of the party;

(II) account for funds received and expended;

(III) make periodic reports to the PromoFlor Council of activities conducted; and

(IV) make such other reports as the PromoFlor Council or the Secretary may require.

(2) Other contracts and agreements

The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this

paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).

(f) Books and records of PromoFlor Council

(1) In general

The order shall require the PromoFlor Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and

(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) Audits

The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(g) Control of administrative costs

The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.

(h) Assessments

(1) Authority

(A) In general

The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6805(a) of this title.

(B) Published lists

To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(C) Making determinations

(i) Qualified handler status

The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 6802(4) and 6805(b) of this title.

(ii) Certain covered transactions

(I) In general

The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 6802(4)(A)(ii)(II) of this title), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 6802(4)(A)(iii) of this title), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(II) Amount of sale in the case of non-sale transfers and direct sales by importers

Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.

(III) Direct sales by producers

Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(IV) Changes in uniform percentages

Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title.

(2) Assessment rates

With respect to assessment rates, the order shall contain the following terms:

(A) Initial rate

During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—

(i) the gross sales price of the cut flowers or cut greens sold; or

(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).

(B) Changes in the rate

(i) In general

After the first 3 years the order is in effect, the uniform assessment rate may be

increased or decreased annually by not more than .25 percent of—

(I) the gross sales price of a product sold; or

(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),

except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.

(ii) Requirements

Any change in the rate of assessment under this subparagraph—

(I) may be made only if adopted by the PromoFlor Council by at least a ⅔ majority vote and approved by the Secretary as necessary to achieve the objectives of this chapter (after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title);

(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and

(III) shall not be subject to a vote in a referendum conducted under section 6806 of this title.

(3) Timing of submitting assessments

The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.

(4) Refunds from escrow account

(A) Establishment of escrow account

The order shall provide that the PromoFlor Council shall—

(i) establish an escrow account to be used for assessment refunds, as needed; and

(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 6803(b)(3)(B) of this title, and ending on the date the initial referendum on the order under section 6806(a) of this title is completed.

(B) Right to receive refund

(i) In general

The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—

(I) the qualified handler is required to pay the assessments;

(II) the qualified handler does not support the program established under this chapter;

(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 6806(a) of this title; and

(IV) the order is not approved by qualified handlers in the referendum.

(ii) Conditions

The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:

(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.

(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.

(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 6806(a) of this title, the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.

(C) Program approved

The order shall provide that, if the order is approved in the referendum conducted under section 6806(a) of this title, there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(5) Use of assessment funds

The order shall provide that assessment funds (less any refunds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this chapter.

(6) Postponement of collections

(A) Authority

(i) In general

Subject to the other provisions of this paragraph and notwithstanding any other provision of this chapter, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.

(ii) Requirements and procedures

A handler described in clause (i) shall establish that the handler is financially un-

able to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title.

(B) Criteria and responsibility for determinations

The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.

(C) Period of postponement

(i) In general

The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.

(ii) Extensions

A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.

(i) Prohibition

The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(j) Books and records; reports

(1) In general

The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this chapter, the order, or any regulation issued under this chapter.

(2) Confidentiality requirement

(A) In general

Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6) of this section, or from reports required under section 6805(b)(3) of this title, shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.

(B) Suits and hearings

Information described in subparagraph (A) may be disclosed to the public only—

(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and

(ii) to the extent the Secretary considers the information relevant to the suit or hearing.

(C) General statements and publications

Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.

(3) Lists of importers

(A) Review

The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.

(B) Customs service

On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(k) Consultations with industry experts

(1) In general

The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.

(2) Special committees

(A) In general

For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.

(B) Consultation

A committee appointed under subparagraph (A)—

(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and

(ii) shall consult directly with the PromoFlor Council.

(*l*) Other terms of order

The order shall contain such other terms and provisions, consistent with this chapter, as are necessary to carry out this chapter (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) of this section and for carrying out section 6805 of this title).

(Pub. L. 103–190, § 5, Dec. 14, 1993, 107 Stat. 2272.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6802, 6806, 6810 of this title.

§ 6805. Exclusion; determinations

(a) Exclusion

An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

(b) Making determinations

(1) In general

For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 6802(4) of this title, or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 6806(b)(2) of this title, an order issued under this chapter shall provide that—

(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and

(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.

(2) Rule of attribution

(A) In general

For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(B) Stock and ownership interest

For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(3) Reports

For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

(Pub. L. 103–190, § 6, Dec. 14, 1993, 107 Stat. 2283.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6804 of this title.

§ 6806. Referenda

(a) Requirement for initial referendum

(1) In general

Not later than 3 years after the issuance of an order under section 6803(b)(3) of this title, the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether the order then in effect shall be continued.

(2) Approval of order needed

The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d) of this section.

(b) Votes permitted

(1) In general

Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

(2) Eligible separate facility

For the purpose of paragraph (1):

(A) Separate facility

A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.

(B) Eligibility

A separate facility of a qualified handler shall be considered to be an eligible separate

facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) Annual sales determined

For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 6802(4) of this title shall apply.

(c) Suspension or termination referenda

If an order is approved in a referendum conducted under subsection (a) of this section, effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 6804(h)(1) of this title, subject to the voting requirements of subsection (b) of this section, to ascertain whether qualified handlers favor suspension or termination of the order.

(d) Suspension or termination

If, as a result of the referendum conducted under subsection (a) of this section, the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c) of this section, the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(e) Manner of conducting referenda

Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

(Pub. L. 103–190, § 7, Dec. 14, 1993, 107 Stat. 2284.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6804, 6805 of this title.

§ 6807. Petition and review

(a) Petition and hearing

(1) Petition

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearing

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 6809(b)(2) of this title and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) Ruling

After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.

(2) Process

Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remand

If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) Enforcement

The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 6808 of this title.

(Pub. L. 103–190, § 8, Dec. 14, 1993, 107 Stat. 2285.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6809 of this title.

§ 6808. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this chapter or an order or regulation issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action brought under subsection (a) of this section shall be referred to the Attorney

General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or an order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person who committed or is committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

A person who violates a provision of this chapter, or an order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this chapter, may be assessed by the Secretary—

(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) Separate offenses

Each violation shall be a separate offense.

(2) Cease and desist orders

In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this chapter, or an order or regulation issued under this chapter.

(3) Notice and hearing

No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 6809(b)(2) of this title and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) Finality

The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

(A) In general

Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) of this section may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) Copy of record

The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) Standard of review

A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey order

(1) In general

A person who fails to obey a cease and desist order issued under subsection (c) of this section after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section.

(2) Separate violations

Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) Failure to pay penalty

(1) In general

If a person fails to pay a civil penalty assessed under subsection (c) or (e) of this section after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) Scope of review

In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 103–190, § 9, Dec. 14, 1993, 107 Stat. 2286.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6802, 6807, 6809 of this title.

§ 6809. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary for the ef-

fective administration of this chapter, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter or any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

(1) Investigations

For the purpose of making an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6807(a)(2) or 6808(c)(3) of this title, the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) Aid of courts

(1) In general

In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) of this section to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b) of this section.

(2) Order

The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) Failure to obey

Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) Process

Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

(Pub. L. 103–190, § 10, Dec. 14, 1993, 107 Stat. 2288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6802, 6807, 6808 of this title.

§ 6810. Confidentiality

(a) Prohibition

No information on how a person voted in a referendum conducted under this chapter shall be made public.

(b) Penalty

Any person who knowingly violates subsection (a) of this section or the confidentiality terms of an order, as described in section 6804(j)(2) of this title, shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) Additional prohibition

No information obtained under this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter or an investigatory or enforcement action necessary for the implementation of this chapter.

(d) Withholding information from Congress prohibited

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(Pub. L. 103–190, § 11, Dec. 14, 1993, 107 Stat. 2288.)

§ 6811. Authority for Secretary to suspend or terminate order

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this chapter specified in section 6801(b) of this title, the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

(Pub. L. 103–190, § 12, Dec. 14, 1993, 107 Stat. 2289.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6802 of this title.

§ 6812. Construction

(a) Termination or suspension not an order

The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this chapter.

(b) Producer rights

This chapter—

(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and

(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.

(c) Other programs

Nothing in this chapter may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.

(Pub. L. 103–190, § 13, Dec. 14, 1993, 107 Stat. 2289.)

§ 6813. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter and the powers vested in the Secretary by this chapter, including regulations relating to the assessment of late payment charges and interest.

(Pub. L. 103–190, § 14, Dec. 14, 1993, 107 Stat. 2289.)

§ 6814. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated under subsection (a) of this section may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.

(Pub. L. 103–190, § 15, Dec. 14, 1993, 107 Stat. 2289.)

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§ 6901. Purpose

The purpose of this chapter is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out by the Department.

(Pub. L. 103–354, title II, § 202, Oct. 13, 1994, 108 Stat. 3209.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1(a) of Pub. L. 103–354 provided that: ''This Act [see Tables for classification] may be cited as the 'Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994'.''

Section 201(a) of title II of Pub. L. 103–354 provided that: ''This title [see Tables for classification] may be cited as the 'Department of Agriculture Reorganization Act of 1994'.''

§ 6902. Definitions

Except where the context requires otherwise, for purposes of this chapter:

(1) Department

The term ''Department'' means the Department of Agriculture.

(2) National Appeals Division

The term ''National Appeals Division'' means the National Appeals Division of the Department established under section 6992 of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(4) Function

The term ''function'' means an administrative, financial, or regulatory activity of an agency, office, officer, or employee of the Department.

(Pub. L. 103–354, title II, § 203, Oct. 13, 1994, 108 Stat. 3209.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

SUBCHAPTER I—GENERAL REORGANIZATION AUTHORITIES

§ 6911. Transfer of Department functions to Secretary of Agriculture

(a) Transfer of functions

Except as provided in subsection (b) of this section, there are transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary on October 13, 1994.

(b) Exceptions

Subsection (a) of this section shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31 in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Corporate Board of the Alternative Agricultural Research and Commercialization Corporation by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(Pub. L. 103–354, title II, § 211, Oct. 13, 1994, 108 Stat. 3209; Pub. L. 104–127, title VII, § 722(c), Apr. 4, 1996, 110 Stat. 1115.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Alternative Agricultural Research and Commercialization Act of 1990, referred to in subsec. (b)(5), is subtitle G (§§ 1657–1664) of title XVI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3756, which is classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title. For complete classification of this Act to the Code, see section 5901(a) of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(5). Pub. L. 104–127 substituted ''Corporate Board of the Alternative Agricultural Research and Commercialization Corporation'' for ''Alternative Agricultural Research and Commercialization Board''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 6912. Authority of Secretary to delegate transferred functions

(a) Delegation of authority

(1) Delegation authorized

Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under section 6911(a) of this title or any other function vested in the Secretary as of October 13, 1994. The authority provided in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any agency, office, or other administrative unit of the Department.

(2) Condition on authority

The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 6942, 6971(d), 6993, and 2204e of this title and subsections (a) and (b)(1) of section 6981 of this title;

(B) sections 5692 and 5693 of this title; and

(C) section 590h(b)(5) of title 16.

(b) Cost-benefit analysis required for name change

(1) Analysis required

Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) Exception

Paragraph (1) shall not apply with respect to any name change required or authorized by this chapter.

(c) Public comment on proposed reorganization

To the extent that the implementation of the authority provided to the Secretary by this chapter to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers or employees of such agency or office), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(d) Interagency transfer of records, property, personnel, and funds

(1) Related transfers

Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this chapter, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) Applicable law relating to funds transfer

Section 1531 of title 31 shall apply to any transfer of funds under paragraph (1).

(e) Exhaustion of administrative appeals

Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department; or

(3) an agency, office, officer, or employee of the Department.

(Pub. L. 103–354, title II, § 212, Oct. 13, 1994, 108 Stat. 3210.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (c), and (d)(1), was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

§ 6913. Reductions in number of Department personnel

(a) Definitions

For purposes of this section:

(1) Headquarters offices

The term ''headquarters offices'', with respect to agencies, offices, or other administrative units of the Department, means the offices, functions, and employee positions that are located or performed—

(A) in Washington, District of Columbia; or

(B) in such other locations as are identified by the Secretary for purposes of this section.

(2) Field structure

The term ''field structure'' means the offices, functions, and employee positions of all agencies, offices, or other administrative units of the Department, other than the headquarters offices, except that the term does not include State, county, or area committees established under section 590h(b)(5) of title 16. The term includes the physical and geographic locations of such agencies, offices, or other administrative units.

(b) Number of reductions required

The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(c) Emphasis on headquarters offices reductions

In achieving the employee reductions required by subsection (b) of this section, the Secretary shall pursue a goal so that the percentage of the total number of employee staff years reduced in headquarters offices is at least twice the percentage of the total number of employee staff years reduced in the field structure.

(d) Schedule

The personnel reductions in headquarters offices and in the field structure should be accomplished concurrently in a manner determined by the Secretary.

(Pub. L. 103–354, title II, § 213, Oct. 13, 1994, 108 Stat. 3211.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6972 of this title.

§ 6914. Consolidation of headquarters offices

Subject to the availability of appropriated funds for this purpose, the Secretary shall develop and carry out a plan to consolidate offices located in Washington, District of Columbia, of agencies, offices, and other administrative units of the Department.

(Pub. L. 103–354, title II, § 214, Oct. 13, 1994, 108 Stat. 3211.)

§ 6915. Combination of field offices

(a) Combination of offices required

Where practicable and to the extent consistent with efficient, effective, and improved service, the Secretary shall combine field offices of agencies within the Department to reduce personnel and duplicative overhead expenses.

(b) Joint use of resources and offices required

When two or more agencies of the Department share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

(Pub. L. 103–354, title II, § 215, Oct. 13, 1994, 108 Stat. 3211.)

§ 6916. Improvement of information sharing

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

(Pub. L. 103–354, title II, § 216, Oct. 13, 1994, 108 Stat. 3212.)

§ 6917. Reports by Secretary

(a) In general

Subject to subsection (b) of this section, notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report solely to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) Limitation

For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a) of this section.

(c) Selection of reports

In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports, if any, the Secretary will prepare and submit in accordance with subsection (b) of this section.

(Pub. L. 103–354, title II, § 217, Oct. 13, 1994, 108 Stat. 3212.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5713 of this title.

§ 6918. Assistant Secretaries of Agriculture

(a) Authorization

The Secretary is authorized to establish in the Department the positions of—

(1) Assistant Secretary of Agriculture for Congressional Relations; and

(2) Assistant Secretary of Agriculture for Administration.

(b) Confirmation required

If the Secretary establishes any position of Assistant Secretary authorized under subsection

(a) of this section, the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Succession

Any official who is serving as Assistant Secretary of Agriculture for Administration or Assistant Secretary of Agriculture for Congressional Relations on October 13, 1994, and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 13, 1994 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103–354, title II, §218, Oct. 13, 1994, 108 Stat. 3212; Pub. L. 105–277, div. A, §101(a) [title X, §1001(1)], Oct. 21, 1998, 112 Stat. 2681, 2681–41.)

CODIFICATION

Section is comprised of section 218 of Pub. L. 103–354. Subsec. (d) of section 218 of Pub. L. 103–354 amended section 5315 of Title 5, Government Organization and Employees. Subsec. (e) of section 218 of Pub. L. 103–354 amended section 3128 of this title and repealed sections 2212 to 2212c of this title and section 2 of Reorg. Plan No. 2 of 1953, set out as a note under section 2201 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted ''and'' at end of par. (1), substituted a period for ''; and'' at end of par. (2), and struck out par. (3) which read as follows: ''Assistant Secretary of Agriculture for Marketing and Regulatory Programs.''

§ 6919. Repealed. Pub. L. 105–277, div. A, § 101(e) [title III, § 362], Oct. 21, 1998, 112 Stat. 2681–231, 2681–305

Section, Pub. L. 103–354, title II, §219, Oct. 13, 1994, 108 Stat. 3213, provided that compensation of any officer or employee of the Department on Oct. 13, 1994, was not to be increased as a result of enactment of this chapter.

§ 6920. Office of Energy Policy and New Uses

The Secretary shall establish for the Department, in the Office of the Secretary, an Office of Energy Policy and New Uses.

(Pub. L. 103–354, title II, §220, as added Pub. L. 105–185, title VI, §602, June 23, 1998, 112 Stat. 585.)

SUBCHAPTER II—FARM AND FOREIGN AGRICULTURAL SERVICES

§ 6931. Under Secretary of Agriculture for Farm and Foreign Agricultural Services

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) Additional functions

The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) Succession

Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on October 13, 1994, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 13, 1994 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103–354, title II, §225, Oct. 13, 1994, 108 Stat. 3213.)

CODIFICATION

Section is comprised of section 225 of Pub. L. 103–354. Subsec. (e) of section 225 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees, and repealed section 5691 of this title.

§ 6932. Consolidated Farm Service Agency

(a) Establishment

The Secretary is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

(b) Functions of Consolidated Farm Service Agency

If the Secretary establishes the Consolidated Farm Service Agency under subsection (a) of this section, the Secretary is authorized to assign to the Agency jurisdiction over the following functions:

(1) Agricultural price and income support programs, production adjustment programs, and related programs.

(2) Repealed. Pub. L. 104–127, title I, §194(c), Apr. 4, 1996, 110 Stat. 946.

(3) Agricultural credit programs assigned before October 13, 1994, by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for agricultural producers and others engaged in the production of agricultural commodities.

(4) Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831–3836).

(5) Such other functions as the Secretary considers appropriate, except for those pro-

grams assigned by the Secretary to the Natural Resources Conservation Service or another agency of the Department under section 6962(b) of this title.

(c) Special concurrence requirements for certain functions

In carrying out the programs specified in subsection (b)(4) of this section, the Secretary shall—

(1) acting on the recommendations of the Consolidated Farm Service Agency, with the concurrence of the Natural Resources Conservation Service, issue regulations to carry out such programs;

(2) ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 590h(b)(5) of title 16 meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) Jurisdiction over conservation program appeals

(1) In general

Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Consolidated Farm Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Natural Resources Conservation Service.

(2) Treatment of technical determination

(A) In general

With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Natural Resources Conservation Service shall be used by the Consolidated Farm Service Agency as the basis for any decisions regarding technical determinations. If no review is requested, the technical determination of the Natural Resources Conservation Service shall be the technical basis for any decision rendered by a county or area committee established under section 590h(b)(5) of title 16. If the committee requests a review by the Natural Resources Conservation Service of a wetlands determination of the Service, the Consolidated Farm Service Agency shall consult with other Federal agencies whenever required by law or under a memorandum of agreement in existence on October 13, 1994.

(B) Economic hardship

After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.

(3) Reinstatement of program benefits

Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 [16 U.S.C. 3801 et seq.] applicable to the producer.

(e) Use of Federal and non-Federal employees

(1) Use authorized

In the implementation of programs and activities assigned to the Consolidated Farm Service Agency, the Secretary may use interchangeably in local offices of the Agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 590h(b)(5) of title 16.

(2) Exception

Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(f) Collocation

To the maximum extent practicable, the Secretary shall collocate county offices of the Consolidated Farm Service Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to agricultural producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) Savings provision

For purposes of subsections (c) through (f) of this section:

(1) A reference to the ''Consolidated Farm Service Agency'' includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under this section.

(2) A reference to the ''Natural Resources Conservation Service'' includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 6962(b) of this title.

(Pub. L. 103–354, title II, § 226, Oct. 13, 1994, 108 Stat. 3214; Pub. L. 104–127, title I, § 194(c), title III, §§ 315(b), 336(a)(2)(C), Apr. 4, 1996, 110 Stat. 946, 985, 1005.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsecs. (b)(4) and (d)(1), (3), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ''Sodbuster Law'', is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. Subchapter B of chapter 1 of subtitle D of title XII of the Act is classified generally to subpart B (§ 3831 et seq.) of part I of subchapter IV of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section is comprised of section 226 of Pub. L. 103–354. Subsec. (h) of section 226 of Pub. L. 103–354 amended section 1981 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–127, § 194(c), struck out par. (2) which read as follows: ''General supervision of the Federal Crop Insurance Corporation.''

Subsec. (b)(4). Pub. L. 104–127, § 336(a)(2)(C), struck out before period at end ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''.

Subsec. (d)(2). Pub. L. 104–127, § 315(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6961, 6962, 6991, 6995, 7001 of this title; title 16 section 590h.

§ 6933. Office of Risk Management

(a) Establishment

Subject to subsection (e)[1] of this section, the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

(b) Functions of Office of Risk Management

The Office of Risk Management shall have jurisdiction over the following functions:

(1) Supervision of the Federal Crop Insurance Corporation.

(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

(4) Such other functions as the Secretary considers appropriate.

[1] So in original. There is no subsection (e).

(c) Administrator

(1) Appointment

The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

(2) Manager

The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

(d) Resources

(1) Functional coordination

Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(2) Minimum provisions

Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.

(Pub. L. 103–354, title II, § 226A, as added Pub. L. 104–127, title I, § 194(a), Apr. 4, 1996, 110 Stat. 945.)

REFERENCES IN TEXT

The Federal Crop Insurance Act, referred to in subsec. (b)(2), (3), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, as amended, which is classified generally to chapter 36 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

SUBCHAPTER III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

§ 6941. Under Secretary of Agriculture for Rural Development

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Rural Development.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Rural Development authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Rural Development those functions under the jurisdiction of the Department that are related to rural economic and community development.

(2) Additional functions

The Under Secretary of Agriculture for Rural Development shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) Succession

Any official who is serving as Under Secretary of Agriculture for Small Community and Rural

Development on October 13, 1994, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 13, 1994 (or such later date set by the Secretary if litigation delays rapid succession).

(e) Loan approval authority

Approval authority for loans and loan guarantees in connection with the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned on review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(Pub. L. 103–354, title II, § 231, Oct. 13, 1994, 108 Stat. 3218; Pub. L. 104–127, title VII, § 794(a), Apr. 4, 1996, 110 Stat. 1155.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (e), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

CODIFICATION

Section is comprised of section 231 of Pub. L. 103–354. Subsec. (f) of section 231 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees, and repealed sections 2006f and 2211b of this title.

AMENDMENTS

1996—Pub. L. 104–127 struck out ''Economic and Community'' after ''Under Secretary of Agriculture for Rural'', wherever appearing in section catchline and subsecs. (a) to (c).

§ 6942. Rural Utilities Service

(a) Establishment required

The Secretary shall establish and maintain within the Department the Rural Utilities Service and assign to the Service such functions as the Secretary considers appropriate.

(b) Administrator

(1) Appointment

The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Succession

Any official who is serving as Administrator of the Rural Electrification Administration on October 13, 1994, and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(c) Functions

The Secretary shall carry out through the Rural Utilities Service the following functions that are under the jurisdiction of the Department:

(1) Electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 1926–1[1] of this title; and

(2) Water and waste facility programs and activities authorized by law, including—

(A) sections 1926, 1926a, 1926b,[1] and 1926c of this title, the provisions of sections 1929 and 1929a of this title relating to assets, terms, and conditions of water and sewer programs, section 1932(b) of this title, and section 1013a of this title; and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990[1] (7 U.S.C. 1926 note).

(Pub. L. 103–354, title II, § 232, Oct. 13, 1994, 108 Stat. 3219; Pub. L. 104–127, title VII, § 747(b)(2), Apr. 4, 1996, 110 Stat. 1128.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2)(B), is Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3178, known as the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (c)(1)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

Section 1926–1 of this title, referred to in subsec. (c)(1)(B), was repealed by Pub. L. 104–127, title VII, § 702, Apr. 4, 1996, 110 Stat. 1108.

Section 1926b of this title, referred to in subsec. (c)(2)(A), was repealed by Pub. L. 104–127, title VII, § 743, Apr. 4, 1996, 110 Stat. 1125.

Section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (c)(2)(B), is section 2324 of Pub. L. 101–624, which was set out as a note under section 1926 of this title prior to repeal by Pub. L. 104–127, title VII, § 703, Apr. 4, 1996, 110 Stat. 1108.

CODIFICATION

Section is comprised of section 232 of Pub. L. 103–354. Subsec. (b)(3) of section 232 of Pub. L. 103–354 amended section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (c)(2)(A). Pub. L. 104–127 substituted ''section 1932(b)'' for ''section 1932(b)(2)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 6943. Rural Housing and Community Development Service

(a) Establishment authorized

Notwithstanding any other provision of law, the Secretary is authorized to establish and

[1] See References in Text note below.

maintain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) Functions

If the Secretary establishes the Rural Housing and Community Development Service under subsection (a) of this section, the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) Programs and activities that relate to rural community lending programs, including programs authorized by section 2008d of this title.

(Pub. L. 103–354, title II, § 233, Oct. 13, 1994, 108 Stat. 3219; Pub. L. 104–127, title VII, §§ 747(b)(3), 753(b)(2), Apr. 4, 1996, 110 Stat. 1128, 1131.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (b)(1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b)(2), (3). Pub. L. 104–127 redesignated par. (3) as (2), substituted ''section 2008d of this title'' for ''sections 2008 through 2008d of this title'', and struck out former par. (2) which read as follows: ''Programs and activities authorized under section 1932(i) of this title and related provisions of law.''

§ 6944. Rural Business and Cooperative Development Service

(a) Establishment authorized

Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) Functions

If the Secretary establishes the Rural Business and Cooperative Development Service under subsection (a) of this section, the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.).

(2) Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.).

(3) Sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932).

(4) Section 1323 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) The Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

(Pub. L. 103–354, title II, § 234, Oct. 13, 1994, 108 Stat. 3220.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (b)(1), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended. Title V of the Act is classified generally to subchapter V (§ 950aa et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (b)(2), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended. Subtitle G of title XVI of the Act, known as the Alternative Agricultural Research and Commercialization Act of 1990, is classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendments note set out under section 1421 of this title and Tables.

Act of July 2, 1926, referred to in subsec. (b)(5), is act July 2, 1926, ch. 725, 44 Stat. 802, which is classified generally to chapter 18 (§ 451 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER IV—FOOD, NUTRITION, AND CONSUMER SERVICES

§ 6951. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 6981(b)(1) of this title).

(2) Additional functions

The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) Succession

Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on October 13, 1994, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 13, 1994 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103–354, title II, § 241, Oct. 13, 1994, 108 Stat. 3222.)

CODIFICATION

Section is comprised of section 241 of Pub. L. 103–354. Subsec. (e) of section 241 of Pub. L. 103–354 amended

section 5314 of Title 5, Government Organization and Employees.

SUBCHAPTER V—NATURAL RESOURCES AND ENVIRONMENT

§ 6961. Under Secretary of Agriculture for Natural Resources and Environment

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Natural Resources and Environment authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions under the jurisdiction of the Department that are related to natural resources and environment (except to the extent those functions are delegated under section 6932 of this title).

(2) Additional functions

The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) Succession

Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on October 13, 1994, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 13, 1994 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103–354, title II, § 245, Oct. 13, 1994, 108 Stat. 3223.)

CODIFICATION

Section is comprised of section 245 of Pub. L. 103–354. Subsec. (e) of section 245 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees.

§ 6962. Natural Resources Conservation Service

(a) Establishment

The Secretary is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

(b) Functions

If the Secretary establishes the Natural Resources Conservation Service under subsection (a) of this section, the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) The Water Bank Act (16 U.S.C. 1301 et seq.).

(2) The forestry incentive program under section 2103 of title 16.

(3) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), except subchapter B of chapter 1 of subtitle D of such title [16 U.S.C. 3831 et seq.].

(4) Salinity control measures under section 1592(c) of title 43.

(5) The Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(6) Such other functions as the Secretary considers appropriate, except functions under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831–3836).

(c) Special concurrence requirements for certain functions

In carrying out the programs specified in paragraphs (1), (2), and (4) of subsection (b) of this section and the program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837–3837f), the Secretary shall—

(1) acting on the recommendations of the Natural Resources Conservation Service, with the concurrence of the Consolidated Farm Service Agency, issue regulations to carry out such programs;

(2) ensure that the Natural Resources Conservation Service, in establishing policies, priorities, and guidelines for each such program, does so with the concurrence of the Consolidated Farm Service Agency at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 590h(b)(5) of title 16 meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) Use of Federal and non-Federal employees

(1) Use authorized

In the implementation of functions assigned to the Natural Resources Conservation Service, the Secretary may use interchangeably in local offices of the Service both Federal employees of the Department and non-Federal employees of county and area committees established under section 590h(b)(5) of title 16.

(2) Exception

Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) Savings provision

For purposes of subsections (c) and (d) of this section:

(1) A reference to the ''Natural Resources Conservation Service'' includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under this section.

(2) A reference to the ''Consolidated Farm Service Agency'' includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 6932 of this title.

(Pub. L. 103–354, title II, §246, Oct. 13, 1994, 108 Stat. 3223; Pub. L. 104–127, title III, §336(a)(2)(D), (b)(2)(B), (c)(3), (d)(2), Apr. 4, 1996, 110 Stat. 1005, 1006.)

REFERENCES IN TEXT

The Water Bank Act, referred to in subsec. (b)(1), is Pub. L. 91–559, Dec. 19, 1970, 84 Stat. 1468, as amended, which is classified generally to chapter 29 (§1301 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 16 and Tables.

The Food Security Act of 1985, referred to in subsecs. (b)(3), (6) and (c), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ''Sodbuster Law'', is classified principally to chapter 58 (§3801 et seq.) of Title 16. Subchapters B and C of chapter 1 of subtitle D of title XII of the Act are classified generally to subparts B (§3831 et seq.) and C (§3837 et seq.), respectively, of part I of subchapter IV of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

The Farms for the Future Act of 1990, referred to in subsec. (b)(5), is Pub. L. 101–624, title XIV, ch. 2, §§1465–1470B, Nov. 28, 1990, 104 Stat. 3616–3619, as amended, which is set out as a note under section 4201 of this title.

CODIFICATION

Section is comprised of section 246 of Pub. L. 103–354. Subsec. (f) of section 246 of Pub. L. 103–354 amended sections 2001, 2002, 2005, and 3862 of Title 16, Conservation, and repealed section 590e of Title 16.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–127, §336(d)(2)(A), redesignated par. (3) as (1) and struck out former par. (1) which read as follows: ''The rural environmental conservation program under title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.).''

Subsec. (b)(2). Pub. L. 104–127, §336(b)(2)(B), (d)(2)(A)(ii), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: ''The Great Plains Conservation Program under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).''

Subsec. (b)(3). Pub. L. 104–127, §336(d)(2)(A)(ii), redesignated par. (5) as (3). Former par. (3) redesignated (1).

Subsec. (b)(4). Pub. L. 104–127, §336(c)(3), (d)(2)(A)(ii), redesignated par. (6) as (4) and substituted ''measures'' for ''program''. Former par. (4) redesignated (2).

Subsec. (b)(5). Pub. L. 104–127, §336(d)(2)(A)(ii), redesignated par. (7) as (5). Former par. (5) redesignated (3).

Subsec. (b)(6). Pub. L. 104–127, §336(a)(2)(D), (d)(2)(A)(ii), redesignated par. (8) as (6) and struck out before period at end ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''. Former par. (6) redesignated (4).

Subsec. (b)(7), (8). Pub. L. 104–127, §336(d)(2)(A)(ii), redesignated pars. (7) and (8) as (5) and (6), respectively.

Subsec. (c). Pub. L. 104–127, §336(d)(2)(B), in introductory provisions, substituted ''(1), (2), and (4)'' for ''(2), (3), (4), and (6)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6932, 6991 of this title.

§ 6963. Reorganization of Forest Service

(a) Required elements of reorganization proposals

Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review, dated September 1993, shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) Report

Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a) of this section, identifies any disparities in regional funding patterns, and contains the rationale behind the disparities.

(Pub. L. 103–354, title II, §247, Oct. 13, 1994, 108 Stat. 3225.)

SUBCHAPTER VI—RESEARCH, EDUCATION, AND ECONOMICS

§ 6971. Under Secretary of Agriculture for Research, Education, and Economics

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Research,

Education, and Economics authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) Additional functions

The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) Cooperative State Research, Education, and Extension Service

(1) Establishment

There is established in the Department a Cooperative State Research, Education, and Extension Service.

(2) Functions

The Secretary shall delegate to the Cooperative State Research, Education, and Extension Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) Officer-in-charge

If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics, the officer in charge of the Cooperative State Research, Education, and Extension Service shall report directly to the Under Secretary.

(Pub. L. 103–354, title II, § 251, Oct. 13, 1994, 108 Stat. 3226.)

CODIFICATION

Section is comprised of section 251 of Pub. L. 103–354. Subsec. (e) of section 251 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 6972. Program staff

In making the personnel reductions required under section 6913 of this title, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

(Pub. L. 103–354, title II, § 252, Oct. 13, 1994, 108 Stat. 3227.)

SUBCHAPTER VII—FOOD SAFETY

§ 6981. Under Secretary of Agriculture for Food Safety

(a) Establishment

There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) Functions of Under Secretary

(1) Principal functions

The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

(2) Additional functions

The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) Omitted

(d) Technical and scientific review groups

The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5 governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates—

(1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and

(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

(Pub. L. 103–354, title II, § 261, Oct. 13, 1994, 108 Stat. 3227.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (d), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Section is comprised of section 261 of Pub. L. 103–354. Subsec. (c) of section 261 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6912, 6951 of this title.

§ 6982. Conditions for implementation of alterations in the level of additives allowed in animal diets

(a) Conditions

The Food and Drug Administration shall not implement or enforce the final rule described in

subsection (b) of this section to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) Final rule described

The final rule referred to in subsection (a) of this section is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after October 13, 1994.

(Pub. L. 103–354, title II, § 262, Oct. 13, 1994, 108 Stat. 3227.)

SUBCHAPTER VIII—NATIONAL APPEALS DIVISION

§ 6991. Definitions

For purposes of this subchapter:

(1) Adverse decision

The term ''adverse decision'' means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) Agency

The term ''agency'' means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 6932 of this title).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 6962(b) of this title).

(G) A State, county, or area committee established under section 590h(b)(5) of title 16.

(3) Appellant

The term ''appellant'' means a participant who appeals an adverse decision in accordance with this subchapter.

(4) Case record

The term ''case record'' means all the materials maintained by the Secretary related to an adverse decision.

(5) Director

The term ''Director'' means the Director of the Division.

(6) Division

The term ''Division'' means the National Appeals Division established by this chapter.

(7) Hearing officer

The term ''hearing officer'' means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) Implement

The term ''implement'' refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

(9) Participant

The term ''participant'' shall have the meaning given that term by the Secretary by regulation.

(Pub. L. 103–354, title II, § 271, Oct. 13, 1994, 108 Stat. 3228.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this subtitle'', meaning subtitle H (§§ 271–283) of title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3228, which enacted this subchapter, amended sections 2006 and 5101 to 5106 of this title and section 2202e of Title 12, Banks and Banking, and repealed sections 1433e and 1983b of this title.

This chapter, referred to in par. (6), was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

§ 6992. National Appeals Division and Director

(a) Establishment of Division

The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subchapter.

(b) Director

(1) Appointment

The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering ap-

plicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) Term and removal

The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) Position classification

The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) Direction, control, and support

The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) Determination of appealability of agency decisions

If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) Division personnel

The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subchapter.

(Pub. L. 103–354, title II, § 272, Oct. 13, 1994, 108 Stat. 3229.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6902 of this title.

§ 6993. Transfer of functions

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subchapter (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 1433e(c)[1] of this title (as in effect on the day before October 13, 1994);

(2) the National Appeals Division established by subsections (d) through (g) of section 1983b[1] of this title (as in effect on the day before October 13, 1994);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before October 13, 1994).

[1] See References in Text note below.

(Pub. L. 103–354, title II, § 273, Oct. 13, 1994, 108 Stat. 3230.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 103–354, which was approved Oct. 13, 1994.

Section 1433e of this title, referred to in par. (1), was repealed by Pub. L. 103–354, title II, § 281(b), Oct. 13, 1994, 108 Stat. 3233.

Section 1983b of this title, referred to in par. (2), was repealed by Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6912 of this title.

§ 6994. Notice and opportunity for hearing

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subchapter or other law for the review of such adverse decision.

(Pub. L. 103–354, title II, § 274, Oct. 13, 1994, 108 Stat. 3230.)

§ 6995. Informal hearings

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 6932 of this title), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on October 13, 1994. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

(Pub. L. 103–354, title II, § 275, Oct. 13, 1994, 108 Stat. 3230.)

REFERENCES IN TEXT

The Agricultural Credit Act of 1987, referred to in text, is Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568, as amended. Title V of the Act is classified principally to chapter 82 (§ 5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 2001 of Title 12, Banks and Banking, and Tables.

§ 6996. Right of participants to Division hearing

(a) Appeal to Division for hearing

Subject to subsection (b) of this section, a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 6997 of this title.

(b) Time for appeal

To be entitled to a hearing under section 6997 of this title, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

(Pub. L. 103–354, title II, § 276, Oct. 13, 1994, 108 Stat. 3230.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6997 of this title.

§ 6997. Division hearings

(a) General powers of Director and hearing officers

(1) Access to case record

The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) Administrative procedures

The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) Time for hearing

Upon a timely request for a hearing under section 6996(b) of this title, an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) Location and elements of hearing

(1) Location

A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) Evidentiary hearing

The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) Information at hearing

The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) Burden of proof

The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) Determination notice

The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 6998 of this title, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) Effective date

The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

(Pub. L. 103–354, title II, § 277, Oct. 13, 1994, 108 Stat. 3230.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6996, 6998 of this title.

§ 6998. Director review of determinations of hearing officers

(a) Requests for Director review

(1) Time for request by appellant

Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 6997 of this title, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) Time for request by agency head

Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 6997 of this title, the head of the agency may make a written request that the Director review the determination.

(b) Determination of Director

The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 6997 of this title, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final deter-

mination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) Basis for determination

The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

(d) Equitable relief

Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 1339a of this title and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) Effective date

A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

(Pub. L. 103–354, title II, § 278, Oct. 13, 1994, 108 Stat. 3232.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6997 of this title.

§ 6999. Judicial review

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5.

(Pub. L. 103–354, title II, § 279, Oct. 13, 1994, 108 Stat. 3233.)

§ 7000. Implementation of final determinations of Division

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(Pub. L. 103–354, title II, § 280, Oct. 13, 1994, 108 Stat. 3233.)

§ 7001. Conforming amendments relating to National Appeals Division

(a) Decisions of State, county, and area committees

(1) Application of subsection

This subsection shall apply only with respect to functions of the Consolidated Farm Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 590h(b)(5) of title 16 or an employee of such a committee.

(2) Finality

Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this subchapter; or

(B) modified by the Administrator of the Consolidated Farm Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) Recovery of amounts

If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Consolidated Farm Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(4) Savings provision

For purposes of this subsection, a reference to the ''Consolidated Farm Service Agency'' includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 6932 of this title.

(b), (c) Omitted

(Pub. L. 103–354, title II, § 281, Oct. 13, 1994, 108 Stat. 3233.)

CODIFICATION

Section is comprised of section 281 of Pub. L. 103–354. Subsecs. (b) and (c) of section 281 of Pub. L. 103–354 repealed sections 1433e and 1983b of this title, respectively.

§ 7002. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Division.

(Pub. L. 103–354, title II, § 283, Oct. 13, 1994, 108 Stat. 3235.)

SUBCHAPTER VIII–A—MARKETING AND REGULATORY PROGRAMS

§ 7005. Under Secretary of Agriculture for Marketing and Regulatory Programs

(a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs.

(b) Confirmation required

If the Secretary establishes the position of Under Secretary of Agriculture for Marketing

and Regulatory Programs authorized under subsection (a) of this section, the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary

(1) Principal functions

Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Marketing and Regulatory Programs those functions and duties under the jurisdiction of the Department that are related to agricultural marketing, animal and plant health inspection, grain inspection, and packers and stockyards.

(2) Additional functions

The Under Secretary of Agriculture for Marketing and Regulatory Programs shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) Succession

Any official who is serving as Assistant Secretary of Agriculture for Marketing and Regulatory Programs on October 21, 1998, and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) of this section to the successor position authorized under subsection (a) of this section if the Secretary establishes the position, and the official occupies the new position, within 180 days after October 21, 1998 (or such later date set by the Secretary if litigation delays rapid succession).

(Pub. L. 103–354, title II, §285, as added Pub. L. 105–277, div. A, §101(a) [title X, §1001(3)], Oct. 21, 1998, 112 Stat. 2681, 2681–41.)

CODIFICATION

Section is comprised of section 285 of Pub. L. 103–354, as added by Pub. L. 105–277. Subsec. (e) of section 285 of Pub. L. 103–354 amended section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7014 of this title.

SUBCHAPTER IX—MISCELLANEOUS REORGANIZATION PROVISIONS

§ 7011. Successorship provisions relating to bargaining units and exclusive representatives

(a) Voluntary agreement

(1) In general

If the exercise of the Secretary's authority under this chapter results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) Criteria

In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, relating to determining an exclusive representative; and

(B) section 7112 of title 5 (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) Effect of an agreement

(1) In general

If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a) of this section, the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) Restrictions

(A) Conditions requiring noncertification

The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) of this section (disregarding section 7112(a) of title 5) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5 is held covering any employees who would be included in the unit proposed for certification.

(B) Temporary waiver of provision that would bar an election after a collective bargaining agreement is reached

Nothing in section 7111(f)(3) of title 5 shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) Clarification

The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5 or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) Delegation

(A) In general

The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5) its authority under the preceding provisions of this subsection.

(B) Review

Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5 in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) "Affected party" defined

For purposes of this section, the term ''affected party'' means—

(1) with respect to an exercise of authority by the Secretary under this chapter, any labor organization affected thereby; and

(2) the Department of Agriculture.

(Pub. L. 103–354, title II, § 291, Oct. 13, 1994, 108 Stat. 3235.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

§ 7012. Purchase of American-made equipment and products

(a) Sense of Congress

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this chapter should be American-made.

(b) Notice requirement

In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this chapter, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) of this section by the Congress.

(Pub. L. 103–354, title II, § 292, Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

§ 7013. Proposed conforming amendments

Not later than 180 days after October 13, 1994, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this chapter.

(Pub. L. 103–354, title II, § 295, Oct. 13, 1994, 108 Stat. 3238.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

§ 7014. Termination of authority

(a) In general

Subject to subsection (b) of this section, the authority delegated to the Secretary by this chapter to reorganize the Department shall terminate on the date that is 2 years after October 13, 1994.

(b) Functions

Subsection (a) of this section shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after October 13, 1994;

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App.; 7 U.S.C. 2201 note);

(3) the authority of an agency, office, officer, or employee of the Department to continue to perform all functions delegated or assigned to the entity or person as of that termination date; or

(4) the authority of the Secretary to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs under section 7005 of this title.

(Pub. L. 103–354, title II, § 296, Oct. 13, 1994, 108 Stat. 3238; Pub. L. 105–277, div. A, § 101(a) [title X, § 1001(4)], Oct. 21, 1998, 112 Stat. 2681, 2681–42.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

Reorganization Plan No. 2 of 1953, referred to in subsec. (b)(2), is Reorg. Plan No. 2 of 1953, June 4, 1953, 18 F.R. 3219, 67 Stat. 633, as amended, which is set out as a note under section 2201 of this title.

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–277 added par. (4).

CHAPTER 99—SHEEP PROMOTION, RESEARCH, AND INFORMATION

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7401 of this title.

§ 7101. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) sheep and sheep products are important goods;

(2) the production of sheep and sheep products play a significant role in the economy of the United States in that sheep and sheep products are produced throughout the United States and used by millions of people throughout the United States and foreign countries;

(3) sheep and sheep products must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of sheep products;

(4) the maintenance and expansion of existing markets and development of new markets for sheep and sheep products are vital to the welfare of sheep producers and persons concerned with marketing, using, and producing sheep and sheep products, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of sheep and sheep products;

(5) there exist established State organizations conducting sheep and sheep product promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of sheep and sheep products;

(6) the cooperative development, financing, and implementation of a coordinated national program of sheep and sheep product promotion, research, consumer information, education, and industry information are necessary to maintain and expand existing markets and develop new markets for sheep and sheep products; and

(7) sheep and sheep products move in interstate and foreign commerce, and sheep and sheep products that do not move in such channels of commerce directly burden or affect interstate commerce in sheep and sheep products.

(b) Policy

It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on sheep and sheep products produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, consumer information, education, and industry information designed to—

(1) strengthen the position of the sheep and sheep product industry in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for sheep and sheep products; and

(3) develop new markets and uses for sheep and sheep products.

(c) Construction

Nothing in this chapter provides for the control of production, or otherwise limits, the right of any person to produce sheep or sheep products.

(Pub. L. 103–407, § 2, Oct. 22, 1994, 108 Stat. 4210.)

SHORT TITLE

Section 1 of Pub. L. 103–407 provided that: ''This Act [enacting this chapter] may be cited as the 'Sheep Promotion, Research, and Information Act of 1994'.''

§ 7102. Definitions

As used in this chapter (unless the context clearly requires otherwise):

(1) Board

The term ''Board'' means the National Sheep Promotion, Research, and Information Board established under section 7104(b) of this title.

(2) Carbonized wool

The term ''carbonized wool'' means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibres.

(3) Consumer information

The term ''consumer information'' means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

(4) Customs Service

The term ''Customs Service'' means United States Customs Service of the Department of the Treasury.

(5) Degreased wool

The term ''degreased wool'' means wool from which the bulk of impurities has been removed by processing.

(6) Department

The term ''Department'' means the United States Department of Agriculture.

(7) Education

The term ''education'' means activities providing information relating to the sheep in-

dustry or sheep products to producers, feeders, importers, consumers, and other persons.

(8) Executive Committee

The term ''Executive Committee'' means the Executive Committee established under section 7104(g) of this title.

(9) Exporter

The term ''exporter'' means any person who exports domestic live sheep or greasy wool from the United States.

(10) Feeder

The term ''feeder'' means a person who feeds lambs until the lambs reach slaughter weight.

(11) Greasy wool

The term ''greasy wool'' means wool that has not been washed or otherwise cleaned.

(12) Handler

The term ''handler'' means any person who purchases and markets greasy wool.

(13) Importer

The term ''importer'' means any person who imports sheep or sheep products into the United States.

(14) Industry information

The term ''industry information'' means information and programs that will lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

(15) Order

The term ''order'' means a sheep and wool promotion, research, education, and information order issued under section 7103 of this title.

(16) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(17) Processor

The term ''processor'' means any person who slaughters sheep or processes greasy wool into degreased wool.

(18) Producer

The term ''producer'' means any person, other than a feeder, who owns or acquires ownership of sheep.

(19) Producer information

The term ''producer information'' means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

(20) Promotion

The term ''promotion'' means any action (including paid advertising) to advance the image and desirability of sheep or sheep products to improve the competitive position, and stimulate sales, of sheep products in the domestic and international marketplace.

(21) Pulled wool

The term ''pulled wool'' means wool that is pulled from the skin of a slaughtered sheep.

(22) Qualified State sheep board

The term ''qualified State sheep board'' means a sheep and wool promotion entity that—

(A) is authorized by State statute or is otherwise organized and operating within a State;

(B) receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both; and

(C) is recognized by the Board as the sheep and wool promotion entity within the State;

except that not more than 1 qualified State sheep board shall exist in any State at any 1 time.

(23) Raw wool

The term ''raw wool'' means greasy wool, pulled wool, degreased wool, or carbonized wool.

(24) Research

The term ''research'' means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

(25) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(26) Sheep

The term ''sheep'' means ovine animals of any age, including lambs.

(27) Sheep products

The term ''sheep products'' means products produced, in whole or in part, from sheep, including wool and products containing wool fiber.

(28) State

The term ''State'' means each of the 50 States.

(29) Unit

The term ''unit'' means each State, group of States, or class designation that is represented on the Board.

(30) United States

The term ''United States'' means the 50 States and the District of Columbia.

(31) Wool

The term ''wool'' means the fiber from the fleece of a sheep.

(32) Wool products

The term ''wool products'' means products produced, in whole or in part, from wool and products containing wool fiber.

(Pub. L. 103–407, § 3, Oct. 22, 1994, 108 Stat. 4211.)

§ 7103. Issuance and amendment of orders

(a) In general

Subject to subsection (b) of this section, the Secretary shall issue orders under this chapter applicable to producers, feeders, importers, handlers, and purchasers of sheep and sheep products. Any order shall be national in scope. Not more than 1 order shall be in effect under this chapter at any 1 time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order under this chapter, or an association of producers may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order

Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of orders

After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received, that includes provisions necessary to ensure that the order is in conformity with this chapter. The order shall be issued not later than 180 days following publication of the proposed order.

(4) Referendum

The order shall go into effect only if the order is approved by producers, feeders, and importers in a referendum conducted under section 7105 of this title.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this chapter.

(Pub. L. 103–407, § 4, Oct. 22, 1994, 108 Stat. 4213.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7102, 7105 of this title.

§ 7104. Required terms in orders

(a) In general

An order issued under this chapter shall contain the terms and conditions specified in this section.

(b) Establishment and membership of Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a National Sheep Promotion, Research, and Information Board to administer the order. Members of the Board shall be appointed by the Secretary from nominations provided in accordance with this subsection. The cumulative number of seats on the Board shall be 120 and shall be apportioned as follows:

(A) Producers

Producers shall be appointed to the Board to represent States, with each State represented by the following number of members:

Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2
Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

(B) Feeders

The feeder sheep industry shall be represented on the Board by 10 members.

(C) Importers

Importers shall be represented on the Board by 25 members.

(D) Alternates

The order shall provide that a unit represented by only 1 member may have an alternate member appointed to ensure representation at meetings of the Board.

(2) Nominations

(A) Producers

The Secretary shall appoint producers to represent units established under paragraph (1)(A) from nominations submitted by eligi-

ble organizations certified under subsection (c)(3) of this section. An eligible organization may submit only nominations from the membership of the organization for the unit in which the organization is located. To be represented on the Board, each eligible organization shall submit to the Secretary at least 1.5 nominations for each appointment to the Board for which the unit is entitled to representation, as determined under paragraph (1)(A). If a unit is entitled to 1 appointment on the Board, the unit shall submit at least 2 nominations for the appointment.

(B) Feeders

The Secretary shall appoint representatives of the feeder sheep industry to seats established under paragraph (1)(B) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which the feeder sheep industry is entitled to representation, as determined under paragraph (1)(B).

(C) Importers

The Secretary shall appoint importers to seats established under paragraph (1)(C) from nominations submitted by qualified organizations that represent importers, as determined by the Secretary. To be represented on the Board, importers shall provide at least 1.5 nominations for each appointment to the Board for which importers are entitled to representation, as determined under paragraph (1)(C).

(c) Method for obtaining nominations

(1) Initially established Board

(A) Producer nominations

The Secretary shall solicit nominations for each seat on the initially established Board to which a unit is entitled to representation from eligible organizations certified under paragraph (3). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(B) Feeder and importer nominations

The Secretary shall solicit nominations for each seat for which feeders or importers are entitled to representation from organizations that represent feeders and importers, respectively. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether—

(i) the active membership of the organization includes a significant number of feeders or importers in relation to the total membership of the organization;

(ii) there is evidence of stability and permanency of the organization; and

(iii) the organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(2) Subsequent appointment

(A) Producer nominations

The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under paragraph (3) shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(B) Feeder and importer nominations

The solicitation of feeder and importer nominations for seats on the Board shall be made by the Secretary in accordance with paragraph (1)(B).

(3) Certification of organizations

(A) In general

The eligibility of any organization to represent producers, and to participate in the making of nominations to represent producers under this section, shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph. An eligibility determination of the Secretary under this paragraph shall be final.

(B) Basis for certification

Certification under this paragraph shall be based, in addition to other available information, on a factual report submitted by the organization, that shall contain information considered relevant and specified by the Secretary, including—

(i) the geographic territory covered by the active membership of the organization;

(ii) the nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(iii) evidence of stability and permanency of the organization;

(iv) sources from which the operating funds of the organization are derived;

(v) the functions of the organization; and

(vi) the ability and willingness of the organization to further the aims and objectives of this chapter.

(C) Primary considerations

A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—

(i) the membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(ii) an interest of the organization is in the production of sheep.

(d) Administration

(1) Terms

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than 2 consecutive 3-year terms, except that an elected officer of the Board shall not be subject to this sentence while the officer holds office.

(2) Compensation

A Board member shall serve without compensation, but shall be reimbursed for the reasonable expenses of the member incurred in performing the duties of the Board.

(3) Meetings

The order shall provide for at least an annual meeting of the Board and such additional meetings of the Board as may be required.

(e) Powers and duties of Board

The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to elect officers of the Board, including a Chairperson, Vice Chairperson, and Secretary;

(2) to administer the order in accordance with the terms and provisions of the order;

(3) to recommend regulations to effectuate the terms and provisions of the order;

(4) to elect members of the Board to serve on the Executive Committee;

(5) to approve or reject budgets submitted by the Executive Committee;

(6) on approval, to submit the budgets to the Secretary for the approval or disapproval of the Secretary;

(7) to contract with entities, if necessary, to carry out plans or projects in accordance with this chapter;

(8) to conduct programs of promotion, research, consumer information, education, industry information, and producer information;

(9) to receive, investigate, and report to the Secretary complaints of violations of the order;

(10) to recommend to the Secretary amendments to the order;

(11) to provide the Secretary with prior notice of meetings of the Board to permit the Secretary, or a designated representative, to attend the meetings;

(12) to provide, not less than annually, a report to producers, feeders, and importers accounting for funds expended by the Board and describing programs carried out under this chapter, and to make the report available to the public on request;

(13) to establish 7 regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of producers and sheep production;

(14) to employ or retain necessary staff; and

(15) to invest funds in accordance with subsection (k) of this section.

(f) Budgets

(1) In general

The order shall provide that the Board shall review budgets submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and producer information projects. On approval by the Board, the Board shall submit the budget to the Secretary for the approval of the Secretary.

(2) Limitation

No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or budget amendment approved by the Secretary.

(g) Executive Committee

(1) Establishment

The order shall establish an Executive Committee to administer the terms and provisions of the order, as provided in this subsection, under the direction of the Board and consistent with the policies determined by the Board.

(2) Membership

The Executive Committee shall be composed of 14 members, of which—

(A) 11 members shall be elected by the Board on an annual basis, of which—

(i) 7 members shall represent producers, with 1 member representing each of the regions established in the order;

(ii) 1 member shall represent feeders; and

(iii) 3 members shall represent importers; and

(B) 3 members shall be the Chairperson, Vice Chairperson, and Secretary of the Board.

(3) Powers and duties

(A) Plans or projects

The Executive Committee shall develop plans or projects of promotion, research, consumer information, education, industry information, and producer information, which shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until the plans or projects are approved by the Secretary.

(B) Budgets

The Executive Committee shall be responsible for developing and submitting to the Board, for the approval of the Board, budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Board, including probable costs of promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove a budget submitted by the Executive Committee, and, if approved, shall submit the budget to the Secretary for the approval of the Secretary.

(4) Terms

A term of appointment to the Executive Committee shall be for 1 year.

(5) Chairperson

The Chairperson of the Board shall serve as Chairperson of the Executive Committee.

(6) Quorum

A quorum of the Executive Committee shall consist of 8 members.

(h) Expenses, contracts, and agreements

(1) Expenses

The order shall provide that the Board shall be responsible for all expenses of the Board and the Executive Committee.

(2) Contracts and agreements

A contract or agreement entered into by the Board under subsection (e)(7) of this section shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget or budgets that provides estimated costs to be incurred for the plan or project;

(B) the plan or project, and the contract or agreement, shall not become effective until the plan or project has been approved by the Secretary; and

(C) the contracting party shall—

(i) keep accurate records of all of the transactions of the party;

(ii) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

(iii) make periodic reports to the Board of activities conducted; and

(iv) make such other reports as the Board or the Secretary may require.

(i) Assessments

(1) Sheep purchases

(A) In general

The order shall provide that each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall, in the manner prescribed by the order, collect an assessment from the producer or feeder on each sheep sold by the producer or feeder.

(B) Processing

Any person purchasing sheep for processing shall collect the assessment from the seller and remit the assessment to the Board in the manner prescribed by the order.

(C) Rate

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph shall be 1 cent per pound of live sheep sold.

(ii) Exception

The rate of assessment under this paragraph may be raised or lowered not more than 15/100 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 2.5 cents per pound of live sheep sold.

(2) Wool purchases

(A) In general

The order shall provide that each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall, in the manner prescribed by the order, collect an assessment on each pound of greasy wool sold.

(B) Processing

Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board in the manner prescribed by the order.

(C) Rate

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph shall be 2 cents per pound of greasy wool.

(ii) Exception

The rate of assessment under this paragraph may be raised or lowered not more than 2/10 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 4 cents per pound of greasy wool.

(3) Direct processing

The order shall provide that any person processing or causing to be processed sheep or sheep products of that person's own production and marketing shall—

(A) pay an assessment on the sheep or sheep products at the time of sale at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(4) Exports

The order shall provide that any person exporting live sheep or greasy wool shall—

(A) pay the assessment on the sheep or greasy wool at the time of export at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(5) Imports

(A) In general

The order shall provide that any person importing sheep or sheep product, and any person importing wool or products containing wool, into the United States shall pay an assessment to the Board in the manner prescribed by the order, except that this paragraph shall not apply to raw wool that is imported into the United States.

(B) Collection

The Customs Service shall collect the assessment required under this paragraph and remit the assessment to the Secretary for disbursement to the Board.

(C) Rate for sheep and sheep products

(i) In general

Except as provided in subparagraph (B), the rate of assessment under this paragraph for sheep and sheep products shall be—

(I) in the case of a live sheep, 1 cent per pound; and

(II) in the case of a sheep product, the equivalent of 1 cent per pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry.

(ii) Exception

The rate of assessment under this subparagraph may be raised or lowered not more than 15/100 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 2.5 cents per pound.

(D) Rate for wool and wool products

(i) In general

Except as provided in clause (ii), the rate of assessment under this paragraph for wool and products containing wool, shall be 2 cents per pound of degreased wool or the equivalent of degreased wool.

(ii) Exception

The rate of assessment under this subparagraph may be raised or lowered not more than 2/10 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 4 cents per pound of degreased wool or the equivalent of degreased wool.

(6) Qualified State sheep boards

(A) In general

Except as provided in subparagraph (B), the order shall provide that 20 percent of the total assessments collected by the Board on the marketing of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the qualified State sheep board of the State.

(B) Exception

No qualified State sheep board shall receive less than $2,500 under subparagraph (A) in any year.

(7) De minimis imports

The Secretary may issue regulations that—

(A) exclude certain imported materials or products that contain de minimis content levels of sheep or sheep products; and

(B) waive the assessment due on the materials or products.

(8) Use of assessments

(A) In general

The order shall provide that assessments received by the Board shall be used by the Board for the payment of expenses incurred in administering the order, with authorization for a reasonable reserve.

(B) Reimbursement of Secretary

The Secretary shall be reimbursed for costs incurred in implementing and administering the order.

(j) Books and records of Board

(1) In general

The order shall require the Board to—

(A) maintain such books and records as the Secretary may prescribe, which shall be available to the Secretary for inspection and audit;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audit

The Board shall cause books and records of the Board related to the order to be audited by an independent auditor at the end of each fiscal year. The Board shall submit a report of the audit to the Secretary.

(k) Investment of funds

(1) In general

The order shall provide that the Board may invest, pending disbursement, funds the Board receives under the order, only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) Use of income

Income from any investment under paragraph (1) may be used for any purpose for which the invested funds may be used.

***(l)* Prohibition on use of funds**

(1) In general

Except as provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) the development and recommendation to the Secretary of amendments to the order; or

(B) the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under the order.

(3) False or misleading claims

A plan or project conducted under this chapter shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(m) Books and records

(1) In general

The order shall require that each person making payment to a producer, feeder, or handler for sheep or sheep products, each importer and exporter of sheep or sheep products, and each person marketing sheep products of the person's own production to maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Use of information

(A) In general

Information from the records or reports shall be made available to the Secretary for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

(B) Other information

The Secretary shall authorize the use under this chapter of information regarding

persons paying producers, feeders, importers, handlers, or processors that is accumulated under a law or regulation other than this chapter or a regulation issued under this chapter.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, all information obtained under paragraph (1) or (2) shall be kept confidential by all officers and employees of the Department and of the Board.

(B) Disclosure

Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this chapter.

(C) General statements

Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) Administration

No information obtained under this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter or any investigatory or enforcement action necessary for the implementation of this chapter.

(E) Penalty

Any person who willfully violates this paragraph, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, shall be removed from office.

(n) Other terms and conditions

The order shall provide such terms and conditions, not inconsistent with this section, as are necessary to carry out the order, including provisions for the assessment of a penalty for the late payment of an assessment due under the order.

(Pub. L. 103–407, § 5, Oct. 22, 1994, 108 Stat. 4213.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7102 of this title.

§ 7105. Referenda

(a) Initial referendum

(1) In general

Following the issuance of an order under section 7103 of this title, the Secretary shall conduct a referendum among producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, or importation of sheep or sheep products for the purpose of ascertaining whether the order shall go into effect.

(2) Approval of order

The order shall become effective only if the Secretary determines that the order has been approved by not less than a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by persons voting in the referendum.

(b) Additional referenda

(1) In general

After the initial referendum, on the request of a representative group comprising 10 percent or more of the producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, importation, or processing of sheep or sheep products, the Secretary shall conduct a referendum of producers, feeders, and importers to determine whether the producers, feeders, and importers favor the termination or suspension of the order.

(2) Suspension or termination

If the Secretary determines that suspension or termination of the order is favored by a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by the persons voting in the referendum, the Secretary shall suspend or terminate—

(A) collection of assessments under the order not later than 180 days after the determination; and

(B) the order in an orderly manner as soon as practicable after the determination.

(c) Procedures

(1) Reimbursement

(A) In general

Except as provided in subparagraph (B), the Board shall reimburse the Secretary for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(B) Federal employee salaries

The Board shall not be required to reimburse the Secretary for the salaries of Federal employees under subparagraph (A) if the Secretary determines that the reimbursement would be overly burdensome and costly.

(2) Date

Each referendum under this section shall be conducted on a date established by the Sec-

retary, under a procedure by which producers, feeders, and importers intending to vote in the referendum shall certify that the producers, feeders, and importers were engaged in the production, feeding, or importation of sheep or sheep products during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) Place

Referenda under this section shall be conducted at locations determined by the Secretary. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(4) Allocation of production

The Secretary shall determine a method of allocating, by a pro rata percentage of annual projected or actual assessments from importers, the volume of production represented by importers in referenda conducted pursuant to this section.

(Pub. L. 103–407, § 6, Oct. 22, 1994, 108 Stat. 4223.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7103 of this title.

§ 7106. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final if the ruling is in accordance with law.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the ruling by the Secretary under subsection (a)(3) of this section.

(2) Process

Service of process in a proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as are considered necessary by the Secretary to facilitate the service of process.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(Pub. L. 103–407, § 7, Oct. 22, 1994, 108 Stat. 4224.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7107 of this title.

§ 7107. Enforcement

(a) Jurisdiction

Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under section 7106 of this title.

(c) Civil penalties and orders

(1) Civil penalties

A person who willfully violates an order or regulation issued by the Secretary under this chapter may be assessed by the Secretary—

(A) a civil penalty of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of the assessment.

(2) Separate offense

Each violation shall be a separate offense.

(3) Cease-and-desist orders

In addition to, or in lieu of, the civil penalty, the Secretary may issue an order requiring the person to cease and desist from violating the order or regulation.

(4) Notice and hearing

No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) Finality

An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d) of this section, not later than 30 days after the person receives notice of the order.

(d) Review by court of appeals

(1) In general

A person against whom an order is issued under subsection (c) of this section may obtain review of the order by—

(A) filing, not later than 30 days after the date of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the order.

(f) Failure to pay penalties

If a person fails to pay a valid civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 103–407, § 8, Oct. 22, 1994, 108 Stat. 4224.)

§ 7108. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether any person subject to this chapter has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this chapter, or of any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations

For the purpose of any investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 103–407, § 9, Oct. 22, 1994, 108 Stat. 4226.)

§ 7109. Administrative provisions

(a) Construction

Nothing in this chapter preempts or supersedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

(b) Amendments to orders

The provisions of this chapter applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

(Pub. L. 103–407, § 10, Oct. 22, 1994, 108 Stat. 4226.)

§ 7110. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 103–407, § 11, Oct. 22, 1994, 108 Stat. 4226.)

§ 7111. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

(b) Administrative expenses

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

(Pub. L. 103–407, § 12, Oct. 22, 1994, 108 Stat. 4226.)

CHAPTER 100—AGRICULTURAL MARKET TRANSITION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 1308–3, 1508, 7334 of this title; title 16 sections 3811, 3821, 3839bb.

SUBCHAPTER I—SHORT TITLE, PURPOSE, AND DEFINITIONS

§ 7201. Short title and purpose

(a) Short title

This chapter may be cited as the ''Agricultural Market Transition Act''.

(b) Purpose

It is the purpose of this chapter—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensur-

ing continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

(Pub. L. 104–127, title I, §101, Apr. 4, 1996, 110 Stat. 896.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which enacted this chapter and section 6933 of this title, amended sections 1308, 1308–1, 1308–3, 1358–1, 1358b, 1358c, 1359a, 1373, 1441, 1445j, 1508, 1516, 4504, 6401, 6402, 6413, 6414, and 6932 of this title and sections 713a–14, 714b, 714i, and 714k of Title 15, Commerce and Trade, repealed sections 1426, 1433f, 1441–2, 1444–2, 1444f, 1445b–3a, 1445c–3, 1445h, 1446e to 1446h, and 1519 of this title, enacted provisions set out as notes under sections 1373, 1446e, 1446e–1, and 1508 of this title, and repealed provisions set out as a note under section 1421 of this title. For complete classification of title I to the Code, see Tables.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–228, §1, Aug. 12, 1998, 112 Stat. 1516, provided that: ''This Act [amending section 7212 of this title] may be cited as the 'Emergency Farm Financial Relief Act'.''

SHORT TITLE

Section 1(a) of Pub. L. 104–127 provided that: ''This Act [see Tables for classification] may be cited as the 'Federal Agriculture Improvement and Reform Act of 1996'.''

SEVERABILITY

Section 928 of Pub. L. 104–127 provided that: ''If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.''

§ 7202. Definitions

In this chapter:

(1) Agricultural Act of 1949

Except in section 7301 of this title, the term ''Agricultural Act of 1949'' means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 7301(b)(1) of this title.

(2) Considered planted

The term ''considered planted'' means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) Contract

The terms ''contract'' and ''production flexibility contract'' mean a production flexibility contract entered into under section 7211 of this title.

(4) Contract acreage

The term ''contract acreage'' means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 7301(b)(1) of this title).

(5) Contract commodity

The term ''contract commodity'' means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) Contract payment

The term ''contract payment'' means a payment made under this subchapter[1] pursuant to a contract.

(7) Department

The term ''Department'' means the Department of Agriculture.

(8) Extra long staple cotton

The term ''extra long staple cotton'' means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) Farm program payment yield

The term ''farm program payment yield'' means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) Loan commodity

The term ''loan commodity'' means each contract commodity, extra long staple cotton, and oilseed.

(11) Oilseed

The term ''oilseed'' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) Producer

The term ''producer'' means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

[1] So in original. Probably should be ''chapter''.

(13) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(14) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) United States

The term ''United States'', when used in a geographical sense, means all of the States.

(Pub. L. 104–127, title I, § 102, Apr. 4, 1996, 110 Stat. 897.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 7201 of this title.

The Agricultural Act of 1949, referred to in pars. (1), (2), and (4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. Title V of the Act, which was classified generally to subchapter IV (§ 1461 et seq.) of chapter 35A of this title, was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), referred to in par. (9), was omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

SUBCHAPTER II—PRODUCTION FLEXIBILITY CONTRACTS

§ 7211. Authorization for use of production flexibility contracts

(a) Offer and terms

The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) of this section on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 7218 of this title; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) Eligible owners and producers described

The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 1508(b) of this title.

(c) Tenants and sharecroppers

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) Eligible cropland described

Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 7212(a)(2) of this title.

(e) Quantity of eligible cropland covered by contract

Subject to subsection (b)(4) of this section, an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) Voluntary reduction in contract acreage

Subject to subsection (b)(4) of this section, an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

(Pub. L. 104–127, title I, § 111, Apr. 4, 1996, 110 Stat. 898.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1), (2), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354,

as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§ 3811 et seq.) and III (§ 3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

This subchapter, referred to in subsec. (c), was in the original ''this subtitle'', meaning subtitle B (§§ 111–118) of title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 898, which enacted this subchapter and amended sections 1308, 1308–1, and 1308–3 of this title. For complete classification of subtitle B to the Code, see Tables.

Sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (d)(1), were classified to sections 1441–2, 1444–2, 1444f, and 1445b–3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)–(D) of this title.

VIOLATION OF CONTRACT; DENIAL OF FUNDS FOR SALARIES

Pub. L. 104–180, title VII, § 726, Aug. 6, 1996, 110 Stat. 1600, provided that: ''None of the funds made available in this Act [see Tables for classification] may be used to pay the salaries of employees of the Department of Agriculture who make payments pursuant to a production flexibility contract entered into under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 7 U.S.C. 7211) when it is made known to the Federal official having authority to obligate or expend such funds that the land covered by that production flexibility contract is not being used for the production of an agricultural commodity or is not devoted to a conserving use, unless it is also made known to that Federal official that the lack of agricultural production or the lack of a conserving use is a consequence of drought, flood, or other natural disaster.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7202, 7216 of this title.

§ 7212. Elements of contracts

(a) Time for contracting

(1) Commencement

To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after April 4, 1996.

(2) Deadline

Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) Conservation reserve lands

(A) In general

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 3831 of title 16 that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) Amount

Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) Duration of contract

(1) Beginning date

The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3) of this section, the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) Ending date

The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) Estimation of contract payments

At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) Time for payment

(1) In general

An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) Advance payments

(A) Fiscal year 1996

At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) Subsequent fiscal years

At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

(3) Special rule

Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for any of fiscal years 1999 through 2002 at such time or times during that fiscal year as the owner or producer may specify.

(Pub. L. 104–127, title I, § 112, Apr. 4, 1996, 110 Stat. 899; Pub. L. 105–228, § 2, Aug. 12, 1998, 112 Stat. 1516; Pub. L. 106–78, title VIII, § 811, Oct. 22, 1999, 113 Stat. 1181.)

AMENDMENTS

1999—Subsec. (d)(3). Pub. L. 106–78, in par. heading, struck out ''for fiscal year 1999'' after ''rule'' and, in

text, substituted ''any of fiscal years 1999 through 2002'' for ''fiscal year 1999''.

1998—Subsec. (d)(3). Pub. L. 105–228 added par. (3).

PRODUCTION FLEXIBILITY CONTRACT PAYMENTS

Pub. L. 106–170, title V, § 525, Dec. 17, 1999, 113 Stat. 1928, provided that: ''Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 [7201] et seq.), as in effect on the date of the enactment of this Act [Dec. 17, 1999], shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].''

Pub. L. 105–277, div. J, title II, § 2012, Oct. 21, 1998, 112 Stat. 2681–902, provided that:

''(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d)(2) and (3)), as in effect on the date of the enactment of this Act [Oct. 21, 1998], shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act [7 U.S.C. 7211 et seq.] (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

''(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

§ 7213. Amounts available for contract payments

(a) Fiscal year amounts

The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

(1) For fiscal year 1996, $5,570,000,000.
(2) For fiscal year 1997, $5,385,000,000.
(3) For fiscal year 1998, $5,800,000,000.
(4) For fiscal year 1999, $5,603,000,000.
(5) For fiscal year 2000, $5,130,000,000.
(6) For fiscal year 2001, $4,130,000,000.
(7) For fiscal year 2002, $4,008,000,000.

(b) Allocation

The amount made available for a fiscal year under subsection (a) of this section shall be allocated as follows:

(1) For wheat, 26.26 percent.
(2) For corn, 46.22 percent.
(3) For grain sorghum, 5.11 percent.
(4) For barley, 2.16 percent.
(5) For oats, 0.15 percent.
(6) For upland cotton, 11.63 percent.
(7) For rice, 8.47 percent.

(c) Adjustment

The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) of this section for a particular fiscal year by—

(1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;

(2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 7216 of this title for the commodity; and

(3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) Additional rice allocation

In addition to the adjustments required under subsection (c) of this section, the amount allocated under subsection (b) of this section for rice contract payments shall be increased by $8,500,000 for each of fiscal years 1997 through 2002.

(e) Exclusion of certain amounts from contract payments

Any amount added pursuant to paragraphs (1) and (2) of subsection (c) of this section to the amount available under subsection (a) of this section for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 7215 of this title or section 1308(1) of this title. However, the amount of a payment covered by this subsection may not exceed $50,000 per person.

(f) Effect of payment limitation

The amount available under subsection (a) of this section for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1308(1) of this title.

(Pub. L. 104–127, title I, § 113, Apr. 4, 1996, 110 Stat. 900.)

REFERENCES IN TEXT

Sections 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (c)(3), were classified to sections 1444–2, 1444f, and 1445b–3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)–(D) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7214, 7334 of this title.

§ 7214. Determination of contract payments under contracts

(a) Individual payment quantity of contract commodities

For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(1) 85 percent of the contract acreage; and
(2) the farm program payment yield.

(b) Annual payment quantity of contract commodities

The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) of this section for each individual contract.

(c) Annual payment rate

The payment rate for a contract commodity for each fiscal year shall be equal to—

(1) the amount made available under section 7213 of this title for the contract commodity for the fiscal year; divided by

(2) the amount determined under subsection (b) of this section for the fiscal year.

(d) Annual payment amount

The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) of this section for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c) of this section.

(e) Reduction in payment amount

The contract payment determined under subsection (d) of this section for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) Assignment of contract payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) Sharing of contract payments

The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

(Pub. L. 104–127, title I, §114, Apr. 4, 1996, 110 Stat. 901.)

§ 7215. Applicability of payment limitations

Sections 1308 through 1308–3 of this title shall be applicable to contract payments made under this subchapter.

(Pub. L. 104–127, title I, §115(a), Apr. 4, 1996, 110 Stat. 902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7213 of this title.

§ 7216. Violations of contract

(a) Termination of contract for violation

Except as provided in subsection (b) of this section, if an owner or producer subject to a contract violates a requirement of the contract specified in section 7211(a) of this title, the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) Refund or adjustment

If the Secretary determines that a violation does not warrant termination of the contract under subsection (a) of this section, the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) Foreclosure

(1) Effect of foreclosure

An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) Resumption of operation

This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) Review

A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(Pub. L. 104–127, title I, §116, Apr. 4, 1996, 110 Stat. 903.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7213 of this title.

§ 7217. Transfer or change of interest in lands subject to contract

(a) Termination

Except as provided in subsection (c) of this section, a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) Modification

At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subchapter, as determined by the Secretary.

(c) Exception

If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(Pub. L. 104–127, title I, §117, Apr. 4, 1996, 110 Stat. 904.)

§ 7218. Planting flexibility

(a) Permitted crops

Subject to subsection (b) of this section, any commodity or crop may be planted on contract acreage on a farm.

(b) Limitations and exceptions regarding fruits and vegetables

(1) Limitations

The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) Exceptions

Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

(Pub. L. 104–127, title I, §118, Apr. 4, 1996, 110 Stat. 904.)

CONTRACT PAYMENTS FOR WILD RICE ACREAGE

Pub. L. 106–78, title VII, §727, Oct. 22, 1999, 113 Stat. 1164, provided that: ''None of the funds appropriated or otherwise available to the Department of Agriculture in fiscal year 2000 or thereafter may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.''

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105–277, div. A, §101(a) [title VII, §727], Oct. 21, 1998, 112 Stat. 2681, 2681–28.

Pub. L. 105–86, title VII, §734, Nov. 18, 1997, 111 Stat. 2110.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7211 of this title.

SUBCHAPTER III—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

§ 7231. Availability of nonrecourse marketing assistance loans

(a) Nonrecourse loans available

For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 7232 of this title for the loan commodity.

(b) Eligible production

The following production shall be eligible for a marketing assistance loan under subsection (a) of this section:

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) Compliance with conservation and wetlands requirements

As a condition of the receipt of a marketing assistance loan under subsection (a) of this section, the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) Additional outlays prohibited

The Secretary shall carry out this subchapter in such a manner that there are no additional outlays under this subchapter as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

(Pub. L. 104–127, title I, §131, Apr. 4, 1996, 110 Stat. 905.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 7232, 7233, 7234, 7235, 7237, 7286 of this title.

§ 7232. Loan rates for marketing assistance loans

(a) Wheat

(1) Loan rate

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) Stocks to use ratio adjustment

If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) Feed grains

(1) Loan rate for corn

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

(2) Stocks to use ratio adjustment

If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) Other feed grains

The loan rate for a marketing assistance loan under section 7231 of this title for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) Upland cotton

(1) Loan rate

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1$\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) Limitations

The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) Extra long staple cotton

The loan rate for a marketing assistance loan under section 7231 of this title for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than $0.7965 per pound.

(e) Rice

The loan rate for a marketing assistance loan under section 7231 of this title for rice shall be $6.50 per hundredweight.

(f) Oilseeds

(1) Soybeans

The loan rate for a marketing assistance loan under section 7231 of this title for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $4.92 or more than $5.26 per bushel.

(2) Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed

The loan rate for a marketing assistance loan under section 7231 of this title for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $0.087 or more than $0.093 per pound.

(3) Other oilseeds

The loan rates for a marketing assistance loan under section 7231 of this title for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(Pub. L. 104–127, title I, § 132, Apr. 4, 1996, 110 Stat. 905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1308, 7231, 7234, 7235, 7236 of this title.

§ 7233. Term of loans

(a) Term of loan

In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 7231 of this title shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) Special rule for cotton

A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) Extensions prohibited

The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(Pub. L. 104–127, title I, § 133, Apr. 4, 1996, 110 Stat. 907.)

§ 7234. Repayment of loans

(a) Repayment rates for wheat, feed grains, and oilseeds

The Secretary shall permit a producer to repay a marketing assistance loan under section 7231 of this title for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) Repayment rates for upland cotton and rice

The Secretary shall permit producers to repay a marketing assistance loan under section 7231 of this title for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) Repayment rates for extra long staple cotton

Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary).

(d) Prevailing world market price

For purposes of this section and section 7236 of this title, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) Adjustment of prevailing world market price for upland cotton

(1) In general

During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) of this section shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 7232 of this title, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the ''Northern Europe price'').

(2) Further adjustment

Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) Limitation on further adjustment

The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(Pub. L. 104–127, title I, §134, Apr. 4, 1996, 110 Stat. 908.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7235 of this title.

§ 7235. Loan deficiency payments

(a) Availability of loan deficiency payments

Except as provided in subsection (d) of this section, the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 7231 of this title with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) Computation

A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) of this section for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) Loan payment rate

For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 7232 of this title for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 7234 of this title.

(d) Exception for extra long staple cotton

This section shall not apply with respect to extra long staple cotton.

(Pub. L. 104–127, title I, §135, Apr. 4, 1996, 110 Stat. 909.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

§ 7236. Special marketing loan provisions for upland cotton

(a) Cotton user marketing certificates

(1) Issuance

During the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 7232 of this title.

(2) Value of certificates or payments

The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) Administration of marketing certificates

(A) Redemption, marketing, or exchange

The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) Designation of commodities and products

To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates.

(C) Transfers

Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(b) Special import quota

(1) Establishment

(A) In general

The President shall carry out an import quota program during the period ending July 31, 2003, as provided in this subsection.

(B) Program requirements

Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United

States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a) of this section, exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(C) Tight domestic supply

During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a) of this section.

(D) Season-ending United States stocks-to-use ratio

For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(2) Quantity

The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) Application

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) Overlap

A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c) of this section.

(5) Preferential tariff treatment

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 2703(d) of title 19;
(B) section 3203 of title 19;
(C) section 2463(d) of title 19; and
(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) "Special import quota" defined

In this subsection, the term ''special import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) Limitation

The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 5 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(c) Limited global import quota for upland cotton

(1) In general

The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) Quantity

The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) Quantity if prior quota

If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) Preferential tariff treatment

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 2703(d) of title 19;
(ii) section 3203 of title 19;
(iii) section 2463(d) of title 19; and
(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) Definitions

In this subsection:

(i) Supply

The term ''supply'' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;
(II) production of the current crop; and
(III) imports to the latest date available during the marketing year.

(ii) Demand

The term ''demand'' means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) Limited global import quota

The term ''limited global import quota'' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) Quota entry period

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) No overlap

Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b) of this section.

(Pub. L. 104–127, title I, §136, Apr. 4, 1996, 110 Stat. 909; Pub. L. 105–86, title VII, §731, Nov. 18, 1997, 111 Stat. 2108; Pub. L. 105–277, div. A, §101(a) [title VII, §762], Oct. 21, 1998, 112 Stat. 2681, 2681–36; Pub. L. 106–78, title VIII, §806, Oct. 22, 1999, 113 Stat. 1179.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (b)(5)(D) and (c)(1)(C)(iv), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–78, §806(a)(1), substituted ''or cash payments, at the option of the recipient,'' for ''or cash payments'' in introductory provisions.

Subsec. (a)(1)(A), (2). Pub. L. 106–78, §806(a)(2), substituted ''1.25 cents per pound'' for ''3 cents per pound''.

Subsec. (a)(3)(A). Pub. L. 106–78, §806(a)(3)(A), substituted ''owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton'' for ''owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates'' in first sentence.

Subsec. (a)(3)(B). Pub. L. 106–78, §806(a)(3)(B), struck out at end ''If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.''

Subsec. (a)(4). Pub. L. 106–78, §806(a)(4), struck out heading and text of par. (4). Text read as follows: ''Total expenditures under this subsection shall not exceed $701,000,000 during fiscal years 1996 through 2002.''

Subsec. (b)(1). Pub. L. 106–78, §806(b)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a) of this section, exceeds the Northern Europe price by more than 3 cents per pound, there shall immediately be in effect a special import quota.''

Subsec. (b)(7). Pub. L. 106–78, §806(b)(2), added par. (7).

1998—Subsecs. (a)(1)(A), (2), (b)(1). Pub. L. 105–277 substituted ''3 cents'' for ''1.25 cents''.

1997—Subsec. (a)(1). Pub. L. 105–86, §731(1), in introductory provisions substituted ''During'' for ''Subject to paragraph (4), during'' and in subpar. (B) substituted ''134'' for ''130''.

Subsec. (a)(4), (5). Pub. L. 105–86, §731(2), (3) redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: ''The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 731 of Pub. L. 105–86 provided that the amendment made by that section is effective Oct. 1, 1998.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7234 of this title.

§ 7236a. Special competitive provisions for extra long staple cotton

(a) Competitiveness program

Notwithstanding any other provision of law, during the period beginning on October 1, 1999, and ending on July 31, 2003, the Secretary shall carry out a program to maintain and expand the domestic use of extra long staple cotton produced in the United States, to increase exports of extra long staple cotton produced in the United States, and to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) Payments under program; trigger

Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) Eligible recipients

The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States who enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) Payment amount

Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) of this section during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(e) Form of payment

Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

(Pub. L. 104–127, title I, § 136A, as added Pub. L. 106–113, div. B, § 1000(a)(5) [title I, § 104(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–291.)

§ 7237. Availability of recourse loans for high moisture feed grains and seed cotton and other fibers

(a) High moisture feed grains

(1) Recourse loans available

For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) Eligibility of acquired feed grains

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) "High moisture state" defined

In this subsection, the term ''high moisture state'' means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 7231 of this title.

(b) Recourse loans available for seed cotton

(1) Upland cotton

For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) Extra long staple cotton

For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Recourse loans available for mohair

(1) Recourse loans available

Notwithstanding any other provision of law, during fiscal year 1999, the Secretary shall make available recourse loans, as determined by the Secretary, to producers of mohair produced during or before that fiscal year.

(2) Loan rate

The loan rate for a loan under paragraph (1) shall be equal to $2.00 per pound.

(3) Term of loan

A loan under paragraph (1) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

(4) Waiver of interest

Notwithstanding subsection (d) of this section, the Secretary shall not charge interest on a loan made under paragraph (1).

(d) Repayment rates

Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

(Pub. L. 104–127, title I, § 137, Apr. 4, 1996, 110 Stat. 912; Pub. L. 105–277, div. A, § 101(a) [title XI, § 1126], Oct. 21, 1998, 112 Stat. 2681, 2681–46.)

AMENDMENTS

1998—Pub. L. 105–277, §101(a) [title XI, §1126(1)], inserted ''and other fibers'' after ''seed cotton'' in section catchline.

Subsecs. (c), (d). Pub. L. 105–277, §101(a) [title XI, §1126(2), (3)], added subsec. (c) and redesignated former subsec. (c) as (d).

SUBCHAPTER IV—OTHER COMMODITIES

PART A—DAIRY

§ 7251. Milk price support program

(a) Support activities

The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) Rate

The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, $10.35.

(2) During calendar year 1997, $10.20.

(3) During calendar year 1998, $10.05.

(4) During each of calendar years 1999 and 2000, $9.90.

(c) Purchase prices

The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b) of this section.

(d) Special rule for butter and nonfat dry milk purchase prices

(1) Allocation of purchase prices

The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5 shall not apply with respect to the implementation of this section.

(2) Timing of purchase price adjustments

The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) Refunds of 1995 and 1996 assessments

(1) Refund required

The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g) of this section, in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) Exception

This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) Treatment of refund

A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 3811 and 3821 of title 16.

(f) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Omitted

(h) Period of effectiveness

This section (other than subsection (g) of this section) shall be effective only during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 2000. The program authorized by this section shall terminate on December 31, 2000, and shall be considered to have expired notwithstanding section 907 of title 2.

(Pub. L. 104–127, title I, §141, Apr. 4, 1996, 110 Stat. 914; Pub. L. 106–78, title VIII, §807(a), Oct. 22, 1999, 113 Stat. 1181.)

REFERENCES IN TEXT

Section 204 of the Agricultural Act of 1949, referred to in subsec. (e)(1), (2), was classified to section 1446e of this title prior to repeal by subsec. (g) of this section. See Codification note below.

CODIFICATION

Section is comprised of section 141 of Pub. L. 104–127. Subsec. (g) of section 141 of Pub. L. 104–127 repealed section 1446e of this title and enacted provisions set out as a note under section 1446e of this title.

AMENDMENTS

1999—Subsec. (b)(4). Pub. L. 106–78, §807(a)(1), substituted ''each of calendar years 1999 and 2000'' for ''calendar year 1999''.

Subsec. (h). Pub. L. 106–78, §807(a)(2), substituted ''2000'' for ''1999'' in two places.

§ 7252. Recourse loan program for commercial processors of dairy products

(a) Recourse loans available

Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) Amount of loan

The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of $9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) Period of loan

The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) "Eligible dairy products" defined

In this section, the term ''eligible dairy products'' means cheddar cheese, butter, and nonfat dry milk.

(e) Effective date

This section shall be effective beginning January 1, 2001.

(Pub. L. 104–127, title I, § 142, Apr. 4, 1996, 110 Stat. 915; Pub. L. 106–78, title VIII, § 807(b), Oct. 22, 1999, 113 Stat. 1181.)

AMENDMENTS

1999—Subsec. (e). Pub. L. 106–78 substituted ''2001'' for ''2000''.

§ 7253. Consolidation and reform of Federal milk marketing orders

(a) Amendment of orders

(1) Required consolidation

The Secretary shall amend Federal milk marketing orders issued under section 608c of this title to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) Inclusion of California as separate order

Upon the petition and approval of California dairy producers in the manner provided in section 608c of this title, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) Related issues addressed in consolidation

Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) Effect of existing law

In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 608c(5)(A) of this title.

(b) Expedited process

(1) Use of informal rulemaking

To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a) of this section, the Secretary shall use the notice and comment procedures provided in section 553 of title 5.

(2) Time limitations

(A) Proposed amendments

The Secretary shall announce the proposed amendments to be made under subsection (a) of this section not later than 2 years after April 4, 1996.

(B) Final amendments

The Secretary shall implement the amendments not later than 3 years after April 4, 1996.

(3) Effect of court order

The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a) of this section, the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) Failure to timely consolidate orders

If the Secretary fails to implement the consolidation required under subsection (a)(1) of this section within the time period required under subsection (b)(2)(B) of this section (plus any additional period provided under subsection (b)(3) of this section), the Secretary may not assess or collect assessments from milk producers or handlers under such section 608c of this title for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) Report regarding further reforms

(1) Report required

Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 608c of this title in light of the reforms required by subsection (a) of this section;

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a) of this section; and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) Effect of other laws

Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104–127, title I, §143, Apr. 4, 1996, 110 Stat. 915.)

USE OF OPTION 1A AS PRICE STRUCTURE FOR CLASS I MILK UNDER CONSOLIDATED FEDERAL MILK MARKETING ORDERS

Pub. L. 106–113, div. B, §1000(a)(8) [§1], Nov. 29, 1999, 113 Stat. 1536, 1501A–517, provided that:

''(a) FINAL RULE DEFINED.—In this section, the term 'final rule' means the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897–48021), to comply with section 143 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7253).

''(b) IMPLEMENTATION OF FINAL RULE FOR MILK ORDER REFORM.—Subject to subsection (c), the final rule shall take effect, and be implemented by the Secretary of Agriculture, on the first day of the first month beginning at least 30 days after the date of the enactment of this Act [Nov. 29, 1999].

''(c) USE OF OPTION 1A FOR PRICING CLASS I MILK.—In lieu of the Class I price differentials specified in the final rule, the Secretary of Agriculture shall price fluid or Class I milk under the Federal milk marketing orders using the Class I price differentials identified as Option 1A 'Location-Specific Differentials Analysis' in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4809), except that the Secretary shall include the corrections and modifications to such Class I differentials made by the Secretary through April 2, 1999.

''(d) EFFECT OF PRIOR ANNOUNCEMENT OF MINIMUM PRICES.—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the effective date specified in subsection (b), the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the month or months for which the prices have been announced.

''(e) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final rule, as modified by subsection (c), shall not be subject to any of the following:

''(1) The notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code.

''(2) A referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

''(3) The Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

''(4) Chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act).

''(5) Any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this Act [Nov. 29, 1999].''

FURTHER RULEMAKING TO DEVELOP PRICING METHODS FOR CLASS III AND CLASS IV MILK UNDER MARKETING ORDERS

Pub. L. 106–113, div. B, §1000(a)(8) [§2], Nov. 29, 1999, 113 Stat. 1536, 1501A–518, provided that:

''(a) CONGRESSIONAL FINDING.—The Class III and Class IV milk pricing formulas included in the final decision for the consolidation and reform of Federal milk marketing orders, as published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16025), do not adequately reflect public comment on the original proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802), and are sufficiently different from the proposed rule and any comments submitted with regard to the proposed rule that further emergency rulemaking is merited.

''(b) RULEMAKING REQUIRED.—The Secretary of Agriculture shall conduct rulemaking, on the record after an opportunity for an agency hearing, to reconsider the Class III and Class IV milk pricing formulas included in the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897–48021).

''(c) TIME PERIOD FOR RULEMAKING.—On December 1, 2000, the Secretary of Agriculture shall publish in the Federal Register a final decision on the Class III and Class IV milk pricing formulas. The resulting formulas shall take effect, and be implemented by the Secretary, on January 1, 2001.

''(d) EFFECT OF COURT ORDER.—The actions authorized by subsections (b) and (c) are intended to ensure the timely publication and implementation of new pricing formulas for Class III and Class IV milk. In the event that the Secretary of Agriculture is enjoined or otherwise restrained by a court order from implementing a final decision within the time period specified in subsection (c), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in subsection (c) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

''(e) FAILURE TO TIMELY COMPLETE RULEMAKING.—If the Secretary of Agriculture fails to implement new Class III and Class IV milk pricing formulas within the time period required under subsection (c) (plus any additional period provided under subsection (d)), the Secretary may not assess or collect assessments from milk producers or handlers under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, for marketing order administration and services provided under such section after the end of that period until the pricing formulas are implemented. The Secretary may not reduce the level of services provided under that section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

''(f) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final decision on new Class III and Class IV milk pricing formulas shall not be subject to congressional review under chapter 8 of title 5, United States Code.''

§ 7254. Effect on fluid milk standards in State of California

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

(Pub. L. 104–127, title I, §144, Apr. 4, 1996, 110 Stat. 917.)

§ 7255. Milk manufacturing marketing adjustment

(a) Maximum allowances established

No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) $1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) $1.80 per hundredweight of milk for milk manufactured into cheese.

(b) "Manufacturing allowance" defined

In this section, the term ''manufacturing allowance'' means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) Effect of violation

If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a) of this section, the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) Effective date; implementation

This section (other than subsection (e)[1] of this section) shall be effective during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(Pub. L. 104–127, title I, §145, Apr. 4, 1996, 110 Stat. 917.)

CODIFICATION

Section is comprised of section 145 of Pub. L. 104–127. Subsec. (e) of section 145 of Pub. L. 104–127 repealed section 1446e–1 of this title and enacted provisions set out as a note under section 1446e–1 of this title.

§ 7256. Northeast Interstate Dairy Compact

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) Finding of compelling public interest

Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of April 4, 1996, the authority to implement the Northeast Interstate Dairy Compact.

(2) Limitation on manufacturing price

The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III–A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 608c of this title.

(3) Duration

Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.

(4) Additional States

Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after April 4, 1996.

(5) Compensation of Commodity Credit Corporation

Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) Milk marketing order Administrator

At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 608c(5)[1] of this title shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) Further conditions

The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Fed-

[1] See Codification note below.

[1] See References in Text note below.

eral milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

(Pub. L. 104–127, title I, §147, Apr. 4, 1996, 110 Stat. 919; Pub. L. 106–113, div. B, §1000(a)(8) [§4], Nov. 29, 1999, 113 Stat. 1536, 1501A–520.)

REFERENCES IN TEXT

Senate Joint Resolution 28 of the 104th Congress, referred to in text, which would have granted consent of the Congress to the Northeast Interstate Dairy Compact, was not enacted into law during the 104th Congress.

Section 608c(5) of this title, referred to in par. (6), was in the original ''section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937,'' which was translated as meaning section 8c(5) of the Agricultural Adjustment Act, to reflect the probable intent of Congress.

AMENDMENTS

1999—Par. (3). Pub. L. 106–113 substituted ''on September 30, 2001.'' for ''concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 7253 of this title.''

§ 7257. Authority to assist in establishment and maintenance of one or more export trading companies

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

(Pub. L. 104–127, title I, §149, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in text, is title I of Pub. L. 97–290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

§ 7258. Standby authority to indicate entity best suited to provide international market development and export services

(a) Indication of entity best suited to assist international market development for and export of United States dairy products

The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

(b) Funding of export activities

The Secretary shall assist the entity or entities identified under subsection (a) of this section in identifying sources of funding for the activities specified in subsection (a) of this section from within the dairy industry and elsewhere.

(c) Application of section

This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

(Pub. L. 104–127, title I, §150, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in subsec. (a)(1), is title I of Pub. L. 97–290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

§ 7259. Study and report regarding potential impact of Uruguay Round on prices, income, and government purchases

(a) Study

The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

(b) Report

Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) Rule of construction

Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104–127, title I, §151, Apr. 4, 1996, 110 Stat. 922.)

PART B—PEANUTS AND SUGAR

§ 7271. Peanut program

(a) Quota peanuts

(1) Availability of loans

The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) Loan rate

The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) Inspection, handling, or storage

The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) Location and other factors

The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 7282 of this title.

(5) Offers from handlers

If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) Additional peanuts

(1) In general

Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) Limitation

The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) Announcement

The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) Area marketing associations

(1) Warehouse storage loans

(A) In general

In carrying out subsections (a) and (b) of this section, the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 1359a of this title.

(B) Administrative and supervisory activities

An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 1359a of this title.

(C) Association costs

Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 1359a of this title.

(2) Pools for quota and additional peanuts

(A) In general

The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) Eligibility to participate in New Mexico pools

(i) In general

Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) Exception

A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) Types of peanuts

Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) Net gains

Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) Quota peanuts

For quota peanuts, the net gains over and above the loan indebtedness and other

costs or losses incurred on peanuts placed in the pool.

(ii) Additional peanuts

For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) Losses

Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) Transfers from additional loan pools

The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 1358–1(b)(8) of this title.

(2) Producers in same pool

Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and edible export use.

(3) Offset within area

Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(4) First use of marketing assessments

The Secretary shall use funds collected under subsection (g) of this section (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) of this section and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(5) Cross compliance

Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 1358–1(b)(8) of this title, shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(6) Offset generally

If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) of this section for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(7) Second use of marketing assessments

The Secretary shall use funds collected under subsection (g) of this section and attributable to handlers to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) of this section and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(8) Increased assessments

If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment for producers established under subsection (g) of this section by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) of this section as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) Disapproval of quotas

Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 1358–1(d) of this title.

(f) Quality improvement

(1) In general

With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) Exports and other peanuts

The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) Marketing assessment

(1) In general

The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) First purchasers

(A) In general

Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) "First purchaser" defined

In this subsection, the term ''first purchaser'' means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) Other private marketings

In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) Loan peanuts

In the case of peanuts that are pledged as collateral for a loan made under this section, the producer portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) Penalties

If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) Enforcement

The Secretary may enforce this subsection in the courts of the United States.

(h) Crops

Subsections (a) through (g) of this section shall be effective only for the 1996 through 2002 crops of peanuts.

(Pub. L. 104–127, title I, §155, Apr. 4, 1996, 110 Stat. 922.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, referred to in subsec. (f)(1)(C), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section is comprised of section 155 of Pub. L. 104–127. Subsec. (i) of section 155 of Pub. L. 104–127 amended sections 1358–1, 1358b, 1358c, and 1359a of this title.

§ 7272. Sugar program

(a) Sugarcane

The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) Sugar beets

The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) Reduction in loan rates

(1) Reduction required

The Secretary shall reduce the loan rate specified in subsection (a) of this section for domestically grown sugarcane and subsection (b) of this section for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

(2) Extent of reduction

The Secretary shall not reduce the loan rate under subsection (a) or (b) of this section

below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

(3) Announcement of reduction

The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

(4) Definitions

In this subsection:

(A) Agreement on Agriculture

The term ''Agreement on Agriculture'' means the Agreement on Agriculture referred to in section 3511(d)(2) of title 19.

(B) Major sugar countries

The term ''major sugar growing, producing, and exporting countries'' means—

(i) the countries of the European Union; and

(ii) the 10 foreign countries not covered by subparagraph (A)[1] that the Secretary determines produce the greatest quantity of sugar.

(d) Term of loans

(1) In general

A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

(B) the end of the fiscal year in which the loan is made.

(2) Supplemental loans

In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(e) Loan type; processor assurances

(1) Recourse loans

Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) Nonrecourse loans

During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) Processor assurances

If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) Marketing assessment

(1) Sugarcane

Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) of this section per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) of this section per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) Sugar beets

Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) of this section per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) of this section per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) Collection

(A) Timing

A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed dur-

[1] So in original. Probably should be ''clause (i)''.

ing a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) Manner

Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) Penalties

If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) Enforcement

The Secretary may enforce this subsection in a court of the United States.

(g) Forfeiture penalty

(1) In general

A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) Cane sugar

The penalty for cane sugar shall be 1 cent per pound.

(3) Beet sugar

The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) Effect of forfeiture

Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(h) Information reporting

(1) Duty of processors and refiners to report

A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) Penalty

Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) Monthly reports

Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(i) Crops

This section (other than subsection (f) of this section) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

(Pub. L. 104–127, title I, §156, Apr. 4, 1996, 110 Stat. 931.)

SUBCHAPTER V—ADMINISTRATION

§ 7281. Administration

(a) Use of Commodity Credit Corporation

The Secretary shall carry out this chapter through the Commodity Credit Corporation.

(b) Omitted

(c) Determinations by Secretary

A determination made by the Secretary under this chapter shall be final and conclusive.

(d) Regulations

Not later than 90 days after April 4, 1996, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this chapter. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know[1] as the ''Paperwork Reduction Act'').

(Pub. L. 104–127, title I, §161, Apr. 4, 1996, 110 Stat. 934.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 7201 of this title.

CODIFICATION

Section is comprised of section 161 of Pub. L. 104–127. Subsec. (b) of section 161 of Pub. L. 104–127 amended sections 714b, 714i, and 714k of Title 15, Commerce and Trade.

§ 7282. Adjustments of loans

(a) Adjustment authority

The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) Manner of adjustment

The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this chapter.

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[1] So in original. Probably should be ''known''.

(c) Adjustment on county basis

The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(Pub. L. 104–127, title I, §162, Apr. 4, 1996, 110 Stat. 935.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 7201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7271 of this title.

§ 7283. Commodity Credit Corporation interest rate

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

(Pub. L. 104–127, title I, §163, Apr. 4, 1996, 110 Stat. 935.)

§ 7284. Personal liability of producers for deficiencies

(a) In general

Except as provided in subsection (b) of this section, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this chapter unless the loan was obtained through a fraudulent representation by the producer.

(b) Limitations

Subsection (a) of this section shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this chapter.

(c) Acquisition of collateral

In the case of a nonrecourse loan made under this chapter or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(d) Sugarcane and sugar beets

A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(Pub. L. 104–127, title I, §164, Apr. 4, 1996, 110 Stat. 935.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 7201 of this title.

The Commodity Credit Corporation Charter Act, referred to in subsec. (c), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of title 15 and Tables.

§ 7285. Commodity Credit Corporation sales price restrictions

(a) General sales authority

The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) Nonapplication of sales price restrictions

Subsection (a) of this section shall not apply to—

(1) a sale for a new or byproduct use;

(2) a sale of peanuts or oilseeds for the extraction of oil;

(3) a sale for seed or feed if the sale will not substantially impair any loan program;

(4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(6) a sale for export, as determined by the Corporation; and

(7) a sale for other than a primary use.

(c) Presidential disaster areas

(1) In general

Notwithstanding subsection (a) of this section, on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Costs

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) Efficient operations

Subsection (a) of this section shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

(Pub. L. 104–127, title I, § 165, Apr. 4, 1996, 110 Stat. 936.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(B), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

§ 7286. Commodity certificates

(a) In general

In making in-kind payments under subchapter III of this chapter, the Commodity Credit Corporation may—

(1) acquire and use commodities that have been pledged to the Commodity Credit Corporation as collateral for loans made by the Corporation;

(2) use other commodities owned by the Commodity Credit Corporation; and

(3) redeem negotiable marketing certificates for cash under terms and conditions established by the Secretary.

(b) Methods of payment

The Commodity Credit Corporation may make in-kind payments—

(1) by delivery of the commodity at a warehouse or other similar facility;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates, which the Commodity Credit Corporation shall exchange for a commodity owned or controlled by the Corporation in accordance with regulations promulgated by the Corporation; or

(4) by such other methods as the Commodity Credit Corporation determines appropriate to promote the efficient, equitable, and expeditious receipt of the in-kind payments so that a person receiving the payments receives the same total return as if the payments had been made in cash.

(c) Administration

(1) Form

At the option of a producer, the Commodity Credit Corporation shall make negotiable certificates authorized under subsection (b)(3) of this section available to the producer, in the form of program payments or by sale, in a manner that the Corporation determines will encourage the orderly marketing of commodities pledged as collateral for loans made to producers under subchapter III of this chapter.

(2) Transfer

A negotiable certificate issued in accordance with this subsection may be transferred to another person in accordance with regulations promulgated by the Secretary.

(Pub. L. 104–127, title I, § 166, as added Pub. L. 106–78, title VIII, § 812, Oct. 22, 1999, 113 Stat. 1181.)

SUBCHAPTER VI—PERMANENT PRICE SUPPORT AUTHORITY

§ 7301. Suspension and repeal of permanent price support authority

(a) Agricultural Adjustment Act of 1938

(1) Suspensions

The following provisions of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351) [7 U.S.C. 1321 et seq., 1331 et seq., 1341 et seq., 1351].

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa–1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361–1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(I) Title IV (7 U.S.C. 1401–1407).

(2) Omitted

(b) Agricultural Act of 1949

(1) Suspensions

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447–1449).

(J) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461–1469).
(L) Title VI (7 U.S.C. 1471–1471j).

(2) Repeals

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] are repealed:
(A) Section 101B (7 U.S.C. 1441–2).
(B) Section 103B (7 U.S.C. 1444–2).
(C) Section 105B (7 U.S.C. 1444f).
(D) Section 107B [7 U.S.C. 1445b–3a].
(E) Section 108B (7 U.S.C. 1445c–3).
(F) Section 113 (7 U.S.C. 1445h).
(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).
(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).
(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) Omitted

(c) Suspension of certain quota provisions

Section 1340 of this title shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(Pub. L. 104–127, title I, §171, Apr. 4, 1996, 110 Stat. 937.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a)(1), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. Parts II through V and VII of subtitle B of title III of the Act are classified generally to subparts II (§1321 et seq.), III (§1331 et seq.), IV (§1341 et seq.), V (§1351, which was omitted from the Code), and VII (§1359aa et seq.), respectively, of part B of subchapter II of chapter 35 of this title. Part I of subtitle C of title III of the Act is classified generally to subpart I (§1361 et seq.) of part C of subchapter II of chapter 35 of this title. Subtitle D of title III of the Act is classified generally to part D (§1379a et seq.) of subchapter II of chapter 35 of this title. Title IV of the Act was classified generally to subchapter III (§1401 et seq.) of chapter 35 of this title, and was omitted from the Code. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (b)(1), (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title III of the Act is classified generally to sections 1447 to 1449 of this title. Title IV of the Act is classified principally to subchapter I (§1421 et seq.) of chapter 35A of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code. Title VI of the Act is classified generally to subchapter V (§1471 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section is comprised of section 171 of Pub. L. 104–127. Subsec. (a)(2) of section 171 of Pub. L. 104–127 amended section 1373 of this title and enacted provisions set out as a note under section 1373 of this title. Subsec. (b)(3) of section 171 of Pub. L. 104–127 amended section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7202 of this title; title 2 section 907.

§ 7302. Effect of chapter

(a) Effect on prior crops

Except as otherwise specifically provided in this chapter and notwithstanding any other provision of law, this chapter and the amendments made by this chapter shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before April 4, 1996.

(b) Liability

A provision of this chapter or an amendment made by this chapter shall not affect the liability of any person under any provision of law as in effect before April 4, 1996.

(Pub. L. 104–127, title I, §172, Apr. 4, 1996, 110 Stat. 938.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 7201 of this title.

SUBCHAPTER VII—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

§ 7311. Establishment

There is established a commission to be known as the ''Commission on 21st Century Production Agriculture'' (in this subchapter referred to as the ''Commission'').

(Pub. L. 104–127, title I, §181, Apr. 4, 1996, 110 Stat. 938.)

§ 7312. Composition

(a) Membership and appointment

The Commission shall be composed of 11 members, appointed as follows:
(1) Three members shall be appointed by the President.
(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.
(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) Qualifications

At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) of this section shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) Term of members; vacancies

A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) Time for appointment; first meeting

The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subchapter 30 days after 6 members of the Commission have been appointed.

(e) Chairperson

The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

(Pub. L. 104–127, title I, § 182, Apr. 4, 1996, 110 Stat. 938.)

§ 7313. Comprehensive review of past and future of production agriculture

(a) Initial review

The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since April 4, 1996, and the extent to which the changes are the result of this chapter and the amendments made by this chapter. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since April 4, 1996.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements and United States export programs.

(8) An assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) Subsequent review

The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a) of this section.

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(c) Recommendations

In carrying out the subsequent review under subsection (b) of this section, the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2) of this section.

(Pub. L. 104–127, title I, § 183, Apr. 4, 1996, 110 Stat. 939.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 7201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7314 of this title.

§ 7314. Reports

(a) Report on initial review

Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 7313(a) of this title.

(b) Report on subsequent review

Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) of this section a report containing the results of the subsequent review conducted under section 7313(b) of this title.

(Pub. L. 104–127, title I, § 184, Apr. 4, 1996, 110 Stat. 940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7318 of this title.

§ 7315. Powers

(a) Hearings

The Commission may, for the purpose of carrying out this subchapter, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Assistance from other agencies

The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subchapter. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent per-

mitted by law, furnish such information to the Commission.

(c) Mail

The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) Assistance from Secretary

The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

(Pub. L. 104–127, title I, §185, Apr. 4, 1996, 110 Stat. 940.)

§ 7316. Commission procedures

(a) Meetings

The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

(b) Quorum

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(Pub. L. 104–127, title I, §186, Apr. 4, 1996, 110 Stat. 941.)

§ 7317. Personnel matters

(a) Compensation

Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, when engaged in the performance of Commission duties.

(b) Staff

(1) Appointment

The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subchapter without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) Limitation on compensation

No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

(c) Detailed personnel

On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

(Pub. L. 104–127, title I, §187, Apr. 4, 1996, 110 Stat. 941.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5.

§ 7318. Termination of Commission

The Commission shall terminate on submission of the final report required by section 7314 of this title.

(Pub. L. 104–127, title I, §188, Apr. 4, 1996, 110 Stat. 941.)

SUBCHAPTER VIII—MISCELLANEOUS COMMODITY PROVISIONS

§ 7331. Options pilot program

(a) Pilot programs authorized

Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this chapter to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) Distribution of pilot program

For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) Eligible participants

In operating the pilot program, the Secretary may enter into contract with a producer who—

(1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this chapter;

(2) volunteers to participate in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

(d) Notice to producers

The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop In-

surance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) Contracts

The Secretary shall set forth in each contract under the pilot program the terms and conditions for participation in the pilot program and the notice required by subsection (d) of this section.

(f) Eligible markets

Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(g) Recordkeeping

A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) Use of Commodity Credit Corporation

The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(Pub. L. 104–127, title I, §191, Apr. 4, 1996, 110 Stat. 941.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (c)(1), see note set out under section 7201 of this title.

The Commodity Exchange Act, referred to in subsec. (f), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section is comprised of section 191 of Pub. L. 104–127. Subsec. (i) of section 191 of Pub. L. 104–127 repealed provisions set out as a note under section 1421 of this title.

§ 7332. Risk management education

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

(Pub. L. 104–127, title I, §192, Apr. 4, 1996, 110 Stat. 942.)

§ 7333. Administration and operation of noninsured crop assistance program

(a) Operation and administration of program

(1) In general

In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 1508(b) of this title. The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the ''Agency'').

(2) Eligible crops

(A) In general

In this section, the term ''eligible crop'' means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 1508(b) of this title is not available; and

(ii) that is produced for food or fiber.

(B) Crops specifically included

The term ''eligible crop'' shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) Cause of loss

To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) Application for noninsured crop disaster assistance

(1) Timely application

To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) Records

A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) Acreage reports

A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) Loss requirements

(1) Required area loss

A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) Prevented planting

Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop

disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) Reduced yields

Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) Payment

The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, as determined by the Secretary.

(e) Yield determinations

(1) Establishment

The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) Actual production history

The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) Assignment of yield

If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) Prohibition on assigned yields in certain counties

(A) In general

(i) Documentation

If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) Prohibition

Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) Exception

A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) Limitation on receipt of subsequent assigned yield

A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) Yield variations due to different farming practices

The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) Contract payments

A producer who has received a guaranteed payment for production, as opposed to delivery,

of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) Use of Commodity Credit Corporation

The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) Exclusions

Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) Payment and income limitations

(1) Definitions

In this subsection:

(A) Person

The term ''person'' has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term ''person'' issued under section 1308 of this title.

(B) Qualifying gross revenues

The term ''qualifying gross revenues'' means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) Payment limitation

The total amount of payments that a person shall be entitled to receive annually under this section may not exceed $100,000.

(3) Limitation on multiple benefits for same loss

(A) In general

Except as provided in subparagraph (B), if a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(B) Exception

Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) Income limitation

A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) Regulations

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1308 of this title, the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(Pub. L. 104–127, title I, § 196, Apr. 4, 1996, 110 Stat. 947; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 803(b)], Oct. 21, 1998, 112 Stat. 2681, 2681–38.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in subsec. (i)(3)(B), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle C of the Act is classified generally to subchapter III (§ 1961 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

Section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (i)(4), is section 2266(a) of Pub. L. 101–624, which was set out in a note under section 1421 of this title, prior to repeal by Pub. L. 103–354, title I, § 119(c), Oct. 13, 1994, 108 Stat. 3208.

CODIFICATION

Section is comprised of section 196 of Pub. L. 104–127. Subsec. (j) of section 196 of Pub. L. 104–127 repealed section 1519 of this title.

AMENDMENTS

1998–Subsec. (i)(3). Pub. L. 105–277 designated existing provisions as subpar. (A), inserted heading, substituted ''Except as provided in subparagraph (B), if a producer'' for ''If a producer'', and added subpar. (B).

§ 7334. Flood risk reduction

(a) In general

During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the ''Secretary'') may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that is frequently flooded.

(b) Duties of producers

Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.];

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) Duties of Secretary

In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section (other than subsection (e) of this section) through the Commodity Credit Corporation.

(e) Additional payments

(1) In general

Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a) of this section, in addition to the payments provided under subsection (c) of this section, to offset other estimated Federal Government outlays on frequently flooded land.

(2) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) Limitation on payments

Amounts made available for production flexibility contracts under section 7213 of this title shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

(Pub. L. 104–127, title III, §385, Apr. 4, 1996, 110 Stat. 1016.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsecs. (a), (b)(1), and (c), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(4), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ''Sodbuster Law'', is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of title III of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of title I of the Act, known as the Agricultural Market Transition Act, which comprises this chapter.

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SUBCHAPTER I—COMMODITY PROMOTION AND EVALUATION

§ 7401. Commodity promotion and evaluation

(a) "Commodity promotion law" defined

In this section, the term ''commodity promotion law'' means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 608c(6)(I) of this title;

(2) Public Law 89–502 (7 U.S.C. 2101 et seq.);

(3) title III of Public Law 91–670 (7 U.S.C. 2611 et seq.);

(4) Public Law 93–428 (7 U.S.C. 2701 et seq.);

(5) Public Law 94–294 (7 U.S.C. 2901 et seq.);

(6) subtitle B of title I of Public Law 98–180 (7 U.S.C. 4501 et seq.);

(7) Public Law 98–590 (7 U.S.C. 4601 et seq.);

(8) subtitle B of title XVI of Public Law 99–198 (7 U.S.C. 4801 et seq.);

(9) subtitle C of title XVI of Public Law 99–198 (7 U.S.C. 4901 et seq.);

(10) subtitle B of title XIX of Public Law 101–624 (7 U.S.C. 6101 et seq.);

(11) subtitle E of title XIX of Public Law 101–624 (7 U.S.C. 6301 et seq.);

(12) subtitle H of title XIX of Public Law 101–624 (7 U.S.C. 6401 et seq.);

(13) Public Law 103–190 (7 U.S.C. 6801 et seq.);

(14) Public Law 103–407 (7 U.S.C. 7101 et seq.);

(15) subchapter II of this chapter;

(16) subchapter III of this chapter;

(17) subchapter IV of this chapter; or

(18) subchapter V of this chapter.

(b) Findings

Congress finds the following:

(1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.

(2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.

(3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.

(4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.

(5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.

(6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as ''self-help'' mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs

established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) Independent evaluation of promotion program effectiveness

Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

(d) Administrative costs

The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

(Pub. L. 104–127, title V, § 501, Apr. 4, 1996, 110 Stat. 1029.)

REFERENCES IN TEXT

Public Law 89–502, referred to in subsec. (a)(2), is Pub. L. 89–502, July 13, 1966, 80 Stat. 279, as amended, known as the Cotton Research and Promotion Act, which is classified generally to chapter 53 (§ 2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

Public Law 91–670, referred to in subsec. (a)(3), is Pub. L. 91–670, Jan. 11, 1971, 84 Stat. 2040, as amended. Title III of Pub. L. 91–670, known as the Potato Research and Promotion Act, is classified generally to chapter 58 (§ 2611 et seq.) of this title. For complete classification of title III to the Code, see Short Title note set out under section 2611 of this title and Tables.

Public Law 93–428, referred to in subsec. (a)(4), is Pub. L. 93–428, Oct. 1, 1974, 88 Stat. 1171, as amended, known as the Egg Research and Consumer Information Act, which is classified generally to chapter 60 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Public Law 94–294, referred to in subsec. (a)(5), is Pub. L. 94–294, May 28, 1976, 90 Stat. 529, as amended, known as the Beef Research and Information Act, which is classified generally to chapter 62 (§ 2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

Public Law 98–180, referred to in subsec. (a)(6), is Pub. L. 98–180, Nov. 29, 1983, 97 Stat. 1128, as amended. Title I of Pub. L. 98–180 is known as the Dairy Production Stabilization Act of 1983. Subtitle B of title I is classified generally to subchapter I (§ 4501 et seq.) of chapter 76 of this title. For complete classification of title I to the Code, see Short Title note set out under section 4501 of this title and Tables.

Public Law 98–590, referred to in subsec. (a)(7), is Pub. L. 98–590, Oct. 30, 1984, 98 Stat. 3115, as amended, known as the Honey Research, Promotion, and Consumer Information Act, which is classified generally to chapter 77 (§ 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Public Law 99–198, referred to in subsec. (a)(8), (9), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended, known as the Food Security Act of 1985. Subtitle B of title XVI of Pub. L. 99–198, known as the Pork Promotion, Research, and Consumer Information Act of 1985, is classified generally to chapter 79 (§ 4801 et seq.) of this title. Subtitle C of title XVI of Pub. L. 99–198, known as the Watermelon Research and Promotion Act, is classified generally to chapter 80 (§ 4901 et seq.) of this title. For complete classification of subtitles B and C to the Code, see Short Title notes set out under sections 4801 and 4901, respectively, of this title and Tables.

Public Law 101–624, referred to in subsec. (a)(10), (11), (12), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359, as amended, known as the Food, Agriculture, Conservation, and Trade Act of 1990. Subtitle B of title XIX of Pub. L. 101–624, known as the Mushroom Promotion, Research, and Consumer Information Act of 1990, is classified generally to chapter 90 (§ 6101 et seq.) of this title. Subtitle E of title XIX of Pub. L. 101–624, known as the Soybean Promotion, Research, and Consumer Information Act, is classified generally to chapter 92 (§ 6301 et seq.) of this title. Subtitle H of title XIX of Pub. L. 101–624, known as the Fluid Milk Promotion Act of 1990, is classified generally to chapter 93 (§ 6401 et seq.) of this title. For complete classification of subtitles B, E, and H to the Code, see Short Title notes set out under sections 6101, 6301, and 6401, respectively, of this title and Tables.

Public Law 103–190, referred to in subsec. (a)(13), is Pub. L. 103–190, Dec. 14, 1993, 107 Stat. 2266, known as the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, which is classified generally to chapter 97 (§ 6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

Public Law 103–407, referred to in subsec. (a)(14), is Pub. L. 103–407, Oct. 22, 1994, 108 Stat. 4210, known as the Sheep Promotion, Research, and Information Act of 1994, which is classified generally to chapter 99 (§ 7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

SHORT TITLE

Section 511 of title V of Pub. L. 104–127 provided that: ''This subtitle [subtitle B (§§ 511–526) of title V of Pub. L. 104–127, enacting subchapter II of this chapter] may be cited as the 'Commodity Promotion, Research, and Information Act of 1996'.''

Section 531 of title V of Pub. L. 104–127 provided that: ''This subtitle [subtitle C (§§ 531–543) of title V of Pub. L. 104–127, enacting subchapter III of this chapter] may be cited as the 'Canola and Rapeseed Research, Promotion, and Consumer Information Act'.''

Section 551 of title V of Pub. L. 104–127 provided that: ''This subtitle [subtitle D (§§ 551–564) of title V of Pub. L. 104–127, enacting subchapter IV of this chapter] may be cited as the 'National Kiwifruit Research, Promotion, and Consumer Information Act'.''

Section 571 of title V of Pub. L. 104–127 provided that: ''This subtitle [subtitle E (§§ 571–582) of title V of Pub. L. 104–127, enacting subchapter V of this chapter] may be cited as the 'Popcorn Promotion, Research, and Consumer Information Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7414 of this title.

SUBCHAPTER II—ISSUANCE OF ORDERS FOR PROMOTION, RESEARCH, AND INFORMATION ACTIVITIES REGARDING AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7401 of this title.

§ 7411. Findings and purpose

(a) Findings

Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) Purpose

The purpose of this subchapter is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subchapter, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) Rule of construction

Nothing in this subchapter provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

(Pub. L. 104–127, title V, § 512, Apr. 4, 1996, 110 Stat. 1032.)

§ 7412. Definitions

In this subchapter (unless the context otherwise requires):

(1) Agricultural commodity

The term ''agricultural commodity'' means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) Board

The term ''board'' means a board established under an order issued under section 7413 of this title.

(3) Conflict of interest

The term ''conflict of interest'' means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) Department

The term ''Department'' means the Department of Agriculture.

(5) First handler

The term ''first handler'' means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer markets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) Importer

The term ''importer'' means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) Information

The term ''information'' means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) Market

The term ''market'' means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) Order

The term ''order'' means an order issued by the Secretary under section 7413 of this title that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) Producer

The term ''producer'' means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) Promotion

The term ''promotion'' means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) Research

The term ''research'' means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) State

The term ''State'' means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) Suspend

The term ''suspend'' means to issue a rule under section 553 of title 5 to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) Terminate

The term ''terminate'' means to issue a rule under section 553 of title 5 to cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) United States

The term ''United States'' means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

(Pub. L. 104–127, title V, § 513, Apr. 4, 1996, 110 Stat. 1033.)

§ 7413. Issuance of orders

(a) Issuance authorized

(1) In general

To effectuate the purpose of this subchapter, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 7415(f) of this title.

(2) National scope

Each order issued under this section shall be national in scope.

(b) Procedure for issuance

(1) Development or receipt of proposed order

A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) Consideration of proposed order

If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subchapter, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) Existence of other orders

In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subchapter, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) Preparation of final order

After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subchapter.

(c) Issuance and effective date

If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subchapter, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 7417(a) of this title, the final order shall be issued and become effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) Amendments

From time to time the Secretary may amend any order, consistent with the requirements of section 7422 of this title.

(Pub. L. 104–127, title V, § 514, Apr. 4, 1996, 110 Stat. 1035.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7412 of this title.

§ 7414. Required terms in orders

(a) In general

Each order shall contain the terms and conditions specified in this section.

(b) Board

(1) Establishment

Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subchapter.

(2) Board membership

(A) Number of members

Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) Appointment

The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 7415(f) of this title, the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) Nominations

The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) Geographical representation

To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) Reapportionment of board membership

In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) Notice

(A) Vacancies

Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) Meetings

Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) Term of office

(A) In general

The members and any alternates of a board shall each serve for a term of 3 years,

except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) Limitation on consecutive terms

A member or alternate may serve not more than 2 consecutive terms.

(C) Continuation of term

Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) Vacancies

A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) Compensation

(A) In general

Members and any alternates of a board shall serve without compensation.

(B) Travel expenses

If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) Powers and duties of board

Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e) of this section, to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 7416 of this title and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f) of this section, to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 7416 of this title, earnings from invested assessments, and other funds;

(10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) Prohibited activities

A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) Activities and budgets

(1) Activities

Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) Budgets

(A) Submission to Secretary

Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) Reimbursement of Secretary

Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) Incurring expenses

A board may incur the expenses described in paragraph (2) and other expenses for the ad-

ministration, maintenance, and functioning of the board as authorized by the Secretary.

(4) Payment of expenses

Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 7416 of this title, earnings obtained from assessments, and other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) Limitation on spending

For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) Contracts and agreements

(1) In general

Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 7416 of this title, earnings obtained from assessments, and other income of the board.

(2) Requirements

Each contract or agreement shall provide that any person who enters into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) Records of board

(1) In general

Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) Audits

Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(h) Periodic evaluation

In accordance with section 7401(c) of this title, each order shall require the board established under the order to provide for the independent evaluation of all generic promotion, research, and information activities undertaken under the order.

(i) Books and records of persons covered by order

(1) In general

Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

(2) Time requirement

Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) Other information

The Secretary may use, and may authorize the board to use under this subchapter, information regarding persons subject to an order that is collected by the Department under any other law.

(4) Confidentiality of information

(A) In general

Except as otherwise provided in this subchapter, all information obtained under paragraph (1) or as part of a referendum under section 7417 of this title shall be kept confidential by all officers, employees, and agents of the Department and of the board.

(B) Disclosure

Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) Other exceptions

This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) Penalty

Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both.

(5) Withholding information

This subsection shall not authorize the withholding of information from Congress.

(Pub. L. 104–127, title V, § 515, Apr. 4, 1996, 110 Stat. 1036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7415 of this title.

§ 7415. Permissive terms in orders

(a) Exemptions

An order issued under this subchapter may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

(b) Different payment and reporting schedules

An order issued under this subchapter may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

(c) Activities

An order issued under this subchapter may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 7414(e) of this title shall apply with respect to activities authorized under this subsection.

(d) Reserve funds

An order issued under this subchapter may contain authority to reserve funds from assessments collected under section 7416 of this title to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 7414(e) of this title by the Secretary for any 2 fiscal years.

(e) Credits

(1) Generic activities

An order issued under this subchapter may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(2) Branded activities

(A) In general

The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assessment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subchapter.

(B) Election by cooperative

A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

(f) Assessment of imports

An order issued under this subchapter may contain authority for the board established under the order to assess under section 7416 of this title an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

(g) Other authority

An order issued under this subchapter may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subchapter, any term or condition specified in section 7414 of this title, or any rule issued to carry out this subchapter; and

(2) is necessary to administer the order.

(Pub. L. 104–127, title V, § 516, Apr. 4, 1996, 110 Stat. 1041.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7414, 7416 of this title.

§ 7416. Assessments

(a) Assessments authorized

While an order issued under this subchapter is in effect with respect to an agricultural commodity, assessments shall be—

(1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and

(2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 7415(f) of this title.

(b) Collection

Assessments required under an order shall be remitted to the board established under the

order at the time and in the manner prescribed by the order.

(c) Limitation on assessments

Not more than 1 assessment may be levied on a first handler or importer under subsection (a) of this section with respect to any agricultural commodity.

(d) Assessment rates

The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a) of this section. If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 7417 of this title.

(e) Late-payment and interest charges

(1) In general

Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b) of this section.

(2) Rate

The rate for the charges shall be specified by the Secretary.

(f) Investment of assessments

Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(g) Refund of assessments from escrow account

(1) Escrow account

During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 7417(b)(1) of this title with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) of this section to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) Amount to be deposited

The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) Right to receive refund

Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) Form of demand

The demand for a refund shall be made at such time and in such form as specified by the order.

(5) Payment of refund

A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) Proration

If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) Closing of escrow account

If the order is approved in a referendum conducted under section 7417(b)(1) of this title—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

(Pub. L. 104–127, title V, § 517, Apr. 4, 1996, 110 Stat. 1042.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7414, 7415, 7417 of this title.

§ 7417. Referenda

(a) Initial referendum

(1) Optional referendum

For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 7416 of this title who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) Procedure

The results of the referendum shall be determined in accordance with subsection (e) of this section. The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) Required referenda

(1) In general

For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 7416 of this title who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) Time for referendum

The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) Exception

This subsection shall not apply if an initial referendum was conducted under subsection (a) of this section.

(c) Subsequent referenda

The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order; or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1) of this section;

to determine if the persons favor the continuation, suspension, or termination of the order.

(d) Other referenda

The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1) of this section.

(e) Approval of order

An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) Costs of referenda

The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) Manner of conducting referenda

(1) In general

A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) Advance registration

If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) Voting

Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) Notice

Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

(Pub. L. 104–127, title V, § 518, Apr. 4, 1996, 110 Stat. 1043.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7413, 7414, 7416, 7421, 7422 of this title.

§ 7418. Petition and review of orders

(a) Petition

(1) In general

A person subject to an order issued under this subchapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearing

The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b) of this section.

(4) Limitation on petition

Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3) of this section.

(2) Process

Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) Effect on enforcement proceedings

The pendency of a petition filed under subsection (a) of this section or an action commenced under subsection (b) of this section shall not operate as a stay of any action authorized by section 7419 of this title to be taken to enforce this subchapter, including any rule, order, or penalty in effect under this subchapter.

(Pub. L. 104–127, title V, § 519, Apr. 4, 1996, 110 Stat. 1044.)

§ 7419. Enforcement

(a) Jurisdiction

The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subchapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subchapter if the Secretary believes that the administration and enforcement of this subchapter would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) Civil penalties and orders

(1) Civil penalties

A person who willfully violates an order or regulation issued by the Secretary under this subchapter may be assessed by the Secretary a civil penalty of not less than $1,000 and not more than $10,000 for each violation.

(2) Separate offense

Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) Notice and hearing

No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) Finality

An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d) of this section.

(d) Review by court of appeals

(1) In general

A person against whom an order is issued under subsection (c) of this section may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) Record

The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) Failure to obey cease-and-desist orders

A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than $1,000 and not more than $10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) Failure to pay penalties

If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 104–127, title V, § 520, Apr. 4, 1996, 110 Stat. 1045.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(1), was in the original ''this Act'' and was translated as reading ''this subtitle'', meaning subtitle B (§§ 511–526) of title V of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 1032, to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7418 of this title.

§ 7420. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subchapter; or

(2) to determine whether any person subject to this subchapter has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this subchapter or

any order or regulation issued under this subchapter.

(b) Subpoenas, oaths, and affirmations

For the purpose of any investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 104–127, title V, § 521, Apr. 4, 1996, 110 Stat. 1047.)

§ 7421. Suspension or termination

(a) Mandatory suspension or termination

The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subchapter, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 7417 of this title.

(b) Implementation of suspension or termination

If, as a result of a referendum conducted under section 7417 of this title, the Secretary determines that an order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

(Pub. L. 104–127, title V, § 522, Apr. 4, 1996, 110 Stat. 1047.)

§ 7422. Amendments to orders

The provisions of this subchapter applicable to an order shall be applicable to any amendment to an order, except that section 7417 of this title shall not apply to an amendment.

(Pub. L. 104–127, title V, § 523, Apr. 4, 1996, 110 Stat. 1047.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7413 of this title.

§ 7423. Effect on other laws

This subchapter shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

(Pub. L. 104–127, title V, § 524, Apr. 4, 1996, 110 Stat. 1047.)

§ 7424. Regulations

The Secretary may issue such regulations as may be necessary to carry out this subchapter and the power vested in the Secretary under this subchapter.

(Pub. L. 104–127, title V, § 525, Apr. 4, 1996, 110 Stat. 1048.)

§ 7425. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(b) Limitation on expenditures for administrative expenses

Funds appropriated to carry out this subchapter may not be expended for the payment of expenses incurred by a board to administer an order.

(Pub. L. 104–127, title V, § 526, Apr. 4, 1996, 110 Stat. 1048.)

SUBCHAPTER III—CANOLA AND RAPESEED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7401 of this title.

§ 7441. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets

for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed, and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) Policy

It is the policy of this subchapter to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) Construction

Nothing in this subchapter provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

(Pub. L. 104–127, title V, §532, Apr. 4, 1996, 110 Stat. 1048.)

§ 7442. Definitions

In this subchapter (unless the context otherwise requires):

(1) Board

The term ''Board'' means the National Canola and Rapeseed Board established under section 7444(b) of this title.

(2) Canola; rapeseed

The terms ''canola'' and ''rapeseed'' mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) Canola or rapeseed product

The term ''canola or rapeseed product'' means a product produced, in whole or in part, from canola or rapeseed.

(4) Commerce

The term ''commerce'' includes interstate, foreign, and intrastate commerce.

(5) Conflict of interest

The term ''conflict of interest'' means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) Consumer information

The term ''consumer information'' means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) Department

The term ''Department'' means the Department of Agriculture.

(8) First purchaser

The term ''first purchaser'' means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) Industry information

The term ''industry information'' means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) Industry member

The term ''industry member'' means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) Marketing

The term ''marketing'' means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) Order

The term ''order'' means an order issued under section 7443 of this title.

(13) Person

The term ''person'' means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) Producer

The term ''producer'' means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the

ownership and risk of loss of, the canola or rapeseed.

(15) Promotion

The term ''promotion'' means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) Research

The term ''research'' means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(18) State

The term ''State'' means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) United States

The term ''United States'' means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 104–127, title V, § 533, Apr. 4, 1996, 110 Stat. 1049.)

§ 7443. Issuance and amendment of orders

(a) In general

Subject to subsection (b) of this section, the Secretary shall issue 1 or more orders under this subchapter applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subchapter at any 1 time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order under this subchapter, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subchapter may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order

Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subchapter. The order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) Amendments

The Secretary may amend an order issued under this section.

(Pub. L. 104–127, title V, § 534, Apr. 4, 1996, 110 Stat. 1050.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7442, 7445, 7446 of this title.

§ 7444. Required terms in orders

(a) In general

An order issued under this subchapter shall contain the terms and conditions specified in this section.

(b) Establishment and membership of National Canola and Rapeseed Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) Service to entire industry

The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) Board membership

The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) Limitation on State residence

There shall be no more than 4 producer members of the Board from any 1 State.

(5) Modifying Board membership

In accordance with regulations approved by the Secretary, at least once each 3 years and

not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) Certification of organizations

(A) In general

For the purposes of section 7445 of this title, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) Criteria

The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) Majority representation

The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) Substantial number of producers represented

The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) Purpose

The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) Report

The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) Terms of office

(A) In general

A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) Limitation on terms

No individual may serve more than 2 consecutive 3-year terms as a member.

(C) Termination of terms

Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) Compensation

A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 7445 of this title, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d) of this section;

(8) to enter into contracts or agreements, subject to subsection (e) of this section, to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 7445 of this title;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 7445 of this title, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) Programs and budgets

(1) Submission to Secretary

The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) Budgets

The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs of research, promotion, consumer information, and industry information programs and projects.

(3) Incurring expenses

The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) Paying expenses

The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 7445 of this title or funds borrowed pursuant to paragraph (5).

(5) Authority to borrow

To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) Contracts and agreements

(1) In general

To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) Requirements

A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) Producer organizations

The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) Books and records of Board

(1) In general

The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits

The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

(g) Prohibition

(1) In general

Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subchapter be used to—

(A) influence legislation or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading; or

(D) engage in promotion that would disparage other commodities.

(2) Action permitted

Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) Books and records

(1) In general

The order shall require that each producer, first purchaser, or industry member shall—

(A) maintain and submit to the Board any reports considered necessary by the Sec-

retary to ensure compliance with this subchapter; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subchapter, including such records as are necessary to verify any required reports.

(2) Confidentiality

(A) In general

Except as otherwise provided in this subchapter, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) Disclosure

Information referred to in subparagraph (A) may be disclosed to the public if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subchapter.

(C) Misconduct

A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subchapter.

(D) General statements

Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) Availability of information for law enforcement

Information obtained under this subchapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) Penalty

Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) Withholding of information

Nothing in this subchapter authorizes the withholding of information from Congress.

(i) Use of assessments

The order shall provide that the assessments collected under section 7445 of this title shall be used for payment of the expenses in implementing and administering this subchapter, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subchapter.

(j) Other terms and conditions

The order shall contain such other terms and conditions, not inconsistent with this subchapter, as are determined necessary by the Secretary to effectuate this subchapter.

(Pub. L. 104–127, title V, § 535, Apr. 4, 1996, 110 Stat. 1051.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7442, 7445 of this title.

§ 7445. Assessments

(a) In general

(1) First purchasers

During the effective period of an order issued pursuant to this subchapter, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) Direct processing

The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 7444(b)(6) of this title, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d) of this section.

(b) Limitation on assessments

No more than 1 assessment may be assessed under subsection (a) of this section on any canola or rapeseed produced (as remitted by a first purchaser).

(c) Remitting of assessments

(1) In general

Assessments required under subsection (a) of this section shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent producers under section 7444(b)(6) of this title to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) Times to remit assessment

Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) Assessment rate

(1) Initial rate

The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) Increase

The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 7446(a) of this title, the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 7446(b) of this title.

(3) Credit

A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 7444(b)(6) of this title shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) Late payment charge

(1) In general

There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) Amount of charge

The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) Refund of assessments from escrow account

(1) Establishment of escrow account

During the period beginning on the date on which an order is first issued under section 7443(b)(3) of this title and ending on the date on which a referendum is conducted under section 7446(a) of this title, the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) Placement of funds in account

The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) Right to receive refund

The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subchapter; and

(C) the producer demands the refund prior to the conduct of the referendum under section 7446(a) of this title.

(4) Form of demand

The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) Making of refund

The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) Proration

If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 7446(a) of this title;

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) Program approved

If the plan is approved pursuant to the referendum conducted under section 7446(a) of this title, all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subchapter.

(Pub. L. 104–127, title V, § 536, Apr. 4, 1996, 110 Stat. 1056.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7444 of this title.

§ 7446. Referenda

(a) Initial referendum

(1) Requirement

During the period ending 30 months after the date on which an order is first issued under section 7443(b)(3) of this title, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) Advance notice

The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) Approval of order

The order shall be continued only if the Secretary determines that the order has been ap-

proved by not less than a majority of the producers voting in the referendum.

(4) Disapproval of order

If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) Additional referenda

(1) In general

(A) Requirement

After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) Representative group of producers

An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) Eligible producers

Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) Disapproval of order

If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

(3) Opportunity to request additional referenda

(A) In general

Beginning on the date that is 5 years after the conduct of a referendum under this subchapter, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) Method of making request

(i) In-person requests

To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) Mail-in requests

In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) Notifications

The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

(D) Action by Secretary

As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) Time limit

An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) Procedures

(1) Reimbursement of Secretary

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) Date

Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) Place

Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

(Pub. L. 104–127, title V, § 537, Apr. 4, 1996, 110 Stat. 1058.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7445 of this title.

§ 7447. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this subchapter may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) Ruling

After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) Limitation on petition

Any petition filed under this subchapter challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a)(3) of this section.

(2) Process

Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) of this section is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 7448 of this title.

(Pub. L. 104–127, title V, § 538, Apr. 4, 1996, 110 Stat. 1060.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7449 of this title.

§ 7448. Enforcement

(a) Jurisdiction

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subchapter.

(b) Referral to Attorney General

A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subchapter if the Secretary believes that the administration and enforcement of this subchapter would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c) of this section.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subchapter, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) Separate offense

Each violation under subparagraph (A) shall be a separate offense.

(2) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) Notice and hearing

No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district

court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

Any person who has been determined to be in violation of this subchapter, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c) of this section, may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey cease-and-desist orders

Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) Failure to pay penalties

If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this subchapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 104–127, title V, § 539, Apr. 4, 1996, 110 Stat. 1061.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7447, 7449 of this title.

§ 7449. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subchapter; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subchapter, or an order, rule, or regulation issued under this subchapter.

(b) Subpoenas, oaths, and affirmations

(1) In general

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 7447 or 7448 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring the person to comply with the subpoena.

(d) Contempt

A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) Process

Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) Hearing site

The site of a hearing held under section 7447 or 7448 of this title shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

(Pub. L. 104–127, title V, § 540, Apr. 4, 1996, 110 Stat. 1062.)

§ 7450. Suspension or termination

The Secretary shall, whenever the Secretary finds that an order or a provision of an order ob-

structs or does not tend to effectuate the declared policy of this subchapter, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subchapter.

(Pub. L. 104–127, title V, § 541, Apr. 4, 1996, 110 Stat. 1063.)

§ 7451. Regulations

The Secretary may issue such regulations as are necessary to carry out this subchapter.

(Pub. L. 104–127, title V, § 542, Apr. 4, 1996, 110 Stat. 1063.)

§ 7452. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subchapter.

(b) Administrative expenses

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subchapter.

(Pub. L. 104–127, title V, § 543, Apr. 4, 1996, 110 Stat. 1063.)

SUBCHAPTER IV—KIWIFRUIT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7401 of this title.

§ 7461. Findings and purposes

(a) Findings

Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) Purposes

The purposes of this subchapter are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

(Pub. L. 104–127, title V, § 552, Apr. 4, 1996, 110 Stat. 1064.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7463 of this title.

§ 7462. Definitions

In this subchapter (unless the context otherwise requires):

(1) Board

The term ''Board'' means the National Kiwifruit Board established under section 7464 of this title.

(2) Consumer information

The term ''consumer information'' means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) Exporter

The term ''exporter'' means any person from outside the United States who exports kiwifruit into the United States.

(4) Handler

The term ''handler'' means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) Importer

The term ''importer'' means any person who imports kiwifruit into the United States.

(6) Kiwifruit

The term ''kiwifruit'' means all varieties of fresh kiwifruit grown in or imported into the United States.

(7) Marketing

The term ''marketing'' means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

(8) Order

The term ''order'' means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 7463 of this title.

(9) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) Processing

The term ''processing'' means canning, fermenting, distilling, extracting, preserving,

grinding, crushing, or in any manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

(11) Producer

The term ''producer'' means any person who grows kiwifruit in the United States for sale in commerce.

(12) Promotion

The term ''promotion'' means any action taken under this subchapter (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) Research

The term ''research'' means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) United States

The term ''United States'' means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 104–127, title V, § 553, Apr. 4, 1996, 110 Stat. 1064.)

§ 7463. Issuance of orders

(a) Issuance

To effectuate the purposes of this subchapter specified in section 7461(b) of this title, the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subchapter at any 1 time.

(b) Procedure

(1) Proposal for issuance of order

Any person that will be affected by this subchapter may request the issuance of, and submit a proposal for, an order under this subchapter.

(2) Proposed order

Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are provided under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with this subchapter.

(c) Amendments

The Secretary may amend any order issued under this section. The provisions of this subchapter applicable to an order shall be applicable to an amendment to an order, except that an amendment to an order shall not require a referendum to become effective.

(Pub. L. 104–127, title V, § 554, Apr. 4, 1996, 110 Stat. 1065; Pub. L. 105–185, title VI, § 603(a), June 23, 1998, 112 Stat. 585.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–185 inserted '', except that an amendment to an order shall not require a referendum to become effective'' before period at end.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7462, 7464, 7465, 7466, 7470, 7471 of this title.

§ 7464. National Kiwifruit Board

(a) Membership

An order issued by the Secretary under section 7463 of this title shall provide for the establishment of a National Kiwifruit Board that consists of the following 11 members:

(1) 10 members who are producers, exporters, or importers (or their representatives), based on a proportional representation of the level of domestic production and imports of kiwifruit (as determined by the Secretary).

(2) 1 member appointed from the general public.

(b) Adjustment of membership

Subject to the 11-member limit, the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit.

(c) Appointment and nomination

(1) Appointment

The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) Producers

The members who are producers referred to in subsection (a)(1) of this section shall be appointed from individuals nominated by producers.

(3) Importers and exporters

The members who are importers or exporters referred to in subsection (a)(1) of this section shall be appointed from individuals nominated by importers or exporters.

(4) Public representative

The public representative shall be appointed from nominations submitted by other members of the Board.

(5) Failure to nominate

If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members and alternates on a basis provided for in the order. If the Board fails to nominate a public representative, the member and alternate may be appointed by the Secretary without a nomination.

(d) Alternates

The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom the individual is an alternate; and

(2) serve on the Board if the member is absent from a meeting or is disqualified under subsection (f) of this section.

(e) Terms

A member of the Board shall be appointed for a term of 3 years. No member may serve more than 2 consecutive 3-year terms, except that of the members first appointed—

(1) 5 members shall be appointed for a term of 2 years; and

(2) 6 members shall be appointed for a term of 3 years.

(f) Disqualification

If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which the member was appointed, the member or alternate shall be disqualified from serving on the Board.

(g) Compensation

A member or alternate of the Board shall serve without pay.

(h) General powers and duties

The Board shall—

(1) administer an order issued by the Secretary under section 7463 of this title, and an amendment to the order, in accordance with the order and amendment and this subchapter;

(2) prescribe rules and regulations to carry out the order;

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of the order;

(5) make recommendations to the Secretary with respect to an amendment that should be made to the order; and

(6) employ or contract with a manager and staff to assist in administering the order, except that, to reduce administrative costs and increase efficiency, the Board shall seek, to the extent practicable, to employ or contract with personnel who are already associated with organizations involved in promoting kiwifruit that are chartered by a State, the District of Columbia, or the Commonwealth of Puerto Rico.

(Pub. L. 104–127, title V, § 555, Apr. 4, 1996, 110 Stat. 1066; Pub. L. 105–185, title VI, § 603(b), June 23, 1998, 112 Stat. 585.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–185, § 603(b)(1), added pars. (1) and (2) and struck out former pars. (1) to (3) which read as follows:

''(1) 6 members who are producers (or representatives of producers) and who are not exempt from an assessment under section 7465(b) of this title.

''(2) 4 members who are importers (or representatives of importers) and who are not exempt from an assessment under section 7465(b) of this title or are exporters (or representatives of exporters).

''(3) 1 member appointed from the general public.''

Subsec. (b). Pub. L. 105–185, § 603(b)(2), struck out par. (1) designation and heading, struck out ''and to paragraph (2)'' after ''11-member limit'', and struck out heading and text of par. (2). Text read as follows: ''Producers shall comprise not less than 51 percent of the membership of the Board.''

Subsec. (c)(2). Pub. L. 105–185, § 603(b)(3)(A), inserted ''who are producers'' after ''members''.

Subsec. (c)(3). Pub. L. 105–185, § 603(b)(3)(B), inserted ''who are importers or exporters'' after ''members'' and substituted ''(a)(1)'' for ''(a)(2)''.

Subsec. (c)(5). Pub. L. 105–185, § 603(b)(3)(C), inserted ''and alternate'' before ''may be appointed'' in second sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7462 of this title.

§ 7465. Required terms in order

(a) Budgets and plans

(1) In general

An order issued under section 7463 of this title shall provide for periodic budgets and plans in accordance with this subsection.

(2) Budgets

The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall become effective on a ⅔-vote of a quorum of the Board and approval by the Secretary.

(3) Plans

Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall become effective on approval by the Secretary. The Board may enter into contracts and agreements, on approval by the Secretary, for—

(A) the development and carrying out of the plan; and

(B) the payment of the cost of the plan, with funds collected pursuant to this subchapter.

(b) Assessments

(1) In general

The order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit in accordance with this subsection.

(2) Rate

The assessment rate shall be the rate that is recommended by a ⅔-vote of a quorum of the Board and approved by the Secretary, except that the rate shall not exceed $0.10 per 7-pound tray of kiwifruit or an equivalent rate.

(3) Collection by first handlers

Except as provided in paragraph (5), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments required under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(4) Importers

The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service at the time of entry into the United States and shall be remitted to the Board.

(5) Exemption from assessment

The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) A sale of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(6) Claim of exemption

To claim an exemption under paragraph (5) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the quantity of kiwifruit produced, imported, or sold by the person will not exceed any poundage limitation required for the exemption in the year; or

(B) be on a list of approved processors developed by the Board.

(c) Use of assessments

(1) Authorized uses

The order shall provide that funds paid to the Board as assessments under subsection (b) of this section may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) of this section and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board (including any enforcement efforts for the collection of assessments) as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 7466(d) of this title.

(2) Required uses

The order shall provide that funds paid to the Board as assessments under subsection (b) of this section shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Federal Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this subchapter.

(3) Limitation on use of assessments

Except for the first year of operation of the Board, expenses for the administration, maintenance, and functioning of the Board may not exceed 30 percent of the budget for a year.

(d) False claims

The order shall provide that any promotion funded with assessments collected under subsection (b) of this section may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) Prohibition on use of funds

The order shall provide that funds collected by the Board under this subchapter through assessments may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for under this subchapter.

(f) Books, records, and reports

(1) Board

The order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during the fiscal year.

(2) Others

To make information and data available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subchapter (or any order or regulation issued under this subchapter), the order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b) of this section—

(A) to maintain and make available for inspection by the employees and agents of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of the assessments.

(g) Confidentiality

(1) In general

The order shall require that all information obtained pursuant to subsection (f)(2) of this section be kept confidential by all officers, employees, and agents of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) Limitations

Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating an order issued under section 7463(a) of this title, together with a statement of the particular provisions of the order violated by the person.

(3) Penalty

Any person who willfully violates this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and, if the person is a member, officer, or agent of the Board or an employee of the Department of Agriculture, shall be removed from office.

(h) Withholding of information

Nothing in this subchapter authorizes the withholding of information from Congress.

(Pub. L. 104–127, title V, § 556, Apr. 4, 1996, 110 Stat. 1067.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7466 of this title.

§ 7466. Permissive terms in order

(a) Permissive terms

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 7463 of this title may include the terms and conditions specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, this subchapter.

(b) Alternative payment and reporting schedules

The order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) Working groups

The order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of the groups to assist in the development of research and marketing programs for kiwifruit.

(d) Reserve funds

The order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 7465(b) of this title to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced, except that any reserve fund may not exceed the amount budgeted for operation of this subchapter for 1 year.

(e) Promotion activities outside United States

The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 7465(b) of this title and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

(Pub. L. 104–127, title V, § 557, Apr. 4, 1996, 110 Stat. 1070.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7465 of this title.

§ 7467. Petition and review

(a) Petition

(1) In general

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) Limitation on petition

Any petition filed under this subchapter challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of a proceeding instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 7468 of this title.

(Pub. L. 104–127, title V, § 558, Apr. 4, 1996, 110 Stat. 1070.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7469 of this title.

§ 7468. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subchapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subchapter, or any order or regulation issued under this subchapter, if the Secretary believes that the administration and enforcement of this subchapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subchapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) Notice and hearing

No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d) of this section.

(d) Review by United States district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) of this section may obtain review of the penalty or cease-and-desist order in the district court of the United States for the district in which the person resides or carries on business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in the court not later than 30 days after the date on which the penalty is assessed or cease-and-desist order issued; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person committed the violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey cease-and-desist orders

Any person who fails to obey a cease-and-desist order issued by the Secretary after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of this section, of not more than $500 for each offense. Each day during which the failure continues shall be considered a separate violation of the cease-and-desist order.

(f) Failure to pay penalties

If a person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 104–127, title V, § 559, Apr. 4, 1996, 110 Stat. 1071.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7467, 7469 of this title.

§ 7469. Investigations and power to subpoena

(a) In general

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subchapter; or

(2) to determine whether a person subject to this subchapter has engaged or is engaging in any act that constitutes a violation of this subchapter, or any order, rule, or regulation issued under this subchapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary may administer oaths and affirmations and may issue subpoenas to require the pro-

duction of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 7467 or 7468 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring the person to comply with the subpoena.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) Hearing site

The site of any hearing held under section 7467 or 7468 of this title shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

(Pub. L. 104–127, title V, § 560, Apr. 4, 1996, 110 Stat. 1072.)

§ 7470. Referenda

(a) Initial referendum

(1) Referendum required

During the 60-day period immediately preceding the proposed effective date of an order issued under section 7463 of this title, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) Approval of order

The order shall become effective, as provided in section 7463 of this title, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) Subsequent referenda

The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 7463 of this title that is in effect at the time of the referendum.

(c) Required referenda

The Secretary shall hold a referendum under subsection (b) of this section—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) Vote

On completion of a referendum under subsection (b) of this section, the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) Confidentiality

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subchapter and the voting list shall be held strictly confidential and shall not be disclosed.

(Pub. L. 104–127, title V, § 561, Apr. 4, 1996, 110 Stat. 1073.)

§ 7471. Suspension or termination

(a) In general

If the Secretary finds that an order issued under section 7463 of this title, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subchapter, the Secretary shall suspend or terminate the operation of the order or provision.

(b) Limitation

The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subchapter.

(Pub. L. 104–127, title V, § 562, Apr. 4, 1996, 110 Stat. 1074.)

§ 7472. Regulations

The Secretary may issue such regulations as are necessary to carry out this subchapter.

(Pub. L. 104–127, title V, § 563, Apr. 4, 1996, 110 Stat. 1074.)

§ 7473. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subchapter.

(Pub. L. 104–127, title V, § 564, Apr. 4, 1996, 110 Stat. 1074.)

SUBCHAPTER V—POPCORN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7401 of this title.

§ 7481. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) Policy

It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subchapter, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) Purposes

The purposes of this subchapter are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) Statutory construction

This subchapter treats processors equitably. Nothing in this subchapter—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

(Pub. L. 104–127, title V, § 572, Apr. 4, 1996, 110 Stat. 1074.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7483 of this title.

§ 7482. Definitions

In this subchapter (unless the context otherwise requires):

(1) Board

The term ''Board'' means the Popcorn Board established under section 7484(b) of this title.

(2) Commerce

The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) Consumer information

The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) Department

The term ''Department'' means the Department of Agriculture.

(5) Industry information

The term ''industry information'' means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) Marketing

The term ''marketing'' means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) Order

The term ''order'' means an order issued under section 7483 of this title.

(8) Person

The term ''person'' means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) Popcorn

The term ''popcorn'' means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) Process

The term ''process'' means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) Processor

The term ''processor'' means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) Promotion

The term ''promotion'' means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) Research

The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(15) State

The term ''State'' means each of the 50 States and the District of Columbia.

(16) United States

The term ''United States'' means all of the States.

(Pub. L. 104–127, title V, § 573, Apr. 4, 1996, 110 Stat. 1075.)

§ 7483. Issuance of orders

(a) In general

To effectuate the policy described in section 7481(b) of this title, the Secretary, subject to subsection (b) of this section, shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subchapter at any 1 time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) Notice and comment concerning proposed order

Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subchapter. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) Amendments

The Secretary, as appropriate, may amend an order. The provisions of this subchapter applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

(Pub. L. 104–127, title V, § 574, Apr. 4, 1996, 110 Stat. 1076.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7482, 7485 of this title.

§ 7484. Required terms in orders

(a) In general

An order shall contain the terms and conditions specified in this section.

(b) Establishment and membership of Popcorn Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) Nominations

The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) Geographical diversity

In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) Terms

The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) Compensation and expenses

A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f) of this section, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) Plans and budgets

(1) In general

The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) Budgets

The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) Contracts and agreements

(1) In general

The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) Requirements

A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) Processor organizations

The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) Assessments

(1) Processors

The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) Direct marketers

A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) Rate

(A) In general

The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) Adjustment of rate

The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) Use of assessments

(A) In general

Subject to subparagraphs (B) and (C) and subsection (c)(5) of this section, the order shall provide that the assessments collected shall be used by the Board—

(i) to pay expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary, except that the administrative costs incurred by the Secretary (other than any legal expenses incurred to defend and enforce the order) that may be reimbursed by the Board may not exceed 15 percent of the projected annual revenues of the Board.

(B) Expenditures based on source of assessments

In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for popcorn marketed in the United States or Canada in proportion to the amount of assessments collected on domestically marketed popcorn; and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(C) Notification

If the administrative costs incurred by the Secretary that are reimbursed by the Board exceed 10 percent of the projected annual revenues of the Board, the Secretary shall notify as soon as practicable the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(g) Prohibition on use of funds

The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) Books and records of Board

The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) Books and records of processors

(1) Maintenance and reporting of information

The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) Use of information

The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this subchapter or a regulation issued under this subchapter. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this subchapter, the order, or any regulation issued under this subchapter.

(3) Confidentiality

(A) In general

Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) Disclosure by Secretary

Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) Disclosure to other agency of Federal Government

(i) In general

No information obtained under the authority of this subchapter may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this subchapter and any investigatory or enforcement activity necessary for the implementation of this subchapter.

(ii) Penalty

A person who knowingly violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) General statements

Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) Other terms and conditions

The order shall contain such other terms and conditions, consistent with this subchapter, as are necessary to effectuate this subchapter, including regulations relating to the assessment of late payment charges.

(Pub. L. 104–127, title V, § 575, Apr. 4, 1996, 110 Stat. 1077.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7482, 7485 of this title.

§ 7485. Referenda

(a) Initial referendum

(1) In general

Within the 60-day period immediately preceding the effective date of an order, as provided in section 7483(b)(3) of this title, the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) Approval of order

The order shall become effective, as provided in section 7483(b) of this title, only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) Additional referenda

(1) In general

Not earlier than 3 years after the effective date of an order approved under subsection (a) of this section, on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct additional referenda to determine whether processors favor the suspension or termination of the order.

(2) Representative group of processors

An additional referendum on an order shall be conducted if the referendum is requested by 30 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) Disapproval of order

If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) Costs of referendum

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(d) Method of conducting referendum

Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) Confidentiality of ballots and other information

(1) In general

The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) Penalty for violations

An officer or employee of the Department who knowingly violates paragraph (1) shall be subject to the penalties described in section 7484(i)(3)(C)(ii) of this title.

(Pub. L. 104–127, title V, § 576, Apr. 4, 1996, 110 Stat. 1081.)

§ 7486. Petition and review

(a) Petition

(1) In general

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) Statute of limitations

A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

(3) Hearings

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(4) Ruling

After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4) of this section.

(2) Process

Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) Remands

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) of this section is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) Enforcement

The pendency of proceedings instituted under subsection (a) of this section may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 7487 of this title.

(Pub. L. 104–127, title V, § 577, Apr. 4, 1996, 110 Stat. 1082.)

§ 7487. Enforcement

(a) In general

The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subchapter and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subchapter would be adequately served by such a procedure.

(b) Jurisdiction

The district courts of the United States are vested with jurisdiction specifically to enforce,

and to prevent and restrain any person from violating, an order or regulation issued under this subchapter.

(c) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

(Pub. L. 104–127, title V, § 578, Apr. 4, 1996, 110 Stat. 1082.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7486 of this title.

§ 7488. Investigations and power to subpoena

(a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subchapter; and

(2) to determine whether any person subject to this subchapter has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subchapter or of an order or regulation issued under this subchapter.

(b) Oaths, affirmations, and subpoenas

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) Aid of courts

(1) Request

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) Enforcement order of the court

The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) Contempt

A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) Process

Process in a case under this subsection may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 104–127, title V, § 579, Apr. 4, 1996, 110 Stat. 1083.)

§ 7489. Relation to other programs

Nothing in this subchapter preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

(Pub. L. 104–127, title V, § 580, Apr. 4, 1996, 110 Stat. 1083.)

§ 7490. Regulations

The Secretary may issue such regulations as are necessary to carry out this subchapter.

(Pub. L. 104–127, title V, § 581, Apr. 4, 1996, 110 Stat. 1083.)

§ 7491. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter. Amounts made available under this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

(Pub. L. 104–127, title V, § 582, Apr. 4, 1996, 110 Stat. 1083.)

CHAPTER 102—EMERGENCY FOOD ASSISTANCE

Sec.

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CODIFICATION

This chapter is comprised principally of title II (§§ 201–215) of Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 35, as amended. Title II of Pub. L. 98–8 was formerly set out as a note under section 612c of this title. Section 203 of title II of Pub. L. 98–8, which related to processing agreements, was repealed by Pub. L. 99–198, title XV, § 1567(c), Dec. 23, 1985, 99 Stat. 1592. Section 207 of title II of Pub. L. 98–8 amended section 4(c) of the Agriculture and Consumer Protection Act of 1973, Pub. L. 93–86, set out as a note under section 612c of this title. Section 209 of title II of Pub. L. 98–8, which related to commodity supplemental food program administrative expenses, was repealed by Pub. L. 99–198, title XV, § 1562(e)(1), Dec. 23, 1985, 99 Stat. 1590. Section 212 of title II of Pub. L. 98–8, which provided for termination of title II of Pub. L. 98–8 on Sept. 30, 2002, was repealed by Pub. L. 104–193, title VIII, § 871(e)(4), Aug. 22, 1996, 110 Stat. 2345.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 8 section 1615.

§ 7501. Definitions

In this chapter:

(1) Additional commodities

The term ''additional commodities'' means commodities made available under section 7515 of this title in addition to the commodities made available under sections 7502 and 7507 of this title.

(2) Average monthly number of unemployed persons

The term ''average monthly number of unemployed persons'' means the average monthly number of unemployed persons in each State during the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

(3) Eligible recipient agency

The term ''eligible recipient agency'' means a public or nonprofit organization that—

(A) administers—

(i) an emergency feeding organization;

(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

(iii) a summer camp for children, or a child nutrition program providing food service;

(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

(v) a disaster relief program;

(B) has been designated by the appropriate State agency, or by the Secretary; and

(C) has been approved by the Secretary for participation in the program established under this chapter.

(4) Emergency feeding organization

The term ''emergency feeding organization'' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) Food bank

The term ''food bank'' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) Food pantry

The term ''food pantry'' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) Poverty line

The term ''poverty line'' has the meaning provided in section 9902(2) of title 42.

(8) Soup kitchen

The term ''soup kitchen'' means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

(9) Total value of additional commodities

The term ''total value of additional commodities'' means the actual cost of all additional commodities that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

(10) Value of additional commodities allocated to each State

The term ''value of additional commodities allocated to each State'' means the actual cost of additional commodities allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

(Pub. L. 98–8, title II, § 201A, as added Pub. L. 98–92, § 2(2), Sept. 2, 1983, 97 Stat. 608; amended Pub. L. 99–198, title XV, § 1563, Dec. 23, 1985, 99 Stat. 1590; Pub. L. 104–193, title VIII, § 871(a), Aug. 22, 1996, 110 Stat. 2343.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning the Emergency Food Assistance Act of 1983, title II of Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 35, as amended, which enacted this chapter and amended provisions set out as a note under section 612c of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Older Americans Act of 1965, referred to in par. (3)(A)(iv), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

AMENDMENTS

1996—Pub. L. 104–193 amended section generally, substituting provisions containing an opening provision and pars. (1) to (10) defining ''additional commodities'', ''average monthly number of unemployed persons'', ''eligible recipient agency'', ''emergency feeding organization'', ''food bank'', ''food pantry'', ''poverty line'', ''soup kitchen'', ''total value of additional commodities'', and ''value of additional commodities allocated to each state'' for an opening provision and pars. (1) to (6) defining ''eligible recipient agencies''.

1985—Par. (1). Pub. L. 99–198 inserted before semicolon at end ''(including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies) hereinafter in this chapter referred to as 'emergency feeding organizations' ''.

EFFECTIVE DATE

Section 2 of Pub. L. 98–92 provided in part that the amendments made by that section [enacting this section and sections 7504 to 7506 and 7513 of this title and amending sections 7502, 7508, 7509, and 7512] are effective Oct. 1, 1983.

SHORT TITLE

Section 201 of title II of Pub. L. 98–8, as amended by Pub. L. 98–92, § 2(1), Sept. 2, 1983, 97 Stat. 608; Pub. L. 101–624, title XVII, § 1772(a)(2), Nov. 28, 1990, 104 Stat. 3808, provided that: ''This title [enacting this chapter and amending provisions set out as a note under section 612c of this title] may be cited as the 'Emergency Food Assistance Act of 1983', and is hereinafter in this title referred to as 'this Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7514 of this title.

§ 7502. Availability of CCC commodities

(a) In general

Notwithstanding any other provision of law, in order to complement the domestic nutrition programs, make maximum use of the Nation's agricultural abundance, and expand and improve the domestic distribution of price-supported commodities, commodities acquired by the Commodity Credit Corporation that the Secretary of Agriculture (hereinafter referred to as the ''Secretary'') determines, in his discretion, are in excess of quantities needed to—

(1) carry out other domestic donation programs,

(2) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.], the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], and the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.],

shall be made available by the Secretary, without charge or credit for such commodities, for use by eligible recipient agencies for food assistance.

(b) Repealed. Pub. L. 99–198, title XV, § 1565(a)(2), Dec. 23, 1985, 99 Stat. 1591

(c) Additional commodities

In addition to any commodities described in subsection (a) of this section, in carrying out this chapter, the Secretary may use agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 612c of this title.

(d) Varieties of commodities

Commodities made available under this chapter shall include a variety of commodities and products thereof that are most useful to eligible recipient agencies, including, but not be[1] limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

(e) Report to Congress

Effective April 1, 1986, the Secretary shall submit semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the types and amounts of commodities made available for distribution under this chapter.

(f) Relation to other programs

Notwithstanding any other provision of law, the programs authorized by section 713a–14 of title 15 and section 1163 of the Food Security Act of 1985 shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this chapter or any other domestic feeding program.

(g) Donations to emergency feeding organizations

(1) Whenever commodities acquired by the Commodity Credit Corporation are made available for donation to domestic food programs in quantities that exceed Federal obligations, the Secretary shall give equal consideration to making donations of such commodities to emergency feeding organizations participating in the program authorized by this chapter as is given to other commodity recipient agencies, taking into account the types and amounts of commodities available and appropriate for distribution to these organizations.

(2) In determining the commodities that will be made available to emergency feeding organizations under this chapter, the Secretary may distribute commodities that become available on a seasonal or irregular basis.

(Pub. L. 98–8, title II, § 202, Mar. 24, 1983, 97 Stat. 35; Pub. L. 98–92, § 2(3), (4), Sept. 2, 1983, 97 Stat. 609; Pub. L. 99–198, title XV, §§ 1564(a), 1565(a), Dec. 23, 1985, 99 Stat. 1591; Pub. L. 100–77, title VIII, § 811, July 22, 1987, 101 Stat. 536; Pub. L. 100–435, title I, § 101, Sept. 19, 1988, 102 Stat. 1647; Pub. L. 101–624, title XVII, § 1772(b), Nov. 28, 1990, 104 Stat. 3808.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a)(4), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter

[1] So in original. The word ''be'' probably should not appear.

35 (§ 1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (a)(4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a)(4), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 1163 of the Food Security Act of 1985, referred to in subsec. (f), is section 1163 of Pub. L. 99–198, which is set out as a note under section 1731 of this title.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101–624 added subsec. (g).

1988—Subsec. (f). Pub. L. 100–435 added subsec. (f).

1987—Subsec. (a). Pub. L. 100–77, § 811(b), inserted subsec. (a) designation.

Subsec. (d). Pub. L. 100–77, § 811(a), inserted ''a variety of commodities and products thereof that are most useful to eligible recipient agencies, including'' after ''shall include''.

1985—Pub. L. 99–198, § 1565(a), struck out subsec. (a) designation and struck out subsec. (b) which read as follows: ''Notwithstanding any other provision of law, if wheat stocks acquired by the Commodity Credit Corporation are not available for the purposes of this chapter, up to 300,000 metric tons of wheat designated under section 1736f–1(b)(1) of this title may be used for the purposes of this chapter. Any amount of wheat used from the Food Security Wheat Reserve under this chapter shall be replenished by an equivalent quantity of wheat under the provisions of section 1736f–1(b) of this title as soon as practicable, but before October 1, 1985.''

Subsecs. (c) to (e). Pub. L. 99–198, § 1564(a), added subsecs. (c) to (e).

1983—Subsec. (a). Pub. L. 98–92, § 2(3), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Notwithstanding any other provision of law, commodities acquired by the Commodity Credit Corporation that are in excess of quantities needed for the fiscal year to carry out a payment-in-kind acreage diversion program, maintain U.S. share of world markets, and meet international market development and food aid commitments, shall be made available by the Secretary of Agriculture (hereinafter in this chapter referred to as the 'Secretary') without charge or credit in such fiscal year for use by eligible recipient agencies. Upon request, commodities provided by the CCC shall be provided in a form suitable for individual household or institutional use.''

Subsec. (b). Pub. L. 98–92, § 2(4), substituted ''may be used'' for ''shall be used'' and directed the substitution of ''October 1, 1985'' for ''December 1, 1983'', which was executed by making the substitution for ''December 31, 1983'' to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Sept. 19, 1988, see section 701(b)(1) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7514 of this title.

§ 7503. State plan

(a) In general

To receive commodities under this chapter, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) Requirements

Each plan shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

(c) State advisory board

The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all entities in the State, both public and private, interested in the distribution of commodities received under this chapter.

(Pub. L. 98–8, title II, § 202A, as added Pub. L. 100–77, title VIII, § 812, July 22, 1987, 101 Stat. 537; amended Pub. L. 104–193, title VIII, § 871(b), Aug. 22, 1996, 110 Stat. 2344.)

AMENDMENTS

1996—Pub. L. 104–193 amended section generally, substituting present provisions for provisions relating to availability of flour, cornmeal, and cheese acquired by the Commodity Credit Corporation.

§ 7504. Initial processing costs

The Secretary may use funds of the Commodity Credit Corporation to pay costs of initial processing and packaging of commodities to be distributed under the program established under this chapter into forms, and in quantities, suitable, as determined by the Secretary, for use in individual households when such commodities are to be consumed by individual households or for institutional use, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

(Pub. L. 98–8, title II, § 203A, as added Pub. L. 98–92, § 2(5), Sept. 2, 1983, 97 Stat. 609; amended Pub. L. 99–198, title XV, § 1565(b), Dec. 23, 1985, 99 Stat. 1591.)

AMENDMENTS

1985—Pub. L. 99–198 struck out '', except that wheat from the Food Security Wheat Reserve may not be used to pay such costs'' after ''equal in value to such costs''.

EFFECTIVE DATE

Section 2 of Pub. L. 98–92 provided in part that this section is effective Oct. 1, 1983.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7505, 7509 of this title.

§ 7505. Federal and State responsibilities

(a) Federal responsibility; optional State priority

The Secretary shall, as expeditiously as possible, provide the commodities made available under this chapter in such quantities as can be used without waste to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies, except that the Secretary may provide such commodities directly to eligible recipient agencies and to private companies that process such commodities for eligible recipient agencies under sections[1] 7504 of this title. Notwithstanding any other provision of this chapter, in the distribution of commodities under this chapter, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.

(b) Distribution by State agencies; priority; rural areas

State agencies receiving commodities under this chapter shall, as expeditiously as possible, distribute such commodities, in the quantities requested (to the extent practicable), to eligible recipient agencies within their respective States. However, if a State agency cannot meet all requests for a particular commodity under this chapter, the State agency shall give priority in the distribution of such commodity to eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. Each State agency shall encourage distribution of such commodities in rural areas.

(c) Distribution to needy persons

Each State agency receiving commodities for individual household use under this chapter shall distribute such commodities to eligible recipient agencies in the State that serve needy persons, and shall, with the approval of the Secretary, determine those persons in the State that shall qualify as needy persons eligible for such commodities.

(d) Cooperative agreements with adjoining States

Each State agency receiving commodities under this chapter may—

(1) enter into cooperative agreements with State agencies of other States for joint provision of such commodities to an emergency feeding organization that serves needy persons in a single geographical area part of which is situated in each of such States; or

(2) transfer such commodities to any such emergency feeding organization in the other State under such agreement.

(Pub. L. 98–8, title II, § 203B, as added Pub. L. 98–92, § 2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99–198, title XV, § 1568, Dec. 23, 1985, 99 Stat. 1592; Pub. L. 100–435, title I, § 105(c), Sept. 19, 1988, 102 Stat. 1651; Pub. L. 104–193, title VIII, § 871(e)(1), Aug. 22, 1996, 110 Stat. 2345.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193 substituted ''203A'', which was translated as ''section 7504 of this title'', for ''203 and 203A of this Act''.

1988—Subsec. (a). Pub. L. 100–435 inserted at end ''Notwithstanding any other provision of this chapter, in the distribution of commodities under this chapter, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.''

1985—Subsec. (b). Pub. L. 99–198, § 1568(a), inserted at end ''Each State agency shall encourage distribution of such commodities in rural areas.''

Subsec. (d). Pub. L. 99–198, § 1568(b), added subsec. (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE

Section 2 of Pub. L. 98–92 provided in part that this section is effective Oct. 1, 1983.

§ 7506. Assurances; anticipated use

(a) The Secretary shall take such precautions as the Secretary deems necessary to assure that any eligible recipient agency receiving commodities under this chapter will provide such commodities to persons served by the eligible recipient agency and will not diminish its normal expenditures for food by reason of the receipt of such commodities. The Secretary shall also take such precautions as the Secretary deems necessary to assure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall not make commodities available for donation in any quantity or manner that the Secretary, in the Secretary's discretion, determines may, substitute for the same or any other agricultural produce that would otherwise be purchased in the market.

(b) Commodities provided under this chapter shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

(Pub. L. 98–8, title II, § 203C, as added Pub. L. 98–92, § 2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99–198, title XV, § 1566, Dec. 23, 1985, 99 Stat. 1591; Pub. L. 104–66, title I, § 1011(k), Dec. 21, 1995, 109 Stat. 710.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–66 struck out at end ''The Secretary shall submit to Congress each year a

[1] So in original. Probably should be ''section''.

report as to whether and to what extent such displacements or substitutions are occurring.''

1985—Subsec. (a). Pub. L. 99–198 inserted at end ''The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.''

EFFECTIVE DATE

Section 2 of Pub. L. 98–92 provided in part that this section is effective Oct. 1, 1983.

§ 7507. State and local supplementation of commodities

(a) Authorization

The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this chapter for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) Use of funds and facilities

States and emergency feeding organizations may use the funds appropriated under this chapter and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a) of this section.

(c) Volunteer workers

State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.

(Pub. L. 98–8, title II, § 203D, as added Pub. L. 100–435, title I, § 102, Sept. 19, 1988, 102 Stat. 1647.)

EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7514 of this title.

§ 7508. Authorization and appropriations

(a)(1) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1991 through 2002 for the Secretary to make available to the States to pay for the direct and indirect administrative costs of the States related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this chapter and commodities secured from other sources. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States.

(2) Each State shall make available to emergency feeding organizations in the State not less than 40 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term ''direct expenses'' includes costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; costs involved in publishing announcements of times and locations of distribution; and costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter. If a State makes a payment, using State funds, to cover direct expenses of emergency feeding organizations, the amount of such payment shall be counted toward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or emergency feeding organizations for costs other than those involved in covering the expenses related to the distribution of commodities by emergency feeding organizations.

(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to emergency feeding organizations; or

(II) for the direct expenses of such organizations;

for use in carrying out this chapter.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to States beginning on January 1, 1987.

(ii) If the legislature of a State does not convene in regular session before January 1, 1987, paragraph (1) shall apply to such State beginning on October 1, 1987.

(C) Funds allocated to a State under this section may, upon State request, be allocated be-

fore States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(5) States may not charge for commodities made available to emergency feeding organizations, and may not pass on to such organizations the cost of any matching requirements, under this chapter.

(b) The value of the commodities made available under this chapter and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations made or authorized under this section.

(Pub. L. 98–8, title II, § 204, Mar. 24, 1983, 97 Stat. 35; Pub. L. 98–92, § 2(6), Sept. 2, 1983, 97 Stat. 610; Pub. L. 99–198, title XV, § 1569, Dec. 23, 1985, 99 Stat. 1592; Pub. L. 100–77, title VIII, § 813, July 22, 1987, 101 Stat. 537; Pub. L. 100–435, title I, §§ 103(a)–(c), 105(a), Sept. 19, 1988, 102 Stat. 1647, 1650; Pub. L. 101–624, title XVII, § 1772(c), (d), Nov. 28, 1990, 104 Stat. 3808, 3809; Pub. L. 104–127, title IV, § 403(a), Apr. 4, 1996, 110 Stat. 1029; Pub. L. 104–193, title VIII, § 871(c), (e)(2), Aug. 22, 1996, 110 Stat. 2345.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, § 871(e)(2), made technical amendment to reference in original act which appears in text as reference to ''this chapter'' in second sentence of par. (1), in second sentence of par. (2) immediately before concluding period, and in concluding provisions of par. (4)(A).

Subsec. (a)(1). Pub. L. 104–193, § 871(c), in first sentence, substituted ''to pay for the direct and indirect administrative costs of the States related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this chapter and commodities secured from other sources'' for ''for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under this chapter'' and struck out at end ''States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988 [section 110 of Pub. L. 100–435, set out above], and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 7515 of this title''.

Pub. L. 104–127 substituted ''2002'' for ''1995'' in first sentence.

1990—Subsec. (a). Pub. L. 101–624, § 1772(c)(1), (2), redesignated subsec. (c) as (a) and struck out former subsec. (a) which read as follows: ''There is appropriated for the period ending September 30, 1983, $50,000,000 for the Secretary to make available to the States for storage and distribution costs, of which not less than $10,000,000 shall be made available for paying the actual costs incurred by charitable institutions, food banks, hunger centers, soup kitchens, and similar nonprofit organizations providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, provided that in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.''

Subsec. (a)(1). Pub. L. 101–624, § 1772(c)(3), substituted ''1991 through 1995'' for ''ending September 30, 1986, through September 30, 1990,''.

Subsec. (a)(2). Pub. L. 101–624, § 1772(d), inserted ''repackaging, processing,'' after ''handling,'' in second sentence.

Subsec. (b). Pub. L. 101–624, § 1772(c)(1), (2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: ''There are hereby authorized to be appropriated $50,000,000 for each of the fiscal years ending September 30, 1984, and September 30, 1985, for the Secretary to make available to the States for storage and distribution costs of which not less than twenty per centum of the amount appropriated under this subsection in any fiscal year shall be made available for paying or providing advance payments to cover the actual costs incurred by charitable institutions, food banks, hunger centers, soup kitchens, and similar nonprofit eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons: *Provided*, That in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.''

Subsecs. (c), (d). Pub. L. 101–624, § 1772(c)(2), redesignated subsecs. (c) and (d) as (a) and (b), respectively.

1988—Subsec. (c)(1). Pub. L. 100–435, § 105(a), inserted at end ''States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988, and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 7515 of this title.''

Pub. L. 100–435, § 103(a), substituted ''through September 30, 1990'' for ''through September 30, 1988'' in first sentence.

Subsec. (c)(2). Pub. L. 100–435, § 103(b), (c), in first sentence, substituted ''40'' for ''20'' and, in second sentence, inserted ''costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities;'' after ''documentation;''.

1987—Subsec. (c)(1). Pub. L. 100–77 substituted ''through September 30, 1988'' for ''and September 30, 1987'' in first sentence.

1985—Subsecs. (c), (d). Pub. L. 99–198 added subsec. (c) and redesignated former subsec. (c) as (d).

1983—Subsecs. (b), (c). Pub. L. 98–92 added subsec. (b), designated former last sentence of subsec. (a) as (c), and substituted therein ''appropriations made or authorized under this section'' for ''this appropriation''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1772(c) of Pub. L. 101–624 effective Oct. 1, 1990, and amendment by section 1772(d) of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 103(a)–(c) of Pub. L. 100–435 to be effective and implemented on Sept. 19, 1988, and amendment by section 105(a) of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

§ 7509. Relationship to other programs

(a) Section 2013(b) of this title shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 7504 of this title, none of the commodities distributed under this chapter shall be sold or

otherwise disposed of in commercial channels in any form.

(Pub. L. 98–8, title II, § 205, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98–92, § 2(7), Sept. 2, 1983, 97 Stat. 611.)

AMENDMENTS

1983—Pub. L. 98–92 substituted ''Relationship to other programs'' for ''Relationships to food stamps'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

§ 7510. Commodities not income

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for any purposes under any Federal, State, or local law.

(Pub. L. 98–8, title II, § 206, Mar. 24, 1983, 97 Stat. 36.)

§ 7511. Prohibition against certain State charges

Whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing and transporting the commodities to recipient agencies minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

(Pub. L. 98–8, title II, § 208, Mar. 24, 1983, 97 Stat. 36.)

§ 7512. Regulations

(a) Issuance

The Secretary shall issue regulations within 30 days to implement this chapter.

(b) Minimization of regulatory requirements

In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) Publication in Federal Register

(1) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(2) The actual types and quantities of commodities made available by the Secretary under this chapter may differ from the estimates made under paragraph (1).

(d) Standards of liability for commodity losses

The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses under the program under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of emergency feeding organizations[1]

(e) Final regulations

The Secretary is authorized to issue final regulations without first issuing proposed regulations for public comment in order to carry out the provisions of sections 7514 and 7515 of this title. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after September 19, 1988. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.

(Pub. L. 98–8, title II, § 210, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98–92, § 2(9), Sept. 2, 1983, 97 Stat. 611; Pub. L. 99–198, title XV, § 1570, Dec. 23, 1985, 99 Stat. 1594; Pub. L. 100–77, title VIII, § 814(b), July 22, 1987, 101 Stat. 538; Pub. L. 100–435, title I, §§ 103(d), 105(b), Sept. 19, 1988, 102 Stat. 1648, 1651; Pub. L. 101–624, title XVII, § 1772(e), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 104–193, title VIII, § 871(e)(3), Aug. 22, 1996, 110 Stat. 2345.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–193 struck out ''(except as otherwise provided for in section 7515(j) of this title)'' before ''for public comment'' in first sentence.

1990—Subsec. (c). Pub. L. 101–624 added subsec. (c) and struck out former subsec. (c) which contained provisions similar to the current provisions for specific fiscal years.

1988—Subsec. (c). Pub. L. 100–435, § 103(d), substituted ''each of the fiscal years 1989 and 1990'' for ''the fiscal year ending September 30, 1988''.

Subsec. (e). Pub. L. 100–435, § 105(b), added subsec. (e).

1987—Subsec. (c). Pub. L. 100–77 substituted provisions relating to period ending on date specified in former section 212 of Pub. L. 98–8 for provisions relating to period beginning October 1, 1983 and ending September 30, 1987, and substituted ''fiscal year ending September 30, 1988'' for ''fiscal year ending September 30, 1987''.

1985—Subsec. (c). Pub. L. 99–198, § 1570(1), substituted ''the period beginning October 1, 1983, and ending September 30, 1987'' for ''the fiscal years ending September 30, 1984, and September 30, 1985'', ''as early as feasible but not later than the beginning of the fiscal year ending September 30, 1987'' for ''prior to the beginning of the fiscal year ending September 30, 1985'', and ''such fiscal year'' for ''second twelve months''.

Subsec. (d). Pub. L. 99–198, § 1570(2), added subsec. (d).

1983–Pub. L. 98–92 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 103(d) of Pub. L. 100–435 to be effective and implemented on Sept. 19, 1988, and amendment by section 105(b) of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100–435, set out as a note under section 2012 of this title.

[1] So in original.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

§ 7513. Finality of determinations

Determinations made by the Secretary of Agriculture under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(Pub. L. 98–8, title II, § 211, as added Pub. L. 98–92, § 2(10), Sept. 2, 1983, 97 Stat. 612.)

EFFECTIVE DATE

Section 2 of Pub. L. 98–92 provided in part that this section is effective Oct. 1, 1983.

§ 7514. Incorporation of additional commodities

(a) In general

The Secretary shall administer the program authorized under this chapter in a manner that incorporates into the program additional commodities purchased by the Secretary under section 7515 of this title to be distributed to States for use in such States by emergency feeding organizations, as defined in section 7501(1)[1] of this title. Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

(b) Supplement commodities available

The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 7502 and 7507(a) of this title with nutritious and useful commodities purchased by the Secretary under section 7515 of this title.

(Pub. L. 98–8, title II, § 213, as added Pub. L. 100–435, title I, § 104, Sept. 19, 1988, 102 Stat. 1648.)

REFERENCES IN TEXT

Section 7501 of this title, referred to in subsec. (a), was subsequently amended, and section 7501(1) no longer defines the term ''emergency feeding organization''. However, such term is defined elsewhere in that section.

EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7512 of this title.

§ 7515. Allotment and delivery of commodities

(a) Mandatory allotments

In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

(b) Reallocation

The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (a) of this section, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was allocated to receive under the formula prescribed in subsection (a) of this section but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

(c) Administration

(1) In general

Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a) of this section, or reallocated under subsection (b) of this section, before December 31 of the following fiscal year.

(2) Entitlement

Each State shall be entitled to receive the value of additional commodities determined under subsection (a) of this section.

(d) Maintenance of effort

If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations.

(Pub. L. 98–8, title II, § 214, as added Pub. L. 100–435, title I, § 104, Sept. 19, 1988, 102 Stat. 1648;

[1] See References in Text note below.

amended Pub. L. 101–624, title XVII, §1772(g), (h)(1), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 104–127, title IV, §403(c), Apr. 4, 1996, 110 Stat. 1029; Pub. L. 104–193, title VIII, §871(d), Aug. 22, 1996, 110 Stat. 2345.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, §871(d)(1), (2), redesignated subsec. (f) as (a) and struck out former subsec. (a) which provided for purpose of section.

Pub. L. 104–127, §403(c)(1), substituted ''2002'' for ''1995''.

Subsec. (b). Pub. L. 104–193, §871(d)(1)–(3), redesignated subsec. (g) as (b), substituted ''subsection (a) of this section,'' for ''subsection (f) of this section or subsection (j) of this section if applicable,'' and ''subsection (a) of this section'' for ''subsection (f) of this section'', and struck out former subsec. (b) which provided definitions for section.

Subsec. (c). Pub. L. 104–193, §871(d)(4), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''Subject to subsections (e) and (f) of this section, or subsection (j) of this section if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f) of this section, or reallocated under subsection (g) of this section, or calculated under subsection (j) of this section if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.''

Pub. L. 104–193, §871(d)(1), (2), redesignated subsec. (h) as (c) and struck out former subsec. (c) which authorized Secretary to purchase additional commodities to supplement commodities otherwise provided under program authorized by this chapter.

Subsec. (d). Pub. L. 104–193, §871(d)(5), struck out ''or reduce the amount of funds available for other nutrition programs in the State in each fiscal year'' after ''such organizations''.

Pub. L. 104–193, §871(d)(1), (2), redesignated subsec. (i) as (d) and struck out former subsec. (d) which provided for types and varieties of commodities which could be purchased under this section.

Subsec. (e). Pub. L. 104–193, §871(d)(1), struck out subsec. (e) which appropriated amounts through fiscal year 2002 for purchase of additional commodities under this section.

Pub. L. 104–127, §403(c)(2), substituted ''2002'' for ''1995'' in two places.

Subsecs. (f) to (i). Pub. L. 104–193, §871(d)(2), redesignated subsecs. (f) to (i) as (a) to (d), respectively.

Subsec. (j). Pub. L. 104–193, §871(d)(1), struck out subsec. (j) which authorized Secretary to promulgate new formula for allocation of additional commodities to States.

1990—Subsec. (a). Pub. L. 101–624, §1772(g)(1), substituted ''fiscal years 1991 through 1995'' for ''fiscal years 1989 and 1990''.

Subsec. (e). Pub. L. 101–624, §1772(g)(2), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''During each of the fiscal years 1989 and 1990, the Secretary shall spend $120,000,000 to purchase, process, and distribute additional commodities under this section.''

Subsec. (k). Pub. L. 101–624, §1772(h)(1), struck out heading and text of subsec. (k). Text read as follows: ''There are authorized to be appropriated such sums as may be necessary to carry out this section.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 871(h) of Pub. L. 104–193 provided that: ''The amendments made by subsection (d) [amending this section] shall become effective on October 1, 1996.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1772(g) of Pub. L. 101–624 effective Oct. 1, 1990, and amendment by section 1772(h)(1) of Pub. L. 101–624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101–624, set out as a note under section 2012 of this title.

EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2036, 7501, 7512, 7514 of this title.

§ 7516. Settlement and adjustment of claims

(a) In general

The Secretary or a designee of the Secretary shall have the authority to—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Litigation

Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28 to conduct litigation on behalf of the United States.

(Pub. L. 98–8, title II, §215, as added Pub. L. 102–237, title IX, §922(b), Dec. 13, 1991, 105 Stat. 1888.)

EFFECTIVE DATE

Section effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102–237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.

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§ 7601. Definitions

In this Act:

(1) 1862 Institution

The term ''1862 Institution'' means a college or university eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.).

(2) 1890 Institution

The term ''1890 Institution'' means a college or university eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University.

(3) 1994 Institution

The term ''1994 Institution'' means 1 of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)) (as amended by section 251(a)).

(4) Advisory Board

The term ''Advisory Board'' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 3123 of this title.

(5) Department

The term ''Department'' means the Department of Agriculture.

(6) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(Pub. L. 105–185, § 2, June 23, 1998, 112 Stat. 525.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 105–185, June 23, 1998, 112 Stat. 523, as amended, known as the Agricultural Research, Extension, and Education Reform Act of 1998. For complete classification of this Act to the Code, see Short Title note below and Tables.

Act of July 2, 1862, referred to in par. (1), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890, referred to in par. (2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Section 251(a), referred to in par. (3), is section 251(a) of Pub. L. 105–185.

SHORT TITLE

Pub. L. 105–185, § 1(a), June 23, 1998, 112 Stat. 523, provided that: ''This Act [see Tables for classification] may be cited as the 'Agricultural Research, Extension, and Education Reform Act of 1998'.''

SUBCHAPTER I—PRIORITIES, SCOPE, REVIEW, AND COORDINATION OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION

§ 7611. Standards for Federal funding of agricultural research, extension, and education

(a) In general

The Secretary shall ensure that agricultural research, extension, or education activities described in subsection (b) of this section address a concern that—

(1) is a priority, as determined under section 7612(a) of this title; and

(2) has national, multistate, or regional significance.

(b) Application

Subsection (a) of this section applies to—

(1) research activities conducted by the Agricultural Research Service; and

(2) research, extension, or education activities administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

(Pub. L. 105–185, title I, § 101, June 23, 1998, 112 Stat. 526.)

§ 7612. Priority setting process

(a) Establishment

Consistent with section 3101 of this title, the Secretary shall establish priorities for agricultural research, extension, and education activities conducted or funded by the Department.

(b) Responsibilities of Secretary

In establishing priorities for agricultural research, extension, and education activities conducted or funded by the Department, the Secretary shall solicit and consider input and recommendations from persons who conduct or use agricultural research, extension, or education.

(c) Responsibilities of 1862, 1890, and 1994 Institutions

(1) Process

Effective October 1, 1999, to obtain agricultural research, extension, or education formula funds from the Secretary, each 1862 Institution, 1890 Institution, and 1994 Institution shall establish and implement a process for obtaining input from persons who conduct or use agricultural research, extension, or education concerning the use of the funds.

(2) Regulations

The Secretary shall promulgate regulations that prescribe—

(A) the requirements for an institution referred to in paragraph (1) to comply with paragraph (1); and

(B) the consequences for an institution of not complying with paragraph (1), which may include the withholding or redistribution of funds to which the institution may be entitled until the institution complies with paragraph (1).

(d) Management principles

To the maximum extent practicable, the Secretary shall ensure that federally supported and conducted agricultural research, extension, and education activities are accomplished in a manner that—

(1) integrates agricultural research, extension, and education functions to better link research to technology transfer and information dissemination activities;

(2) encourages regional and multistate programs to address relevant issues of common concern and to better leverage scarce resources; and

(3) achieves agricultural research, extension, and education objectives through multi-institutional and multifunctional approaches and by conducting research at facilities and institutions best equipped to achieve those objectives.

(Pub. L. 105–185, title I, § 102, June 23, 1998, 112 Stat. 526.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7611, 7613, 7621 of this title.

§ 7613. Relevance and merit of agricultural research, extension, and education funded by the Department

(a) Review of Cooperative State Research, Education, and Extension Service

(1) Peer review of research grants

The Secretary shall establish procedures that provide for scientific peer review of each agricultural research grant administered, on a competitive basis, by the Cooperative State

Research, Education, and Extension Service of the Department.

(2) Merit review of extension and education grants

(A) Establishment of procedures

The Secretary shall establish procedures that provide for merit review of each agricultural extension or education grant administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

(B) Consultation with Advisory Board

The Secretary shall consult with the Advisory Board in establishing the merit review procedures.

(b) Advisory Board review

On an annual basis, the Advisory Board shall review—

(1) the relevance to the priorities established under section 7612(a) of this title of the funding of all agricultural research, extension, or education activities conducted or funded by the Department; and

(2) the adequacy of the funding.

(c) Requests for proposals

(1) Review results

As soon as practicable after the review is conducted under subsection (b) of this section for a fiscal year, the Secretary shall consider the results of the review when formulating each request for proposals, and evaluating proposals, involving an agricultural research, extension, or education activity funded, on a competitive basis, by the Department.

(2) Input

In formulating a request for proposals described in paragraph (1) for a fiscal year, the Secretary shall solicit and consider input from persons who conduct or use agricultural research, extension, or education regarding the prior year's request for proposals.

(d) Scientific peer review of agricultural research

(1) Peer review procedures

The Secretary shall establish procedures that ensure scientific peer review of all research activities conducted by the Department.

(2) Review panel required

As part of the procedures established under paragraph (1), a review panel shall verify, at least once every 5 years, that each research activity of the Department and research conducted under each research program of the Department has scientific merit and relevance.

(3) Mission area

If the research activity or program to be reviewed is included in the research, educational, and economics mission area of the Department, the review panel shall consider—

(A) the scientific merit and relevance of the activity or research in light of the priorities established pursuant to section 7612 of this title; and

(B) the national or multistate significance of the activity or research.

(4) Composition of review panel

(A) In general

A review panel shall be composed of individuals with scientific expertise, a majority of whom are not employees of the agency whose research is being reviewed.

(B) Scientists from colleges and universities

To the maximum extent practicable, the Secretary shall use scientists from colleges and universities to serve on the review panels.

(5) Submission of results

The results of the panel reviews shall be submitted to the Advisory Board.

(e) Merit review

(1) 1862 and 1890 Institutions

Effective October 1, 1999, to be eligible to obtain agricultural research or extension funds from the Secretary for an activity, each 1862 Institution and 1890 Institution shall—

(A) establish a process for merit review of the activity; and

(B) review the activity in accordance with the process.

(2) 1994 Institutions

Effective October 1, 1999, to be eligible to obtain agricultural extension funds from the Secretary for an activity, each 1994 Institution shall—

(A) establish a process for merit review of the activity; and

(B) review the activity in accordance with the process.

(Pub. L. 105–185, title I, § 103, June 23, 1998, 112 Stat. 527.)

CODIFICATION

Section is comprised of section 103 of Pub. L. 105–185. Subsec. (f) of section 103 of Pub. L. 105–185 amended sections 361g, 3221, and 3222 of this title and repealed sections 346 and 3314 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 343, 361c, 7621 of this title.

SUBCHAPTER II—NEW AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION INITIATIVES

§ 7621. Initiative for Future Agriculture and Food Systems

(a) Treasury account

There is established in the Treasury of the United States an account to be known as the Initiative for Future Agriculture and Food Systems (referred to in this section as the ''Account'') to provide funds for activities authorized under this section.

(b) Funding

(1) In general

On October 1, 1998, and each October 1 thereafter through October 1, 2002, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $120,000,000 to the Account.

(2) Entitlement

The Secretary of Agriculture—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(c) Purposes

(1) Critical emerging issues

The Secretary shall use the funds in the Account—

(A) subject to paragraph (2), for research, extension, and education grants (referred to in this section as ''grants'') to address critical emerging agricultural issues related to—

(i) future food production;

(ii) environmental quality and natural resource management; or

(iii) farm income; and

(B) for activities carried out under the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(2) Priority mission areas

In making grants under this section, the Secretary, in consultation with the Advisory Board, shall address priority mission areas related to—

(A) agricultural genome;

(B) food safety, food technology, and human nutrition;

(C) new and alternative uses and production of agricultural commodities and products;

(D) agricultural biotechnology;

(E) natural resource management, including precision agriculture; and

(F) farm efficiency and profitability, including the viability and competitiveness of small- and medium-sized dairy, livestock, crop, and other commodity operations.

(d) Eligible grantees

The Secretary may make a grant under this section to—

(1) a Federal research agency;

(2) a national laboratory;

(3) a college or university or a research foundation maintained by a college or university;

(4) a private research organization with an established and demonstrated capacity to perform research or technology transfer; or

(5) a State agricultural experiment station.

(e) Special considerations

(1) Smaller institutions

The Secretary may award grants under this section in a manner that ensures that the faculty of small and mid-sized institutions that have not previously been successful in obtaining competitive grants under subsection (b) of section 450i of this title receive a portion of the grants under this section.

(2) Priorities

In making grants under this section, the Secretary shall provide a higher priority to—

(A) a project that is multistate, multi-institutional, or multidisciplinary; or

(B) a project that integrates agricultural research, extension, and education.

(f) Administration

(1) In general

In making grants under this section, the Secretary shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals through a system of peer review in accordance with section 7613 of this title;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes and priority mission areas established under subsection (c) of this section; and

(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 7612(b) of this title.

(2) Competitive basis

A grant under this section shall be awarded on a competitive basis.

(3) Term

A grant under this section shall have a term that does not exceed 5 years.

(4) Matching funds

As a condition of making a grant under this section, the Secretary shall require the funding of the grant be matched with equal matching funds from a non-Federal source if the grant is—

(A) for applied research that is commodity-specific; and

(B) not of national scope.

(5) Delegation

The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department. The Secretary may establish 1 or more institutes to carry out all or part of the activities authorized under this section.

(6) Availability of funds

Funds for grants under this section shall be available to the Secretary for obligation for a 2-year period.

(7) Administrative costs

The Secretary may use not more than 4 percent of the funds made available for grants under this section for administrative costs incurred by the Secretary in carrying out this section.

(8) Buildings and facilities

Funds made available for grants under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(Pub. L. 105–185, title IV, §401, June 23, 1998, 112 Stat. 564; Pub. L. 105–277, div. A, §101(a) [title VII, §753(c)(2)], Oct. 21, 1998, 112 Stat. 2681, 2681–33.)

REFERENCES IN TEXT

The Alternative Agricultural Research and Commercialization Act of 1990, referred to in subsec. (c)(1)(B), is

subtitle G (§§ 1657–1664) of title XVI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3756, which is classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title. For complete classification of this Act to the Code, see section 5901(a) of this title and Tables.

AMENDMENTS

1998—Subsec. (d)(5). Pub. L. 105–277 added par. (5).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective June 23, 1998, see section 101(a) [title VII, § 753(f)] of Pub. L. 105–277, set out as a note under section 343 of this title.

§ 7622. Partnerships for high-value agricultural product quality research

(a) "Eligible partnership" defined

In this section, the term ''eligible partnership'' means a partnership consisting of a land-grant college or university and other entities specified in subsection (c)(1) of this section that satisfies the eligibility criteria specified in subsection (c) of this section.

(b) Establishment of partnerships by grant

The Secretary of Agriculture may make competitive grants to an eligible partnership to coordinate and manage research and extension activities to enhance the quality of high-value agricultural products.

(c) Criteria for an eligible partnership

(1) Primary institutions in partnership

The primary institution involved in an eligible partnership shall be a land-grant college or university, acting in partnership with other colleges or universities, nonprofit research and development entities, and Federal laboratories.

(2) Prioritization of research activities

An eligible partnership shall prioritize research and extension activities in order to—

(A) enhance the competitiveness of United States agricultural products;

(B) increase exports of such products; and

(C) substitute such products for imported products.

(3) Coordination

An eligible partnership shall coordinate among the entities comprising the partnership the activities supported by the eligible partnership, including the provision of mechanisms for sharing resources between institutions and laboratories and the coordination of public and private sector partners to maximize cost-effectiveness.

(d) Types of research and extension activities

Research or extension supported by an eligible partnership may address the full spectrum of production, processing, packaging, transportation, and marketing issues related to a high-value agricultural product. Such issues include—

(1) environmentally responsible—

(A) pest management alternatives and biotechnology;

(B) sustainable farming methods; and

(C) soil conservation and enhanced resource management;

(2) genetic research to develop improved agricultural-based products;

(3) refinement of field production practices and technology to improve quality, yield, and production efficiencies;

(4) processing and package technology to improve product quality, stability, or flavor intensity;

(5) marketing research regarding consumer perceptions and preferences;

(6) economic research, including industry characteristics, growth, and competitive analysis; and

(7) research to facilitate diversified, value-added enterprises in rural areas.

(e) Elements of grant making process

(1) Period of grant

The Secretary may award a grant under this section for a period not to exceed 5 years.

(2) Preferences

In making grants under this section, the Secretary shall provide a preference to proposals that—

(A) demonstrate linkages with—

(i) agencies of the Department;

(ii) other related Federal research laboratories and agencies;

(iii) colleges and universities; and

(iv) private industry; and

(B) guarantee matching funds in excess of the amounts required by paragraph (3).

(3) Matching funds

An eligible partnership shall contribute an amount of non-Federal funds for the operation of the partnership that is at least equal to the amount of grant funds received by the partnership under this section.

(f) Limitation on use of grant funds

Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title IV, § 402, June 23, 1998, 112 Stat. 566.)

§ 7623. Precision agriculture

(a) Definitions

In this section:

(1) Agricultural inputs

The term ''agricultural inputs'' includes all farm management, agronomic, and field-applied agricultural production inputs, such as machinery, labor, time, fuel, irrigation water, commercial nutrients, feed stuffs, veterinary drugs and vaccines, livestock waste, crop protection chemicals, agronomic data and information, application and management services, seed, and other inputs used in agricultural production.

(2) Eligible entity

The term ''eligible entity'' means—

(A) a State agricultural experiment station;

(B) a college or university;
(C) a research institution or organization;
(D) a Federal or State government entity or agency;
(E) a national laboratory;
(F) a private organization or corporation;
(G) an agricultural producer or other land manager; or
(H) a precision agriculture partnership referred to in subsection (g) of this section.

(3) Precision agriculture

The term ''precision agriculture'' means an integrated information- and production-based farming system that is designed to increase long-term, site-specific, and whole farm production efficiencies, productivity, and profitability while minimizing unintended impacts on wildlife and the environment by—

(A) combining agricultural sciences, agricultural inputs and practices, agronomic production databases, and precision agriculture technologies to efficiently manage agronomic and livestock production systems;
(B) gathering on-farm information pertaining to the variation and interaction of site-specific spatial and temporal factors affecting crop and livestock production;
(C) integrating such information with appropriate data derived from field scouting, remote sensing, and other precision agriculture technologies in a timely manner in order to facilitate on-farm decisionmaking; or
(D) using such information to prescribe and deliver site-specific application of agricultural inputs and management practices in agricultural production systems.

(4) Precision agriculture technologies

The term ''precision agriculture technologies'' includes—

(A) instrumentation and techniques ranging from sophisticated sensors and software systems to manual sampling and data collection tools that measure, record, and manage spatial and temporal data;
(B) technologies for searching out and assembling information necessary for sound agricultural production decisionmaking;
(C) open systems technologies for data networking and processing that produce valued systems for farm management decisionmaking; or
(D) machines that deliver information-based management practices.

(5) Systems research

The term ''systems research'' means an integrated, coordinated, and iterative investigative process that involves—

(A) the multiple interacting components and aspects of precision agriculture systems, including synthesis of new knowledge regarding the physical-chemical-biological processes and complex interactions of the systems with cropping, livestock production practices, and natural resource systems;
(B) precision agriculture technologies development and implementation;
(C) data and information collection and interpretation;
(D) production-scale planning;
(E) production-scale implementation; and
(F) farm production efficiencies, productivity, and profitability.

(b) Grants authorized

(1) In general

The Secretary of Agriculture may make competitive grants, for periods not to exceed 5 years, to eligible entities to conduct research, education, or information dissemination projects for the development and advancement of precision agriculture.

(2) Private sector financing

A grant under this section shall be used to support only a project that the Secretary determines is unlikely to be financed by the private sector.

(3) Consultation with Advisory Board

The Secretary shall make grants under this section in consultation with the Advisory Board.

(c) Purposes of projects

A research, education, or information dissemination project supported by a grant under this section shall address 1 or more of the following purposes:

(1) The study and promotion of components of precision agriculture technologies using a systems research approach designed to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability.
(2) The improvement in the understanding of agronomic systems, including, soil, water, land cover (including grazing land), pest management systems, and meteorological variability.
(3) The provision of training and educational programs for State cooperative extension services agents, and other professionals involved in the production and transfer of integrated precision agriculture technology.
(4) The development, demonstration, and dissemination of information regarding precision agriculture technologies and systems and the potential costs and benefits of precision agriculture as it relates to—

(A) increased long-term farm production efficiencies, productivity, and profitability;
(B) the maintenance of the environment;
(C) improvements in international trade; and
(D) an integrated program of education for agricultural producers and consumers, including family owned and operated farms.

(5) The promotion of systems research and education projects focusing on the integration of the multiple aspects of precision agriculture, including development, production-scale implementation, and farm production efficiencies, productivity, and profitability.
(6) The study of whether precision agriculture technologies are applicable and accessible to small and medium-size farms and the study of methods of improving the applicability of precision agriculture technologies to those farms.

(d) Grant priorities

In making grants to eligible entities under this section, the Secretary, in consultation with

the Advisory Board, shall give priority to research, education, or information dissemination projects designed to accomplish the following:

(1) Evaluate the use of precision agriculture technologies using a systems research approach to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability.

(2) Integrate research, education, and information dissemination components in a practical and readily available manner so that the findings of the project will be made readily usable by agricultural producers.

(3) Demonstrate the efficient use of agricultural inputs, rather than the uniform reduction in the use of agricultural inputs.

(4) Maximize the involvement and cooperation of precision agriculture producers, certified crop advisers, State cooperative extension services agents, agricultural input machinery, product and service providers, nonprofit organizations, agribusinesses, veterinarians, land-grant colleges and universities, and Federal agencies in precision agriculture systems research projects involving on-farm research, education, and dissemination of precision agriculture information.

(5) Maximize collaboration with multiple agencies and other partners, including through leveraging of funds and resources.

(e) Matching funds

The amount of a grant under this section to an eligible entity (other than a Federal agency) may not exceed the amount that the eligible entity makes available out of non-Federal funds for precision agriculture research and for the establishment and maintenance of facilities necessary for conducting precision agriculture research.

(f) Reservation of funds for education and information dissemination projects

Of the funds made available for grants under this section, the Secretary shall reserve a portion of the funds for grants for projects regarding precision agriculture related to education or information dissemination.

(g) Precision agriculture partnerships

In carrying out this section, the Secretary, in consultation with the Advisory Board, shall encourage the establishment of appropriate multistate and national partnerships or consortia between—

(1) land-grant colleges and universities, State agricultural experiment stations, State cooperative extension services, other colleges and universities with demonstrable expertise regarding precision agriculture, agencies of the Department, national laboratories, agribusinesses, agricultural equipment and input manufacturers and retailers, certified crop advisers, commodity organizations, veterinarians, other Federal or State government entities and agencies, or nonagricultural industries and nonprofit organizations with demonstrable expertise regarding precision agriculture; and

(2) agricultural producers or other land managers.

(h) Limitation regarding facilities

A grant made under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(i) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002, of which, for each fiscal year—

(A) not less than 30 percent shall be available to make grants for research to be conducted by multidisciplinary teams; and

(B) not less than 40 percent shall be available to make grants for research to be conducted by eligible entities conducting systems research directly applicable to producers and agricultural production systems.

(2) Availability of funds

Funds made available under paragraph (1) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.

(Pub. L. 105–185, title IV, § 403, June 23, 1998, 112 Stat. 567.)

§ 7624. Biobased products

(a) "Biobased product" defined

In this section, the term ''biobased product'' means a product suitable for food or nonfood use that is derived in whole or in part from renewable agricultural and forestry materials.

(b) Coordination of biobased product activities

The Secretary of Agriculture shall—

(1) coordinate the research, technical expertise, economic information, and market information resources and activities of the Department to develop, commercialize, and promote the use of biobased products;

(2) solicit input from private sector persons who produce, or are interested in producing, biobased products;

(3) provide a centralized contact point for advice and technical assistance for promising and innovative biobased products; and

(4) submit an annual report to Congress describing the coordinated research, marketing, and commercialization activities of the Department relating to biobased products.

(c) Cooperative agreements for biobased products

(1) Agreements authorized

The Secretary may enter into cooperative agreements with private entities described in subsection (d) of this section, under which the facilities and technical expertise of the Agricultural Research Service may be made available to operate pilot plants and other large-scale preparation facilities for the purpose of bringing technologies necessary for the development and commercialization of new biobased products to the point of practical application.

(2) Description of cooperative activities

Cooperative activities may include—

(A) research on potential environmental impacts of a biobased product;

(B) methods to reduce the cost of manufacturing a biobased product; and

(C) other appropriate research.

(d) Eligible partners

The following entities shall be eligible to enter into a cooperative agreement under subsection (c) of this section:

(1) A party that has entered into a cooperative research and development agreement with the Secretary under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(2) A recipient of funding from the Alternative Agricultural Research and Commercialization Corporation established under section 5902 of this title.

(3) A recipient of funding from the Biotechnology Research and Development Corporation.

(4) A recipient of funding from the Secretary under a Small Business Innovation Research Program established under section 638 of title 15.

(e) Pilot project

The Secretary, acting through the Agricultural Research Service, may establish and carry out a pilot project under which grants are provided, on a competitive basis, to scientists of the Agricultural Research Service to—

(1) encourage innovative and collaborative science; and

(2) during each of fiscal years 1999 through 2001, develop biobased products with promising commercial potential.

(f) Source of funds

(1) In general

Except as provided in paragraph (2), to carry out this section, the Secretary may use—

(A) funds appropriated to carry out this section; and

(B) funds otherwise available for cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(2) Exception

The Secretary may not use funds referred to in paragraph (1)(B) to carry out subsection (e) of this section.

(g) Sale of developed products

For the purpose of determining the market potential for new biobased products produced at a pilot plant or other large-scale preparation facility under a cooperative agreement under this section, the Secretary shall authorize the private partner or partners to the agreement to sell the products.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title IV, § 404, June 23, 1998, 112 Stat. 570.)

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (f)(1)(B), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§ 3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

EX. ORD. NO. 13134. DEVELOPING AND PROMOTING BIOBASED PRODUCTS AND BIOENERGY

Ex. Ord. No. 13134, Aug. 12, 1999, 64 F.R. 44639, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to stimulate the creation and early adoption of technologies needed to make biobased products and bioenergy cost-competitive in large national and international markets, it is hereby ordered as follows:

SECTION 1. *Policy*. Current biobased product and bioenergy technology has the potential to make renewable farm and forestry resources major sources of affordable electricity, fuel, chemicals, pharmaceuticals, and other materials. Technical advances in these areas can create an expanding array of exciting new business and employment opportunities for farmers, foresters, ranchers, and other businesses in rural America. These technologies can create new markets for farm and forest waste products, new economic opportunities for underused land, and new value-added business opportunities. They also have the potential to reduce our Nation's dependence on foreign oil, improve air quality, water quality, and flood control, decrease erosion, and help minimize net production of greenhouse gases. It is the policy of this Administration, therefore, to develop a comprehensive national strategy, including research, development, and private sector incentives, to stimulate the creation and early adoption of technologies needed to make biobased products and bioenergy cost-competitive in large national and international markets.

SEC. 2. *Establishment of the Interagency Council on Biobased Products and Bioenergy*. (a) There is established the Interagency Council on Biobased Products and Bioenergy (the ''Council''). The Council shall be composed of the Secretaries of Agriculture, Commerce, Energy, and the Interior, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, the Assistant to the President for Science and Technology, the Director of the National Science Foundation, the Federal Environmental Executive, and the heads of other relevant agencies as may be determined by the Co-Chairs of the Council. Members may serve on the Council through designees. Designees shall be senior officials who report directly to the agency head (Assistant Secretary or equivalent).

(b) The Secretary of Agriculture and the Secretary of Energy shall serve as Co-Chairs of the Council.

(c) The Council shall prepare annually a strategic plan for the President outlining overall national goals in the development and use of biobased products and bioenergy in an environmentally sound manner and how these goals can best be achieved through Federal programs and integrated planning. The goals shall include promoting national economic growth with specific attention to rural economic interests, energy security, and environmental sustainability and protection. These strategic plans shall be compatible with the national goal of producing safe and affordable supplies of food, feed, and fiber in a way that is sustainable and protects the environment, and shall include measurable objectives. Specifically, these strategic plans shall cover the following areas:

(1) biobased products, including commercial and industrial chemicals, pharmaceuticals, products with large carbon sequestering capacity, and other materials; and

(2) biomass used in the production of energy (electricity; liquid, solid, and gaseous fuels; and heat).

(d) To ensure that the United States takes full advantage of the potential economic and environmental ben-

efits of bioenergy, these strategic plans shall be based on analyses of: (1) the economic impacts of expanded biomass production and use; and (2) the impacts on national environmental objectives, including reducing greenhouse gas emissions. Specifically, these plans shall include:

(1) a description of priorities for research, development, demonstration, and other investments in biobased products and bioenergy;

(2) a coordinated Federal program of research, building on the research budgets of each participating agency; and

(3) proposals for using existing agency authorities to encourage the adoption and use of biobased products and bioenergy and recommended legislation for modifying these authorities or creating new authorities if needed.

(e) The first annual strategic plan shall be submitted to the President within 8 months from the date of this order.

(f) The Council shall coordinate its activities with actions called for in all relevant Executive orders and shall not be in conflict with proposals advocated by other Executive orders.

SEC. 3. *Establishment of Advisory Committee on Biobased Products and Bioenergy*. (a) The Secretary of Energy shall establish an ''Advisory Committee on Biobased Products and Bioenergy'' (''Committee''), under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), to provide information and advice for consideration by the Council. The Secretary of Energy shall, in consultation with other members of the Council, appoint up to 20 members of the advisory committee representing stakeholders including representatives from the farm, forestry, chemical manufacturing and other businesses, energy companies, electric utilities, environmental organizations, conservation organizations, the university research community, and other critical sectors. The Secretary of Energy shall designate Co-Chairs from among the members of the Committee.

(b) Among other things, the Committee shall provide the Council with an independent assessment of:

(1) the goals established by the Federal agencies for developing and promoting biobased products and bioenergy;

(2) the balance of proposed research and development activities;

(3) the effectiveness of programs designed to encourage adoption and use of biobased products and bioenergy; and

(4) the environmental and economic consequences of biobased products and bioenergy use.

SEC. 4. *Administration of the Advisory Committee*. (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Energy shall serve as the secretariat for, and provide the financial and administrative support to, the Committee.

(b) The heads of agencies shall, to the extent permitted by law, provide to the Committee such information as it may reasonably require for the purpose of carrying out its functions.

(c) The Committee Co-Chairs may, from time to time, invite experts to submit information to the Committee and may form subcommittees or working groups within the Committee to review specific issues.

SEC. 5. *Duties of the Departments of Agriculture and Energy*. The Secretaries of the Departments of Agriculture and Energy, to the extent permitted by law and subject to the availability of appropriations, shall each establish a working group on biobased products and biobased activities in their respective Departments. Consistent with the Federal biobased products and bioenergy strategic plans described in sections 2(c) and (d) of this order, the working groups shall:

(1) provide strategic planning and policy advice on the Department's research, development, and commercialization of biobased products and bioenergy; and

(2) identify research activities and demonstration projects to address new opportunities in the areas of biomass production, biobased product and bioenergy production, and related fundamental research.

The chair of each Department's working group shall be a senior official who reports directly to the agency head. If the Secretary of Agriculture or Energy serves on the Interagency Council on Biobased Products and Bioenergy through a designee, the designee should be the chair of the Department's working group.

SEC. 6. *Establishment of a National Biobased Products and Bioenergy Coordination Office*. Within 120 days of this order, the Secretaries of Agriculture and Energy shall establish a joint National Biobased Products and Bioenergy Coordination Office (''Office'') to ensure effective day-to-day coordination of actions designed to implement the strategic plans and guidance provided by the Council and respond to recommendations made by the Committee. All agencies represented on the Council, or that have capabilities and missions related to the work of the Council, shall be invited to participate in the operation of the Office. The Office shall:

(a) serve as an executive secretariat and support the work of the Council, as determined by the Council, including the coordination of multi-agency, integrated research, development, and demonstration (''RD&D'') activities;

(b) use advanced communication and computational tools to facilitate research coordination and collaborative research by participating Federal and nonfederal research facilities and to perform activities in support of RD&D on biobased product and bioenergy development, including strategic planning, program analysis and evaluation, communications networking, information and data dissemination and technology transfer, and collaborative team building for RD&D projects; and

(c) facilitate use of new information technologies for rapid dissemination of information on biobased products and bioenergy to and among farm operators; agribusiness, chemical, forest products, energy, and other business sectors; the university community; and public interest groups that could benefit from timely and reliable information.

SEC. 7. *Definitions*. For the purposes of this order: (a) The term ''biomass'' means any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials.

(b) The term ''biobased product,'' as defined in Executive Order 13101 [42 U.S.C. 6961 note], means a commercial or industrial product (other than food or feed) that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

(c) The term ''bioenergy'' means biomass used in the production of energy (electricity; liquid, solid, and gaseous fuels; and heat).

(d) The term ''old growth timber'' means timber of a forest from the late successional stage of forest development. The forest contains live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old growth varies significantly by forest type and from one biogeoclimatic zone to another.

SEC. 8. *Judicial Review*. This order does not create any enforceable rights against the Unites States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 7625. Thomas Jefferson Initiative for Crop Diversification

(a) Initiative required

The Secretary of Agriculture shall provide for a research initiative (to be known as the ''Thomas Jefferson Initiative for Crop Diversification'') for the purpose of conducting research and development, in cooperation with other public and private entities, on the produc-

tion and marketing of new and nontraditional crops needed to strengthen and diversify the agricultural production base of the United States.

(b) Research and education efforts

The initiative shall include research and education efforts regarding new and nontraditional crops designed—

(1) to identify and overcome agronomic barriers to profitable production;

(2) to identify and overcome other production and marketing barriers; and

(3) to develop processing and utilization technologies for new and nontraditional crops.

(c) Purposes

The purposes of the initiative are—

(1) to develop a focused program of research and development at the regional and national levels to overcome barriers to the development of—

(A) new crop opportunities for agricultural producers; and

(B) related value-added enterprises in rural communities; and

(2) to ensure a broad-based effort encompassing research, education, market development, and support of entrepreneurial activity leading to increased agricultural diversification.

(d) Establishment of initiative

The Secretary shall coordinate the initiative through a nonprofit center or institute that will coordinate research and education programs in cooperation with other public and private entities. The Secretary shall administer research and education grants made under this section.

(e) Regional emphasis

(1) Required

The Secretary shall support development of multistate regional efforts in crop diversification.

(2) Site-specific crop development efforts

Of funding made available to carry out the initiative, not less than 50 percent shall be used for regional efforts centered at colleges and universities in order to facilitate site-specific crop development efforts.

(f) Eligible grantee

The Secretary may award funds under this section to colleges or universities, nonprofit organizations, public agencies, or individuals.

(g) Administration

(1) Grants and contracts

Grants awarded through the initiative shall be selected on a competitive basis.

(2) Private businesses

The recipient of a grant may use a portion of the grant funds for standard contracts with private businesses, such as for test processing of a new or nontraditional crop.

(3) Terms

The term of a grant awarded through the initiative may not exceed 5 years.

(4) Matching funds

The Secretary shall require the recipient of a grant awarded through the initiative to contribute an amount of funds from non-Federal sources that is at least equal to the amount provided by the Federal Government.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title IV, §405, June 23, 1998, 112 Stat. 572.)

§ 7626. Integrated research, education, and extension competitive grants program

(a) Purpose

It is the purpose of this section to authorize the Secretary of Agriculture to establish an integrated research, education, and extension competitive grant program to provide funding for integrated, multifunctional agricultural research, extension, and education activities.

(b) Competitive grants authorized

Subject to the availability of appropriations to carry out this section, the Secretary may award grants to colleges and universities (as defined in section 3103 of this title) on a competitive basis for integrated agricultural research, education, and extension projects in accordance with this section.

(c) Criteria for grants

Grants under this section shall be awarded to address priorities in United States agriculture, determined by the Secretary in consultation with the Advisory Board, that involve integrated research, extension, and education activities.

(d) Matching of funds

(1) General requirement

If a grant under this section provides a particular benefit to a specific agricultural commodity, the Secretary shall require the recipient of the grant to provide funds or in-kind support to match the amount of funds provided by the Secretary in the grant.

(2) Waiver

The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a grant if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title IV, §406, June 23, 1998, 112 Stat. 573.)

§ 7627. Coordinated program of research, extension, and education to improve viability of small and medium size dairy, livestock, and poultry operations

(a) Program authorized

The Secretary of Agriculture may carry out a coordinated program of research, extension, and education to improve the competitiveness, viability, and sustainability of small and medium size dairy, livestock, and poultry operations (referred to in this section as ''operations'').

(b) Components

To the extent the Secretary elects to carry out the program, the Secretary shall conduct—

(1) research, development, and on-farm extension and education concerning low-cost production facilities and practices, management systems, and genetics that are appropriate for the operations;

(2) in the case of dairy and livestock operations, research and extension on management-intensive grazing systems for dairy and livestock production to realize the potential for reduced capital and feed costs through greater use of management skills, labor availability optimization, and the natural benefits of grazing pastures;

(3) research and extension on integrated crop and livestock or poultry systems that increase efficiencies, reduce costs, and prevent environmental pollution to strengthen the competitive position of the operations;

(4) economic analyses and market feasibility studies to identify new and expanded opportunities for producers on the operations that provide tools and strategies to meet consumer demand in domestic and international markets, such as cooperative marketing and value-added strategies for milk, meat, and poultry production and processing; and

(5) technology assessment that compares the technological resources of large specialized producers with the technological needs of producers on the operations to identify and transfer existing technology across all sizes and scales and to identify the specific research and education needs of the producers.

(c) Administration

The Secretary may use the funds, facilities, and technical expertise of the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service and other funds available to the Secretary (other than funds of the Commodity Credit Corporation) to carry out this section.

(Pub. L. 105–185, title IV, § 407, June 23, 1998, 112 Stat. 573.)

§ 7628. Support for research regarding diseases of wheat and barley caused by Fusarium graminearum

(a) Research grant authorized

The Secretary of Agriculture may make a grant to a consortium of land-grant colleges and universities to enhance the ability of the consortium to carry out a multi-State research project aimed at understanding and combating diseases of wheat and barley caused by Fusarium graminearum and related fungi (referred to in this section as ''wheat scab'').

(b) Research components

Funds provided under this section shall be available for the following collaborative, multi-State research activities:

(1) Identification and understanding of the epidemiology of wheat scab and the toxicological properties of vomitoxin, a toxic metabolite commonly occurring in wheat and barley infected with wheat scab.

(2) Development of crop management strategies to reduce the risk of wheat scab occurrence.

(3) Development of—

(A) efficient and accurate methods to monitor wheat and barley for the presence of wheat scab and resulting vomitoxin contamination;

(B) post-harvest management techniques for wheat and barley infected with wheat scab; and

(C) milling and food processing techniques to render contaminated grain safe.

(4) Strengthening and expansion of plant-breeding activities to enhance the resistance of wheat and barley to wheat scab, including the establishment of a regional advanced breeding material evaluation nursery and a germplasm introduction and evaluation system.

(5) Development and deployment of alternative fungicide application systems and formulations to control wheat scab and consideration of other chemical control strategies to assist farmers until new more resistant wheat and barley varieties are available.

(c) Communications networks

Funds provided under this section shall be available for efforts to concentrate, integrate, and disseminate research, extension, and outreach-orientated information regarding wheat scab.

(d) Management

To oversee the use of a grant made under this section, the Secretary may establish a committee composed of the directors of the agricultural experiment stations in the States in which land-grant colleges and universities that are members of the consortium are located.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $5,200,000 for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title IV, § 408, June 23, 1998, 112 Stat. 574.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS

§ 7641. Patent Culture Collection fees

(1) Retention

All funds collected by the Agricultural Research Service of the Department of Agriculture in connection with the acceptance of microorga-

nisms for deposit in, or the distribution of microorganisms from, the Patent Culture Collection maintained and operated by the Agricultural Research Service shall be credited to the appropriation supporting the maintenance and operation of the Patent Culture Collection.

(2) Use

The collected funds shall be available to the Agricultural Research Service, without further appropriation or fiscal-year limitation, to carry out its responsibilities under law (including international treaties) with respect to the Patent Culture Collection.

(Pub. L. 105–185, title VI, § 601(c), June 23, 1998, 112 Stat. 585.)

§ 7642. Food Animal Residue Avoidance Database program

(a) Continuation of program

The Secretary of Agriculture shall continue operation of the Food Animal Residue Avoidance Database program (referred to in this section as the ''FARAD program'') through contracts, grants, or cooperative agreements with appropriate colleges or universities.

(b) Activities

In carrying out the FARAD program, the Secretary shall—

(1) provide livestock producers, extension specialists, scientists, and veterinarians with information to prevent drug, pesticide, and environmental contaminant residues in food animal products;

(2) maintain up-to-date information concerning—

(A) withdrawal times on FDA-approved food animal drugs and appropriate withdrawal intervals for drugs used in food animals in the United States, as established under section 360b(a) of title 21;

(B) official tolerances for drugs and pesticides in tissues, eggs, and milk;

(C) descriptions and sensitivities of rapid screening tests for detecting residues in tissues, eggs, and milk; and

(D) data on the distribution and fate of chemicals in food animals;

(3) publish periodically a compilation of food animal drugs approved by the Food and Drug Administration;

(4) make information on food animal drugs available to the public through handbooks and other literature, computer software, a telephone hotline, and the Internet;

(5) furnish producer quality-assurance programs with up-to-date data on approved drugs;

(6) maintain a comprehensive and up-to-date, residue avoidance database;

(7) provide professional advice for determining the withdrawal times necessary for food safety in the use of drugs in food animals; and

(8) engage in other activities designed to promote food safety.

(c) Contract, grants, and cooperative agreements

The Secretary shall offer to enter into a contract, grant, or cooperative agreement with 1 or more appropriate colleges and universities to operate the FARAD program. The term of the contract, grant, or cooperative agreement shall be 3 years, with options to extend the term of the contract triennially.

(d) Indirect costs

Federal funds provided by the Secretary under a contract, grant, or cooperative agreement under this section shall be subject to reduction for indirect costs of the recipient of the funds in an amount not to exceed 19 percent of the total Federal funds provided under the contract, grant, or cooperative agreement.

(Pub. L. 105–185, title VI, § 604, June 23, 1998, 112 Stat. 586.)

PART B—GENERAL

§ 7651. Nutrient composition data

(a) In general

The Secretary of Agriculture shall update, on a periodic basis, nutrient composition data.

(b) Report

Not later than 180 days after June 23, 1998, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) the method the Secretary will use to update nutrient composition data, including the quality assurance criteria that will be used and the method for generating the data; and

(2) the timing for updating the data.

(Pub. L. 105–185, title VI, § 611, June 23, 1998, 112 Stat. 605.)

§ 7652. Role of Secretary regarding food and agricultural sciences research and extension

The Secretary of Agriculture shall be the principal official in the executive branch responsible for coordinating all Federal research and extension activities related to food and agricultural sciences.

(Pub. L. 105–185, title VI, § 613, June 23, 1998, 112 Stat. 605.)

§ 7653. Office of Pest Management Policy

(a) Purpose

The purpose of this section is to establish an Office of Pest Management Policy to provide for the effective coordination of agricultural policies and activities within the Department of Agriculture related to pesticides and of the development and use of pest management tools, while taking into account the effects of regulatory actions of other government agencies.

(b) Establishment of Office; principal responsibilities

The Secretary of Agriculture shall establish in the Department an Office of Pest Management Policy, which shall be responsible for—

(1) the development and coordination of Department policy on pest management and pesticides;

(2) the coordination of activities and services of the Department, including research, extension, and education activities, regarding

the development, availability, and use of economically and environmentally sound pest management tools and practices;

(3) assisting other agencies of the Department in fulfilling their responsibilities related to pest management or pesticides under the Food Quality Protection Act of 1996 (Public Law 104–170; 110 Stat. 1489), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and other applicable laws; and

(4) performing such other functions as may be required by law or prescribed by the Secretary.

(c) Interagency coordination

In support of its responsibilities under subsection (b) of this section, the Office of Pest Management Policy shall provide leadership to ensure coordination of interagency activities with the Environmental Protection Agency, the Food and Drug Administration, and other Federal and State agencies.

(d) Outreach

The Office of Pest Management Policy shall consult with agricultural producers that may be affected by pest management or pesticide-related activities or actions of the Department or other agencies as necessary in carrying out the Office's responsibilities under this section.

(e) Director

The Office of Pest Management Policy shall be under the direction of a Director appointed by the Secretary, who shall report directly to the Secretary or a designee of the Secretary.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

(Pub. L. 105–185, title VI, § 614, June 23, 1998, 112 Stat. 605.)

REFERENCES IN TEXT

The Food Quality Protection Act of 1996, referred to in subsec. (b)(3), is Pub. L. 104–170, Aug. 3, 1996, 110 Stat. 1489. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 136 of this title and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b)(3), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

§ 7654. Food Safety Research Information Office and national conference

(a) Food Safety Research Information Office

(1) Establishment

The Secretary of Agriculture shall establish a Food Safety Research Information Office at the National Agricultural Library.

(2) Purpose

The Office shall provide to the research community and the general public information on publicly funded, and to the maximum extent practicable, privately funded food safety research initiatives for the purpose of—

(A) preventing unintended duplication of food safety research; and

(B) assisting the executive and legislative branches of the Federal Government and private research entities to assess food safety research needs and priorities.

(3) Cooperation

The Office shall carry out this subsection in cooperation with the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control and Prevention, public institutions, and, on a voluntary basis, private research entities.

(b) National conference; annual workshops

Not later than 120 days after June 23, 1998, the Secretary shall sponsor a conference to be known as the ''National Conference on Food Safety Research'', for the purpose of beginning the task of prioritization of food safety research. The Secretary shall sponsor annual workshops in each of the subsequent 4 years after the conference so that priorities can be updated or adjusted to reflect changing food safety concerns.

(c) Food safety report

With regard to the study and report to be prepared by the National Academy of Sciences on the scientific and organizational needs for an effective food safety system, the study shall include recommendations to ensure that the food safety inspection system, within the resources traditionally available to existing food safety agencies, protects the public health.

(Pub. L. 105–185, title VI, § 615, June 23, 1998, 112 Stat. 606.)

§ 7655. Safe food handling education

The Secretary of Agriculture shall continue to develop a national program of safe food handling education for adults and young people to reduce the risk of food-borne illness. The national program shall be suitable for adoption and implementation through State cooperative extension services and school-based education programs.

(Pub. L. 105–185, title VI, § 616, June 23, 1998, 112 Stat. 606.)

§ 7656. Designation of Crisis Management Team within Department

(a) Designation of Crisis Management Team

The Secretary of Agriculture shall designate a Crisis Management Team within the Department of Agriculture, which shall be—

(1) composed of senior departmental personnel with strong subject matter expertise selected from each relevant agency of the Department; and

(2) headed by a team leader with management and communications skills.

(b) Duties of Crisis Management Team

The Crisis Management Team shall be responsible for the following:

(1) Developing a Department-wide crisis management plan, taking into account similar plans developed by other government agencies and other large organizations, and developing written procedures for the implementation of the crisis management plan.

(2) Conducting periodic reviews and revisions of the crisis management plan and procedures developed under paragraph (1).

(3) Ensuring compliance with crisis management procedures by personnel of the Department and ensuring that appropriate Department personnel are familiar with the crisis management plan and procedures and are encouraged to bring information regarding crises or potential crises to the attention of members of the Crisis Management Team.

(4) Coordinating the Department's information gathering and dissemination activities concerning issues managed by the Crisis Management Team.

(5) Ensuring that Department spokespersons convey accurate, timely, and scientifically sound information regarding crises or potential crises that can be easily understood by the general public.

(6) Cooperating with, and coordinating among, other Federal agencies, States, local governments, industry, and public interest groups, Department activities regarding a crisis.

(c) Role in prioritizing certain research

The Crisis Management Team shall cooperate with the Advisory Board in the prioritization of agricultural research conducted or funded by the Department regarding animal health, natural disasters, food safety, and other agricultural issues.

(d) Cooperative agreements

The Secretary shall seek to enter into cooperative agreements with other Federal departments and agencies that have related programs or activities to help ensure consistent, accurate, and coordinated dissemination of information throughout the executive branch in the event of a crisis, such as, in the case of a threat to human health from food-borne pathogens, developing a rapid and coordinated response among the Department, the Centers for Disease Control, and the Food and Drug Administration.

(Pub. L. 105–185, title VI, §618, June 23, 1998, 112 Stat. 607.)

PART C—STUDIES

§ 7671. Evaluation and assessment of agricultural research, extension, and education programs

(a) Evaluation

The Secretary of Agriculture shall conduct a performance evaluation to determine whether federally funded agricultural research, extension, and education programs result in public goods that have national or multistate significance.

(b) Contract

The Secretary shall enter into a contract with 1 or more entities with expertise in research assessment and performance evaluation to provide input and recommendations to the Secretary with respect to federally funded agricultural research, extension, and education programs.

(c) Guidelines for performance measurement

The contractor selected under subsection (b) of this section shall develop and propose to the Secretary practical guidelines for measuring performance of federally funded agricultural research, extension, and education programs. The guidelines shall be consistent with the Government Performance and Results Act of 1993 (Public Law 103–62) and amendments made by that Act.

(Pub. L. 105–185, title VI, §631, June 23, 1998, 112 Stat. 608.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (c), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

§ 7672. Study of federally funded agricultural research, extension, and education

(a) Study

Not later than January 1, 1999, the Secretary of Agriculture shall request the National Academy of Sciences to conduct a study of the role and mission of federally funded agricultural research, extension, and education.

(b) Requirements

The study shall—

(1) evaluate the strength of science conducted by the Agricultural Research Service and the relevance of the science to national priorities;

(2) examine how the work of the Agricultural Research Service relates to the capacity of the agricultural research, extension, and education system of the United States;

(3) examine the appropriateness of the formulas for the allocation of funds under the Smith-Lever Act (7 U.S.C. 341 et seq.) and the Hatch Act of 1887 (7 U.S.C. 361a et seq.) with respect to current conditions of the agricultural economy and other factors of the various regions and States of the United States and develop recommendations to revise the formulas to more accurately reflect the current conditions; and

(4) examine the system of competitive grants for agricultural research, extension, and education.

(c) Reports

The Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(1) not later than 18 months after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (1) and (2) of subsection (b) of this

section, including any appropriate recommendations; and

(2) not later than 3 years after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (3) and (4) of subsection (b) of this section, including the recommendations developed under paragraph (3) of subsection (b) of this section and other appropriate recommendations.

(Pub. L. 105–185, title VI, § 632, June 23, 1998, 112 Stat. 608.)

REFERENCES IN TEXT

The Smith-Lever Act, referred to in subsec. (b)(3), is act May 8, 1914, ch. 79, 38 Stat. 372, as amended, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

The Hatch Act of 1887, referred to in subsec. (b)(3), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, which is classified generally to sections 361a to 361i of this title. For complete classification of this act to the Code, see Short Title note set out under section 361a of this title and Tables.